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Unpredictable and non-transparent working conditions? : riders in the food-delivery sector in six EU countries

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European Social Citizenship

Unpredictable and non-transparent working conditions?

Riders in the food-delivery sector in six EU countries

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Summary

This report focuses on the social rights of the most flexible non-standard workers. It does so with reference to the stipulations in the new EU Directive 2019/1152 on Transparent and Predictable Working Conditions (TPWC). The Directive – which at the time of writing is not yet fully implemented in all countries – aims to ensure that workers receive information about their working conditions in writing at an early stage and benefit from minimum rights to prevent precariousness. We focus, in particular, on one of the most flexible group of non-standard workers – platform-based food delivery workers (riders). Platform work was one of the explicit targets of the Directive. While the Directive will not apply to genuinely self-employed workers, it is applicable to those in bogus self-employment – therefore including riders who hold no employee status despite the platform’s employee-like control over them. It is an interesting case to scrutinise the potential benefits and limits of the TPWC Directive as working hours are highly variable and platform work is carried out on the basis of a variety of employment statuses (including solo self-employment) and contract types (employment by third-party agencies, civil law contracts, mini-jobs etc.).

This report draws on country case studies and uses variation across sectors. The cases – Denmark, France, Germany, Netherlands, Poland and Spain – are justified by their coverage of a range of industrial relations models and welfare regimes; features that are likely to impact the situation of the sector in the specific countries. These differences mean that the Directive may have differential impact on riders’ working conditions in the near future once fully implemented. To account for firm-level variation in the organization of food delivery platforms, we identified the two companies with the highest market share at the time of writing for each of our country cases (Just Eat and Wolt for Denmark, Lieferando and Gorillas for Germany, Just Eat and Glovo for Spain, Uber Eats and Deliveroo for France, Pyszne.pl (Just Eat) and Uber Eats for Poland and Thuisbezorgd.nl (Just Eat) and Uber Eats for the Netherlands).

The country case studies are based on desk research which included information provided to riders during the application process and where possible scrutiny of contracts, service agreements, collective agreements and relevant legislation. The information provided during application formed an essential aspect for our analysis as information discrepancies between platforms’ online FAQs, job advertisements and what is then contractually agreed upon illustrates the state of predictability and transparency of working conditions well. For some countries expert interviews with trade union representatives have been conducted to verify or expand information. Analytically, the paper draws on the power resource framework of Vandenbroucke et al (2021) which distinguishes between normative, instrumental and enforcement resources (see also Ferrera et al forthcoming). This allows us to systematically analyse the situation of riders across countries and platforms in relation to the Directive’s aims.

Our findings show that riders often have poor work-related rights (normative resources) and inadequate information about these rights (instrumental resources) – and these problems are particularly salient for those in solo self-employment. The TPWC Directive might thus eventually – when fully implemented - improve parts of the working conditions on food delivery platforms.

Unpredictable and non-transparent working conditions? Riders in the food-delivery sector in six EU countries

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Web address	For more information about the EuSocialCit project, please visit www.eusocialcit.eu . EuSocialCit's output can also be found in its community on Zenodo: https://zenodo.org/communities/eusocialcit .

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1. Introduction

This report focuses on the social rights of the most flexible non-standard workers. Given the wide range of forms of most flexible non-standard employment that vary across regulatory contexts (Eurofound, 2020), this analysis will be conducted on the case of food delivery platform workers, henceforth called riders. The food delivery sector as such is characterised by precarious working conditions and food delivery mediated by platforms has been much in focus in particular during the Covid pandemic when riders faced additional health risk due to high exposure and often with little preventative support by the platforms.

The research question in focus is how the stipulations of the new EU Directive 2019/1152 on Transparent and Predictable Working Conditions (TPWC)¹, impact riders across and within countries. Namely, do these riders have predictable working conditions, and do they have sufficiently transparent information about their working conditions? The Directive aims to ensure that all workers receive information about their working conditions in writing at an early stage and benefit from minimum rights to prevent precariousness (Piasna, 2019). There is some uncertainty about what the concept of worker includes but the European Commission (2017b) highlights on-demand work, zero-hours contracts, platform work and bogus self-employed, among others, and it might ultimately be up to the European Court of Justice to provide a concrete definition (see section B).

Drawing on and adapting the power resource framework of Vandenbroucke et al (2021) which distinguishes three types of resources that enable workers in the EU to make use of their social rights, the focal point of this report is a comparative analysis of the state of workers' normative and instrumental resources, and a consideration of the Directives' potential to improve them. Normative resources are the de jure rights that workers have. Instrumental resources are mechanisms which facilitate citizens' use of their de jure rights (normative resources). Enforcement resources refer to judicial outcomes that may improve the living and working conditions of citizens and contribute to collective empowerment.

On-location platform work is one of the most recent forms of most flexible non-standard employment. Aloisi (2022, p. 5) defines platform work as a form of work where “digital infrastructure facilitates the matching between the demand and supply of specific services and organises their performance utilizing algorithmic management, customer reviews, internal ratings, incentives and automated decision-making systems”. Due to the very flexible work schedules and frequent self-employment status of the workers involved – which is itself contested – on-location platform work poses a range of challenges for transparent and predictable working conditions. This includes earnings, social protection and collective representation (Aloisi, 2022). In fact, platform work combines various features of non-standard work (Schoukens, 2020) and can frequently be characterized as precarious (Hauben et al., 2020). Notwithstanding other ongoing regulatory initiatives targeting platform work at the EU level – in particular the Platform Work Directive announced in December 2021 (European Commission, 2021a), but also initiatives such as GDPR, the EU Artificial Intelligence Act and the

¹ The directive was adopted in June 2019, deadline for implementation was 1 August 2022, however, at the time of writing the Directive was not fully implemented in most member states.

Platform to Business or ‘P2B Regulation’ –, platform work was also one of the explicit targets of the Directive on Transparent and Predictable Working Conditions.²

Our report draws on sectoral and country case studies of food delivery platforms in segments of ‘restaurant to customer’ and to some extent also ‘instant grocery’ as these two services tend to merge. Food delivery is a sector that has been recognised and criticised for poor working conditions including low earnings, non-standard contracts (standard contracts being defined as permanent, full-time and dependent) and work pressure and stress (e.g. for the Covid-19 pandemic - see OECD, 2022). The organisation of food delivery via platforms poses challenges such as uncertainty about employer responsibility. This has become evident in national litigation around the employment status of riders (e.g. Aloisi, 2022) as well as the role of algorithmic management which leaves managerial tasks such as allocating work, monitoring and sanctioning of workers to an algorithm rather than a human manager (De Stefano & Aloisi, 2018). Crucially, platforms (firms) differ in their hiring strategies and work practices. To account for this firm-level variation in the organization of food delivery platform work even within a single country, we identified the two companies with the highest market share at the time of writing for each of our country cases.

The choice of country cases – Denmark, France, Germany, Netherlands, Poland and Spain – are justified by their coverage of a range of industrial relations models (OECD, 2019) and welfare regimes (Arts & Gelissen, 2010; Ferragina & Filetti, 2022); features that are likely to impact the situation of the sector in the specific countries. These differences mean that stipulations in the Directive is eventually likely to have differential impact on riders’ working conditions once the Directive is fully implemented. Also, the cases scrutinized include platforms that operate with independent contractors - termed solo self-employed in this report -, and others which employ the riders directly. The scope of the Directive does not extend to genuinely self-employed workers, however the self-employment status of platform workers is frequently contested implying that bogus self-employment is not uncommon among riders. Table 1 provides an overview of the countries and food delivery platforms covered in this report. The country case studies are based on the following information which has been scrutinised between August and early December 2022: information provided to riders during when they apply to become riders (general company website, application interface and relevant FAQs, job offers of third parties where relevant), contracts, service agreements and collective agreements where accessible and relevant. Particular attention was given to the information available before actual employment as it can be assumed that riders will mainly take their decision about which company to start working for based on the information provided upon application. Furthermore, discrepancies between FAQs, job advertisements and what is then contractually agreed upon illustrates the unpredictability and non-transparency of working conditions. The information discrepancy also makes it harder for riders to make use of their normative rights because information varies, is scattered and therefore potentially limited in its usefulness. Where information was scarce, we complemented our analysis with expert interviews with trade unions.

The paper proceeds as follows. Section 1 provides relevant background information on the Directive, traces its legislative history and sketches its main purposes. Section 2 contains a short literature review on the most flexible non-standard employment and the potential implications of the EU Directive on

² Adams-Prassl 2022 provides a comprehensive account of how these different initiatives interact in view of protecting among others platform workers.

Transparent and Predictable Working Conditions. Section 3 presents the power resource framework (Vandenbroucke et al., 2021). It has been adapted with the research question in focus how it intersects with the key aspects of the Directive (Appendix 1) to provide a common framework for the cases presented in Section 4. The cases provide the background for our comparative analysis in Section 4. Given how recent the transposition deadline is as well as the fact that a majority of the countries have yet to fully transpose the directive, it remains too early at this moment to scrutinize the direct effect of the transposition of the directive country by country. Thus, we do not carry out an implementation analysis. Instead, our approach is to identify the key dimensions that the directive targets that are relevant to platform workers in the food delivery sector and then examine the circumstances facing this group of workers. We will do so for the two largest food delivery platforms across six EU countries.

One of the difficulties encountered was that platform models are constantly in flux which makes it difficult to identify the market leaders as well as study the regulation in place. Platforms are quick and nimble to preview and adapt their business models to regulatory change. Thus, the implication here is that our analysis reflects snapshots of the working conditions of food delivery platform workers (and of platform workers more broadly) based on current regulatory frameworks and platforms' current business model at the time of writing (second half of 2022). Nevertheless, our study which cuts across firms and countries offers some insights into the most pertinent problems that prevent these most precarious workers from exercising their social rights. Through this, we can consider the potential benefits and limits of the Directive which we discuss in the end of our report.

Table 1: Country and sector-choice for analysis of food delivery platforms

Denmark	Just Eat (Just Eat Takeaway)
	Wolt
Germany	Lieferando (Just Eat Takeaway)
	Gorillas (Getir)
Spain	Just Eat (Just Eat Takeaway)
	Glovo (Delivery Hero)
France	Uber Eats
	Deliveroo
Poland	Pyszne.pl (Just Eat Takeaway)
	Uber Eats
Netherlands	Thuisbezorgd.nl (Just Eat Takeaway)
	Uber Eats

2. Background of the TPWC Directive drawing on official Commission documents

This section provides brief background information on the EU Directive 2019/1152 on Transparent and Predictable Working Conditions (henceforth TPWC) which was adopted on 20 June 2019. The TPWC Directive is put in perspective by shortly highlighting relevant EU legislation on non-standard workers.

At the European level, regulation of non-standard employment was already anticipated in the 1980s but it was only possible to act upon it with binding legislation after the Maastricht Treaty in 1992 and the extension of qualified majority voting (QMV) to more areas of social policy. The directives on part-time and fixed-term employment were adopted in the late 1990s drawing on social partner framework agreements, the temporary agency work directive was adopted under QMV in 2008 (Falkner et al., 2005; de la Porte & Emmenegger, 2019). In the 2000s, the Commission's agenda in this field was shaped by the flexicurity debates (Bekker & Mailand, 2019; European Commission, 2007; Smith et al., 2019). The recent European Pillar of Social Rights (EPSR) refers to flexible employment (and the interface with social security) in several of its principles and in particularly Principle 5 on secure and adaptable employment (European Commission, 2021b). It is accompanied by an action plan (European Commission, 2019) which spells out concrete targets and initiatives in line with the principles of the EPSR. The TPWC is one of these concrete outputs that is derived from the Pillar and its action plan and reflects in particular Principle 5 on 'secure and adaptable employment' and Principle 7 on 'information about employment conditions and protection in case of dismissal'.

The TPWC Directive is a recast of the 1991 Written Statement Directive (Directive 91/533/EEC on an employer's obligation to inform employees of the conditions applicable to the contract or employment relationship). Profound labour market changes towards more flexible forms of employment meant that the 1991 Directive contained coverage gaps and was not deemed effective any longer. These problems were outlined in the REFIT study (European Commission, 2016) which scrutinized the 1991 directive in terms of compliance, relevance, effectiveness, efficiency, coherence and EU-added value.

Overall, TPWC aims to improve working conditions by promoting more transparent and predictable employment while ensuring labour market adaptability. It has been adopted by way of the ordinary legislative procedure where the European Parliament and the Council act as co-legislators drawing on a European Commission proposal for legislation. The proposal of the directive text was preceded by a comprehensive stakeholder consultation with emphasis on two rounds of Treaty-based consultations with European social partners. In these consultations, the trade unions supported extending rights to all workers (the ETUC additionally advocated for including self-employed) and creating a minimum floor of rights. A large majority of the employers, in turn, opposed the revision/recast of the Directive and all of them rejected the creation of a minimum floor of rights for all workers.³ The Directive also sparked controversial discussions among governments and social partners in some member states and in particular the Nordics who often weigh EU initiatives in the social field against potential losses

³ For detailed information on the consultations see Annex 2 of European Commission 2017b.

of national autonomy in labour market and social policy matters. A particular fear is that the Nordic collective bargaining models will be hollowed out (e.g. Larsen & Ilsøe, 2021).

The new directive both provides the right to more complete and earlier written information on the essential aspects of work. Importantly, it contains a new Chapter on minimum requirements relating to working conditions which Bednarowicz (2020) argues to imply new material rights. We outline the purpose of the TPWC below – as described by the European Commission (2021a) - and which Bednarowicz (2020) posits to constitute these new material rights.

The directive aims to ensure that all workers will have:

- more complete and early information on the essential aspects of the work in writing.
- a limit to the length of probationary periods.
- the right to take up additional employment (a ban on exclusivity clauses and limits on incompatibility clauses).
- the right to know in a reasonable period in advance when work will take place (e.g. on-demand work).
- anti-abuse legislation for zero-hours contract work.
- the right to request to be transferred to employment with more predictable and secure working conditions where available.
- the right to receive mandatory training required to carry out the job cost-free, as part of working-time and, if possible, during working-time.

The original Directive 91/533/EEC allowed for comprehensive exclusion of certain groups of workers (e.g. work of less than 8 hours per week, employment relationships of less than one month, casual contracts under specific circumstances) (European Commission, 2017b, p.173-174). In contrast, the new Directive (EU) 2019/1152 has a uniquely broad scope with the aim of covering all workers in all forms of work, including those who work a minimum of 3 hours a week, on zero-hours contracts, on-demand work, short-term work, voucher-based work and platform work (European Commission, 2017b). Bogus self-employment (a person who is declared to be self-employed even though fulfilling the conditions characteristic of an employment relationship with the aim of avoiding certain legal or fiscal obligations) is explicitly mentioned to fall into the scope of the directive (Directive (EU) 2019(1152), preamble 8). The European Commission estimates that TPWC will in principle benefit all 182 million workers in the EU with more extensive and updated labour rights and protections (for more detailed estimates on the different components see European Commission, 2017, p. 100-102). However, it also estimates that the new rules will especially benefit 2-3 million workers in precarious forms of employment (for criticism see Section C).

The transposition deadline of the directive expired on 1 August 2022. A weekly updated overview of the status of the national transposition measures is available on EUR-Lex.⁴ On 21 September 2022,

⁴ <https://eur-lex.europa.eu/legal-content/EN/NIM/?uri=CELEX:32019L1152>

the European Commission sent a letter of formal notice to 19 Member States since they had not communicated their full transposition of the Directive into national law by the deadline.⁵

While this deliverable exclusively focuses on TPWC, it has to be noted that there are other (ongoing) policy processes at the EU level that target flexible workers and more explicitly platform workers. Amongst them is the proposal on a platform directive (European Commission, 2021a) and guidelines on collective agreements for solo self-employed (European Commission, 2022). As we discuss in our conclusion, the specificities facing workers in the food delivery sector means that the current Directive may not suffice in improving their rights. Rather the proposed Platform Workers Directive more comprehensively target this sector as well as the platform sector more broadly. In this regard, it ought to be welcomed.

⁵ Belgium, Czechia, Denmark, Ireland, Greece, Spain, France, Croatia, Cyprus, Luxembourg, Hungary, Malta, Austria, Poland, Portugal, Romania, Slovenia, Slovakia and Finland. See https://ec.europa.eu/commission/presscorner/detail/en/INF_22_5409

3. Brief review of the academic literature

In the following we provide a brief review of the literature on non-standard employment and most flexible forms of employment before we turn to platform labour as a subset of most flexible forms of employment and its working conditions. The section concludes with a brief account of the literature that explicitly addresses the TPWC Directive including in view of platform work.

Platform work comprises many features of non-standard employment which includes fixed-term, temporary agency workers, solo self-employed and part-time workers) and can be counted among the most flexible forms of employment. The previous two decades have seen a rise in forms of non-standard employment in Europe and beyond (e.g. Hipp et al., 2015; Eichhorst & Marx, 2015; Leschke, 2009; OECD, 2010; Rubery et al., 2018), and a growing awareness of its negative implications on social security coverage (e.g. Schulze Buschoff & Protsch, 2008). As such, non-standard employment has been high on the agenda in both academic and policymaking circles including at the EU level (Gumbrell-McCormick, 2011; Larsen & Mailand, 2018). This increased focus on non-standard employment and its interface with social security coverage was first spurred by the Great Recession which hit non-standard workers disproportionately and further enhanced by the Covid pandemic: not only were non-standard workers more likely to lose their jobs than standard workers but they were also less likely to receive unemployment benefits when unemployed (e.g. Leschke & Finn, 2019; OECD, 2011). While initial academic and policy discourse focused on a limited number of forms of non-standard employment including fixed-term and temporary agency work, (involuntary) part-time employment, including part-time with marginal hours and solo self-employment (e.g. Anxo & O'Reilly, 2000; Eichhorst & Marx, 2015), recent years have seen a stronger focus on the most flexible forms of employment, namely, zero-hours contracts, on-call work and voucher-based work⁶ (e.g. Eurofound, 2020). These forms of employment have been shown to correlate with unstable earnings, uncertainty, stress and poor work-life balance (Piasna, 2019). This culminated in burgeoning research and policy interest in platform work (see below). Like the Great Recession, the Covid pandemic has also demonstrated the plight faced by (most flexible) non-standard workers in terms of them being disproportionately affected by reduced earnings and unemployment with insufficient benefit coverage (e.g. Larsen & Ilsøe, 2021; Spasova et al., 2021).

At present, it is not possible to capture the extent of most flexible forms of employment with standard European comparative datasets. While we have comparable indicators on the typical forms of non-standard employment, including part-time, fixed-term and temporary agency work as well as solo self-employment in the European Labour Force Survey and the OECD labour market data for example, the data situation regarding most flexible forms of employment including zero-hour contracts and platform work is deficient. This has to do with the novelty of some of these phenomena but also the complexity and variety of these most flexible forms of employment across countries: their existence and their specific form depend on national labour legislation and sectoral collective bargaining. While some countries are known for their extensive use of zero hours contracts (e.g. UK), others commonly use marginal employment (e.g. the German minijobs) or are struggling with undeclared work/informal

⁶ Examples are the French and Belgian services voucher among others used for private cleaning which are meant to prevent informal employment, increase employment of low-skilled workers and provide a set of regulated working conditions and social security rights (see for example Lens et al. 2022 on the Belgian case).

employment (e.g. Central Eastern European countries) (European Commission, 2017a). Moreover, phenomena like posting of workers across borders are often difficult to capture adequately. Consequently, some national statistical offices may have good data to measure the extent of such precarious work nationally, but international comparative data remains deficient due to variations in defining such work across countries. Additionally, regarding platform work, a number of recent surveys have tried to capture the extent of platform work across EU countries (e.g. Piasna et al., 2022; Urzı Brancati et al., 2019). However, various measurement problems often arise due to difficulties that include distinguishing between internet work and platform work (see OECD, 2019).

Platform work is, as of yet, still a minor phenomenon in Europe but with large potential. A 2021 survey of internet and platform work in 14 EU countries concludes that 4.3 per cent of all surveyed working age adults engaged in platform work and about a quarter of platform workers can be classified as main platform workers (see Piasna et al., 2022). Platform work accumulates several features of non-standard forms of employment. This includes reduced working time and variable hours, job insecurity and commonly solo self-employment status (e.g. Schoukens, 2020). The academic literature on platforms has been flourishing over the last 5 years. In particular, the academic literature distinguishes between on-location and online platforms as well as between higher and lower qualified tasks (e.g. Hauben et al., 2020). Across these different categories of platform work the competition for labour varies and they matter when assessing the working conditions of platform workers and discussing the scope of regulatory interventions to improve their working conditions among others. Moreover, Piasna and Drahokoupil (2021) have also highlighted the importance of considering the dependence on platform work as the main source of income when assessing working conditions of platform workers. Those doing platform work as a side-job or on top of other activities (e.g. studying) have been shown to be more content with their working conditions (Schor et al., 2020). Food-delivery platforms are on-location platforms and the skill level required for working on these platforms is low. Due to its low entry barrier in terms of skill and language requirements it can provide an opportunity for groups of workers otherwise struggling to enter the labour market. It often draws in workers from weaker socioeconomic backgrounds and in particular foreign labour. The relatively poor working conditions may exacerbate these workers' existing socioeconomic disadvantage (on migrants in the platform economy see for example van Doorn & Vijay, 2021).

Notwithstanding that they may provide an easy way into the labour market and out of informal labour or welfare dependence, with regards to the working conditions of food delivery riders, the following challenges have been highlighted in the literature. First, there is uncertainty about contractual status (e.g. Goods et al., 2019) which is evidenced by the range of legal cases that have been brought before national courts. These court rulings often, but not always, confirm the status of on-location workers (riders or drivers) as dependent employed (e.g. Aloisi, 2022). Second, uncertainty in working hours' schemes, uncompensated waiting times and performance-based allocation to shifts (e.g. Heiland, 2022) all have a negative impact on earnings (in)security. Third, non-transparent and punitive algorithmic management practices which mean (but is not limited to) that these workers often do not know how customer ratings or the decision to reject a gig/task affects their ability to get future gigs or tasks (Veen et al., 2020). Fourth, these workers often do not have access to traditional forms of organizing and representing their collective interests. Some novel forms of organizing and collective interest representation have emerged including those that make extensive use of social media (Vandaele et al., 2019; Tassinari & Maccarrone, 2020).

Overall, different dimensions of poor working conditions of food delivery platform workers as outlined above can be mutually reinforcing in terms of the interplay between contract status, unpredictability of working hours and earnings and access to shifts. Several of these issues such as the right to know in a reasonable period in advance when work will take place, complete and early information on the essential aspects of the work in writing, and the right to take up additional employment, are addressed by the new TPWC.

Given the novelty of the directive, the number of academic papers addressing it are hitherto limited. Even fewer do so with an explicit focus on platform work (e.g. Aloisi, 2022; Adams-Prassl, 2022). Some contributions scrutinize the political process around the final outcome of the directive (Copeland, 2022), and its more controversial points including the terminology around the concept of worker (Arnholtz et al., 2020; Bednarowicz, 2019; Piasna, 2019). As emphasized in Section A, EU trade unions, in contrast to employers' associations, have been mainly positive about the Directive proposal from the start in view of its more inclusive approach towards various groups of workers and a new set of rights that include earlier and more transparent information on key components of the employment relationship (Piasna, 2019; Arnholtz et al., 2020).

Several of the academic articles provide a legal perspective that is at the interface of industrial relations. For example, Georgiou (2022) describes and analyses the directive in relation to the rise in forms of non-standard employment including platform work and puts a strong focus on one of the directive's novelty – that is, its comprehensive definition of a worker as compared to the previous Written Statement Directive (Directive 91/533/EEC). The concept of worker as used in this directive is discussed with reference to EU case law to make sense of the Directive's actual scope of application. However, Georgiou (2022) highlights that the Directive insufficiently captures individuals who are not under the strict control of the employer. As we will detail in the Spanish case, platforms may exploit the grey-zone notion of whether riders are 'truly' under the control of an employer to avoid classifying them as employees which typically entails greater costs for them. In a similar vein, Adams-Prassl (2022) points out that platform workers who are (genuinely) self-employed will not be covered by the TPWC Directive (see also Bednarowicz, 2019). In view of recent national litigations on the employee status (here termed worker status) of platform workers, Bednarowicz (2019) points to the potential future role of the European Court of Justice in stretching and expanding the definition of workers if or when it is called upon by a national court to provide a preliminary reference which will then be binding for the EU as a whole. Aloisi (2022) scrutinizes examples of recent national case law on the status of platform workers and sees a trend towards a Europeanisation of the definition of worker.

As to the material scope of the directive, Georgiou (2022) maintains that it boosts workers' protections overall by providing them with more comprehensive rights in terms of information on the most important aspects of their employment relationship on the first day of work. It also introduces complementary measures for workers on zero-hour contracts, the prohibition of exclusivity clauses and abusive probationary periods as well as the right to request a transition to more secure types of employment. With a specific focus on platform workers but without being able to evaluate the efficacy of the new measures, Aloisi (2022) suggests that the most important rights that the directive addresses are (1) limitations to the use and duration of casual contracts; (2) ban on unnecessary

exclusivity clauses; (3) a 'rebuttable presumption of employment'⁷, countering platform's denial of their worker's employee status by setting a guaranteed number of paid hours. However, the relevant Article 11 of the TPWC Directive only states that at least one of the three above conditions needs to be fulfilled with reference to on-demand or similar contracts. In addition, according to Aloisi (2022) the directive calls for timely provision of information such as work allocation, organization and evaluation; all of which will be beneficial to the concerned worker.

Adams-Prassl (2022) scrutinizes the TPWC (and other EU regulatory initiatives) from the viewpoint of regulating algorithms at work by focusing on three key features: data, processing, and control. According to his analysis, the TPWC is silent in terms of data collection even though it seems to be an essential aspect of the employment relationship about which workers should have the right to be informed. Regarding processing, a particular challenge arises from the constantly changing and evolving nature of algorithmic control. Given the case of unpredictable work patterns, the author argues that providing information about the scheduling software falls under the directive, specifically in terms of reference hours, notice and cancellation periods. Also, regarding scheduling and work patterns, the directive provides for the right to refuse work assignments without adverse consequences and compensation in certain circumstances (Adams-Prassl, 2022). With regard to control, the TPWC stipulates that individuals should receive information on procedures and formal requirements regarding notice periods relating to termination of employment. It also introduces protections against retaliatory dismissals which includes the withholding of future work assignments (Adams-Prassl, 2022).

As the above short review shows, as of yet, academic articles on the TPWC and in particular its interface with platform employment are relatively sparse. More frequently, they consider its impact more broadly across non-standard employment. Furthermore, and as argued above, food delivery platforms often preview and respond to incoming regulations nimbly which make them 'slippery' to analyse. To this end, we focus on arguably one of the most precarious workforce and show that it is not just the lack of work-related rights that hampers their working condition. Rather, our contribution lies in showing across a range of countries with varying industrial relations and welfare systems that this insufficiency of work-related rights intersects with incomplete, vague or even inconsistent information about these rights which then entrench their already poor working conditions.

⁷ This means that the burden of proof for legal employment status/self-employed status lies with the platform company not their workers.

4. Introducing the power resource framework in relation to working conditions of platform-based food delivery sector

In this section, we focus on the state of social rights of the most precarious non-standard workers, namely riders in the food delivery sector (DeVault et al., 2019; Hauben et al., 2020; Heiland, 2022; Mendonça et al., 2022). To categorise the social rights that these riders have or especially lack, we leverage the power resource framework of Vandenbroucke et al (2021) which distinguishes three types of resources that enable European workers to enjoy their social rights. These are normative, instrumental and enforcement resources. Normative resources are the de jure rights that workers have. Such rights include labour and social law rights linked to employment status and contract type (e.g. dependent employed vs. self-employed/independent contractor; fixed-term vs. open-ended contracts). The platforms analysed here differ in terms of the employment status and contract types that they offer to their workers.

Instrumental resources are mechanisms which facilitate citizens' use of their de jure rights (normative resources). These mechanisms relate to company-provided information about expected earnings, work schedules and application procedures to access work-related rights such as accident insurance. For example, UberEats and Deliveroo in France provide indicators on earnings publicly, but this information is often too scant or too complex for riders to use to estimate their earnings. They also include information campaigns including by trade unions to improve workers' awareness of their employment status and associated work-related rights. As argued by Vandenbroucke et al (2021) as well as the street-level bureaucracy literature (Döring, 2021; Moynihan et al., 2015), this lack of information or its vagueness and complexity as well as complicated application procedures regarding work-related rights often hampers the use of de jure rights that workers may have. Furthermore, platforms sometimes change the organisation of work (e.g. changing from shift-based work to 'free to connect/disconnect') and calculation of earnings (e.g. changes in bonus systems). Such changes limit the predictability of riders' work schedule and earnings. Put differently, these obstacles hamper de jure rights from manifesting as de facto rights. Obstacles that prevent use of social rights can exacerbate socioeconomic divides (Bonoli et al., 2017; Im & Shin, 2022; Pavolini & van Lancker, 2018). For example, socioeconomically advantaged groups like those with higher education are often better placed to access and use their social rights than socioeconomically disadvantaged ones like those with lower education. Insufficient language skills and unfamiliarity with labour regulations (including avenues for recourse) in turn can impede the access to and full use of social rights. A phenomenon likely to be present in our cases given that food delivery platform work provides easy access to low skilled workers including those with a migrant background.

Lastly, enforcement resources are about ensuring relevant bodies' compliance with legal obligations. Vandenbroucke and colleagues (2021) focused on public authorities as distributors of social rights like social benefits. Relatedly, we adapt and focus on platforms because they are directly responsible for the working conditions of riders. Specifically, we are interested in knowing whether platforms can be compelled to comply with their legal obligations, and if so to what extent and how so. Thus, enforcement resources here refer to the impact of legal judgements when riders or related bodies

(e.g. trade unions) take platforms to court on grounds of non-compliance with their legal obligations. Specifically, we are interested in whether these judicial outcomes strengthen riders' de jure rights by supporting claims of non-compliance, or if these outcomes maintain the status quo by rejecting claims of non-compliance. For example, French courts have issued mixed rulings recently about whether riders with UberEats and Deliveroo are solo self-employed or employees. Even when they adjudicate that riders who were participant to the rulings are employees, only these riders' employment status were recategorized from solo self-employed to employees. Thus, judicial rulings that lead to changes in de jure rights may have a limited impact unless they are followed by legislative initiatives as has been the case in some instances such as the Spanish riders' act.

4.1 Conceptual framework

Here, we adapt the power resource framework by Vandenbroucke et al (2021) to apply it to the specific situation of working conditions of riders in the food delivery sector. We focus primarily on the predictability and transparency of their working conditions. Namely, do these riders have predictable working conditions, and do they have sufficiently transparent information about their working conditions? Recent scholarship on this sector demonstrates that these riders suffer from unclear employment status as well as absent or unclear terms of conditions of work. This in turn leads to "low, fragmented and unstable income [...] low protection of working conditions [...] little or no access to training and development [...] exposure to particular health and safety risks [...] low social protection coverage for risks (e.g. work accidents, unemployment and sickness) [...] very low level of collective labour rights and representation" (Hauben et al., 2020, p. 9; see also DeVault et al., 2019; Heiland, 2022; Mendonça et al., 2022). In short, these riders often suffer from a lack of, or poor de jure rights (normative resources), and a lack of adequate and relevant information about these rights (instrumental resources). While there have been some judicial outcomes (enforcement resources) in favour of riders' poor work conditions, their impact has often been limited. Crucially, we will show these resources differ across countries and companies (platforms) within countries.

As such, we deem the following normative resources as relevant to understand food delivery workers' (un)predictable and (non)transparent working conditions: employment status, rights at work, working schedule and work hours, earnings, and more indirectly employee representation. Although not directly relevant to the Directive, we included the last dimension as trade unions and workers' representation have played important roles in this sector for strengthening instrumental resources or even normative resources.

First, employment status matters for these riders because it affects the scope and type of rights they have at work. A substantive share of the riders in focus are solo self-employed rather than regular dependent employees. The latter often enjoy more rights at work such as access to regular and automatic accident insurance and paid leave schemes which extend to cases of sickness or injury, whereas the former lack or have limited rights. It may also affect other work-related rights such as whether the platform provides the necessary equipment like bicycles and storage bags to riders, or riders need to source and pay for them themselves. In short, differences in employment status can spill over into differences in work-related rights among otherwise similar food delivery riders.

Second, working schedule matter because they affect these riders' work hours and thereby their earnings. If riders' working schedule is uncertain, their work hours typically become more

unpredictable and correspondingly their earnings become more unpredictable. Employment status matters here as well. Often, riders who are solo self-employed have more uncertain work schedules than riders who are dependent employees. Employment status also affects whether riders have minimum hours of work to fulfil and cap on possible maximum hours.

Third, earnings (in)transparency is also a potential debilitating problem. It can be impacted by bonus schemes and different task scenarios according to distance and peak times for instance. Here, riders' employment status also plays a role. Individual contracts and/or collective agreements of dependent employed riders usually state specific wage rates. By contrast, riders who are solo self-employed with service agreements often do not have fixed wage rates but rather are paid by delivery. Their earnings are thus much more dependent on fluctuations in variable components.

Fourth, employee representation can have consequences on transparent and predictable working conditions albeit in a more indirect way. Namely, greater employee representation may place pressure on food delivery platforms to improve their workers' working conditions, including but not limited to their employment status, work-related rights, work schedule, and earnings. Trade unions, works' councils or rider collectives can also play an important role in improving instrumental resources.

Relatedly, we study a set of instrumental resources based on the normative resources which we consider to be most pertinent to riders in the food delivery as described above. Thus, the list of instrumental resources which we focus on mirror the set of normative resources which we study: (1) terms of employment, (2) rights at work, (3) work schedule and work hour, (4) earnings, and (5) information about employee representation. Overall, we argue that the absence of clear, concise, uncontradictory, and relevant information that can be used by riders may hinder their understanding of what rights they have and prevent their use of those rights. For example, insufficient information and unclear application procedures may make it challenging for riders to apply for injury compensation through accident insurance.

Lastly, the relevant enforcement resources mirror the categories of normative and instrumental resources above. Here, we focus on judicial rulings that have entrenched, refined or reversed the de jure rights that food delivery workers currently have. Dependent on scope, judicial rulings (if any) may entrench or change (for better or worse) the rights that these workers have. Here, we focus on judicial rulings on employment status, rights at work, work schedule, earnings, and those that concern employee representation.

Table 2 summarises the interplay between normative, instrumental and enforcement resources regarding terms of employment, rights at work, work hours and work schedule, earnings, and employee representation. In short, it highlights our analytical framework which is adapted from the power resource framework, and which is applied to every country across the two platforms with the largest market share.

Table 2: Analytical framework

Firm	Normative resources	Instrumental resources	Enforcement resources
Terms of employment			
Platform 1			
Platform 2			
Rights at work			
Platform 1			
Platform 2			
Work hours and work schedule			
Platform 1			
Platform 2			
Earnings			
Platform 1			
Platform 2			
Employee representation			
Platform 1			
Platform 2			

Source: Own depiction.

5. Country case studies

This section analyses food delivery platforms country by country drawing on the power resource approach. Each country-subsection starts with a short introduction highlighting the main characteristics of the sector, the main actors and particularities if any. This is followed by an exemplary overview of normative, instrumental, and enforcement resources (where applicable) as regards terms of employment, rights at work, work hours and schedule, earnings, and employee representation of riders. Each country case study concludes with a summary matrix that provides an overview of these aspects at each case company. The matrix draws on longer, in-depths case studies⁸ which have been conducted based on a common guideline (appendix 1⁹). The below sections only draw on the most essential aspects of these case studies for this deliverable. The following country cases are presented in turn – Denmark, Germany, the Netherlands, France, Spain, Poland.

5.1 Denmark

Just Eat is the market leader in the Danish platform-based restaurant-to-customer food delivery sector with a market share of about 75%¹⁰. It was founded in 2001 in Denmark and has merged with the Dutch company Takeaway in 2020, one of the largest players in the European food delivery sector (Ilsøe & Larsen, 2022). Most of Just Eats deliveries are organised by restaurants themselves, therefore its own rider fleet is comparatively small. Finish-owned Wolt on the other hand, comes second in terms of market share but has a larger rider fleet as all their deliveries are organised by the platform itself.¹¹ Since the Covid crisis, a number of new food delivery platforms (e.g. Gorillas) have entered the Danish market, though these are all considerably smaller in scale.

As regards primary data for this country case, we have access to an employment contract at Just Eat, but no service agreement of Wolt. We also have access to the sectoral collective agreement that is currently only applicable for Just Eat riders¹². An expert interview with a trade union representative was conducted to verify and complement information on predictability and transparency issues in the Danish food delivery sector.

An overview of the Danish case is provided in Table 3.

5.1.1 Terms of employment

In terms of *normative resources*, most riders in restaurant-to-customer food-delivery in Denmark are self-employed which limits their social rights. Even though Just Eat employs all riders of its own fleet directly they only represent approximately 1000 riders compared to approximately 4000 ‘courier partners’ or solo self-employed riders working for Wolt, the second largest company¹³. In fact, only

⁸ The background case notes can be provided upon request.

⁹ The background case notes can be provided upon request.

¹⁰ <https://www.berlingske.dk/business/paa-ti-aar-har-takeawaymarkedet-fordoblet-sin-milliardomsaetning-just-eat>

¹¹ <https://fagbladet3f.dk/artikel/martins-loen-er-fordoblet-hos-just-eat>

¹² Negotiations as regards a collective agreement with Wolt are ongoing but no agreement is thus far signed. See Larsen et al, 2022 (under review).

¹³ <https://fagbladet3f.dk/artikel/martins-loen-er-fordoblet-hos-just-eat>

about 15% of Just Eat's total business is based on its own deliveries whereas most of its deliveries are organised by restaurants themselves.¹⁴ This means that comparatively, the sectoral collective agreement only applies to very few Just Eat riders in Denmark. We have no information on the contractual situation of the workers who do deliveries facilitated by the Just Eat App but are hired by restaurants instead.

As to the *instrumental resources*, concerning the clarity of information provided, Just Eat emphasizes the employment status of its rider fleet as employees on its website, during the application procedure, in the contract and the collective agreement. At Wolt, the information regarding employment status is more or less clear, depending on the information source. On the dedicated application page of Wolt, it is specified that riders are freelance contractors. On the general webpage however, riders are described to be 'courier partners' and 'their own boss', rather than solo self-employed or freelancers. Following our interview with a trade union representative, this terminology is problematic as it can render the employment status opaque¹⁵. The union representative highlighted that Wolt workers sometimes do not know that they are self-employed when they start working for Wolt – as this information can easily be glanced over when the misleading terms such as 'courier partner' are used. One exemplary implication: Some of Wolt's riders are students from EU (and non-EU) countries. The former, in principle are eligible for the state education grant (SU) subject to a minimum of 10-12 weekly work hours¹⁶ status when they were denied SU because their self-employed status renders the SU application process and eligibility criteria more complex (compared to e.g. dependent employment. Wolt does not provide any information on these implications¹⁷ compared to Just Eat¹⁸.

With regards to *enforcement resources*, the tax assessment council issued a decision in January 2022 that considered a Wolt courier who had filed a tax complaint, not as self-employed but as an employee in relation to tax law.¹⁹ So far, this case has not had wider implications although the trade union 3F and Wolt's Workers Group encouraged riders to file more cases with the tax authorities. The acknowledgement of the employee status only regards tax payments and has no direct effect on labour law which would need a court ruling or, in turn, working conditions which would have to be regulated through a collective agreement. Wolt has been approached by 3F regarding a collective agreement and had several rounds of negotiations but without being able to find a compromise so far. In response to the taxation authorities' ruling, Wolt has already started modifying certain conditions to resemble more genuine self-employment. While Wolt used to have a (partial) shift system (on a first come first serve-basis), it has discontinued such system in 2021 to have less control over work hours of riders – the backdrop of this being the end of any predictable working hours.

5.1.2 Rights at work

In terms of *normative resources*, while Just Eat riders due to their employee status are covered by a collective bargaining agreement and all relevant labour laws on regular employees (including accident

¹⁴ <https://fagbladet3f.dk/artikel/danes-can-now-order-takeaways-clean-conscience>

¹⁵ <https://wolt.com/da/couriers>

¹⁶ <https://www.su.dk/english/su-as-a-foreign-citizen/equal-status-according-to-eu-law/you-work-in-denmark/you-are-a-worker-or-a-self-employed-person-under-eu-law/>

¹⁷ <https://woltpartner.dk/how-to-get-started/>

¹⁸ <https://www.just-eat.dk/cykelbud>

¹⁹ https://drive.google.com/file/d/1onCtNL3dzhtVJG2_B2VAYS_eJC4BOy2_/view

insurance, compensation for termination, paid leave, protection against termination due to sickness or parental leave) this is not the case for self-employed Wolt riders for whom access is to some extent possible, but under a different set of eligibility criteria. Wolt riders have, however, a right to (limited) coverage by accident insurance via Wolt's own insurance scheme. In the Danish setting rights at work are deriving both from labour law and commonly collective agreements. In principle collective agreements are also possible for self-employed riders as Danish competition authorities may grant self-employed service providers immunity to competition law when it is demonstrated that they "perform services under the same terms as employees, at the same entity and under the instruction of the employer whilst performing the tasks" (Munkholm & Schjøler, 2018). Larsen (2011) highlighted the outsider status as regards collective bargaining coverage and trade union representation for some groups of workers and among them for example temp agency workers, part-time workers, fixed-term workers and immigrants.

Regarding *instrumental resources*, for directly employed Just Eat riders all rights are clearly stated in the collective bargaining agreement which is available under the FAQs²⁰ on the recruitment webpage in Danish and English and is also being informed about by 3F representatives. Wolt riders on the other hand are lacking clear information on rights at work or the lack thereof and the information on their employment status can be misleading. On its Wolt Partner page, Wolt lists FAQs²¹ and provides some information about limited rights at work but these are framed in a positive way ('free to choose'), negative consequences of the solo self-employment status on rights at work are framed as positive responsibilities. The Wolt Partner FAQs highlight the function and limited coverage of the Wolt insurance programme. The Wolt riders' collective (now part of 3F) has criticized that benefits from this programme are difficult to claim.

5.1.3 Work hours and work schedule

In terms of *normative rights*, for Just Eat riders who are directly employed by the company – in contrast to Wolt riders – all working time regulations including minimum (8h) and maximum hours, time off and advanced notice on work shifts are governed by a collective agreement, the Working Environment Act and the Salaried Employees Act. The sectoral collective agreement for Just Eat riders between the United Federation of Danish Workers (3F) Transport Group and Danish Chamber of Commerce has been effective since 1 October 2021. It's the second collective agreement involving digital labour platforms in Denmark after the company agreement with cleaning service platform Hilfr (Ilsøe, 2020). The collective agreement for food delivery is a sectoral agreement and therefore could in principle cover all food delivery platforms should they choose to join the agreement. The collective agreement for food delivery was not an outcome of widespread local riders' mobilization or protest but rather needs to be seen as a response to the global discussions on riders' rights and in particular the Danish context where collective agreements are the norm.). The collective bargaining agreement however does not cover the riders used directly by restaurants themselves to fulfil orders coming in through Just Eat which has been one of the points criticised by its competitor Wolt (ibid). Working time regulations do not apply to solo self-employed riders at Wolt (nor to independent riders whose

²⁰ <https://www.just-eat.dk/en/courier>

²¹ <https://woltpartner.dk/faq/>

restaurant deliveries are mediated through Just Eat) – instead Wolt riders are free to connect, disconnect and reject tasks whenever it suits them.

As to the state of *instrumental resources*, the situation at Just Eat and Wolt as regards working time and work schedules mirrors rights at work with non-transparent and partly misleading information at Wolt and clear and transparent rights codified in the collective agreement at Just Eat. Wolt accordingly advertises flexibility of working hours as a positive asset when it for example uses the slogan ‘be your own boss’. Just Eat, on the other hand provides very detailed information on minimum and maximum hours, rest periods and shift work. To provide but one example, the information on shift schedules must be provided four weeks in advance, shifts are a minimum of four hours long, on-call work is possible but does not have to be accepted by riders (for details check the collective agreement) ²².

5.1.4 Earnings

As to *normative resources*, earnings for Just Eat riders are dependent on contractually agreed min. working hours (starting at 8h/week) and regulated by the collective agreement which sets out a standard hourly wage as well as compensation for over-time, extra shifts, and unsocial working hours (for details check the collective agreement). At Wolt, in contrast, pay is task-based and variable, composed of a fee per task as well as a top-up varying by distance and a potential weekend bonus. Thus, there is no guaranteed hourly income or compensation of waiting time.

As to *instrumental resources*, earnings are again strongly impacted by the different underlying contract forms across the two platforms and the applicability - or not - of a collective agreement. For Just Eat riders the contract and collective bargaining agreement clearly states the collectively agreed guaranteed standard hourly wage, as well as applicable extra compensation for overtime and the like. Having said this, the Just Eat application page advertises the maximum possible earnings rather than the standard hourly wage specified in the collective agreement but does highlight that this includes pension, holiday pay, special savings, evening/night and public holiday supplements. For Wolt riders, information on the earnings calculation system can be found on the dedicated website for Wolt partners under ‘earnings and taxes’ ²³. This information is however misleading as it advertises higher average hourly earnings than interviewed union representatives consider realistic based on their conversations with Wolt riders. Hourly-based wage indicators are presented in spite of the fact that earnings are task-based and that waiting times are not compensated for. While Wolt does break down the different elements that make up earnings (base fee, distance fee, bonuses), it does not state the needed task rate to achieve advertised hourly earnings. As the earning calculation has different variable components, earnings will vary and remain unpredictable despite the information provided by Wolt. Information on actual earnings thus have to be retrieved from other sources including social media such as Facebook groups, WhatsApp/Telegram chats or reddit threads, rendering earnings at WOLT rather non-transparent. Importantly, whereas Just Eat riders as regular employees benefit from mostly automated tax procedures (e.g. earnings are withheld and paid for by their employer), Wolt riders must adhere to the applicable Danish taxation laws for self-employed persons and must put parts of their earnings aside to not end up with tax debt. Advertised earnings will thus not match real

²² <https://www.danskerhverv.dk/siteassets/mediafolder/dokumenter/03-overenskomster/overenskomst-2020-2023/collective-agreement-on-food-delivery-work-2021-2023-madudbringningsoverenskomsten.pdf>

²³ <https://woltpartner.dk/>

earnings. The transparency of information on required tax payments under the FAQs and as part of self-billing invoices has improved after complaints by riders' groups and unions. Also, Wolt Workers' Group and 3F United Food Delivery Workers provide free information meetings covering the Danish tax system.

5.1.5 Employee representation

In *normative rights* terms, the situation as regards employee representation is more similar among Just Eat and Wolt riders – both are represented through 3F United Food Delivery Workers, seeking to unite all food delivery riders independent of their company affiliation. The independent Wolt Workers Group has been closely collaborating with 3F since 2021. An important difference is, however, that Just Eat riders, in addition, have the right to employee representation through elected shop stewards deriving from the collective bargaining agreement. Moreover, as they have regular employee status they can elect health and safety representatives.

As regards *instrumental resources*, despite the formal right to employee representation, riders at both Just Eat and Wolt may not be aware of the benefits of becoming a union member. Moreover, Just Eat riders may not be aware of how to exert influence in the workplace and who their shop steward is. The instrumental rights as regards employee representation of both groups of riders are strengthened by activities of the United Food Delivery Workers subsection in 3F. They organise info meetings, including at riders' delivery hotspots, bike repair workshops and circulate a newsletter as well as publish Facebook posts. Thus, trade unions take on an important role in providing transparent information regarding both dependent and self-employed riders (for more information on the Danish model and platform strategies see Ilsøe & Larsen, 2022). Differences remain between solo self-employed Wolt riders who lack transparency and predictability of information to some degree in spite of some improvements; dependent employed Just Eat riders arguably have more transparent and predictable information.

5.1.6 Conclusions

In sum, Just Eat seems to provide more predictable and transparent information on working conditions for its own rider fleet than Wolt. This difference comes about mainly due to Just Eat's coverage through a detailed collective agreement that clearly codifies rights at work and working conditions. Instrumental resources across the two platforms are impacted by the difference in employment status: while Just Eat has the clear responsibility of providing information on working conditions for their employed riders, Wolt does not take on such employer responsibility due to riders' self-employed status. Enforcement resources have thus far only played a limited role and they have so far not enhanced the weak normative and instrumental rights of parts of the Danish restaurant-to-customer food-delivery sector regarding predictable and transparent working conditions – rather to the contrary. To conclude, due to its collective agreement and employee status of riders Just Eat has better *de jure* rights for their riders than Wolt. However, *de facto* rights for different groups of Just Eat rider might still differ as they are tied to various eligibility criteria varying by length of employment or contract (e.g. marginal or part-time work compared to full-timers) Additionally, the large majority of deliveries' for Just Eat happen outside this collective agreement as they are organized directly by the restaurants and only facilitated through the Just Eat app. At Wolt, such lack of providing

information could even be used to deter accusations of bogus self-employment – as not informing also means not controlling.

Table 3. Summary matrix for Denmark

Firm	Normative resource	Instrumental resource	Enforcement resource
Terms of employment			
Just Eat	Regular employees	Info on employee status on website, in contract and collective agreement	
Wolt	Solo self-employed	- Application page specifies that riders are freelance contractors - Reported instances of Wolt workers not knowing that they are self-employed	The Danish tax assessment council considered a Wolt courier, who filed a tax dispute, to be an employee not a self-employed in relation to tax law (Jan 2022).
Rights at work			
Just Eat	Covered by all relevant labour laws on regular employees (e.g. right to accident insurance, compensation for termination, paid leave, protection against termination due to sickness or parental leave)	- All rights clearly stated in collective bargaining agreement - Link to collective bargaining agreement on homepage. 3F also informs riders	
Wolt	Not covered by relevant labour laws on regular employees (limited coverage for accident insurance from Wolt's own insurance)	- No clear info on rights (or lack thereof) due to self-employed status on website or application FAQs. Some info can be misleading regarding the implications of self-employed status - Info about Wolt accident insurance under Wolt Partner FAQs with link to insurance company	
Work hours and work schedule			
Just Eat	Regulations of working hours (e.g. min, max, and time off), and advanced notice on shift schedule governed by collective agreement, Working Environment Act, and Salaried Employees Act.	- All rights clearly stated in the collective bargaining agreement - Link to collective bargaining agreement on homepage. 3F also informs riders	
Wolt	No regulations of working hours and working time (e.g. min, max, and time off), no shift (free to connect - can reject task and disconnect at any time)	- Dependence on peak hours not clearly stated on company website - Informations provided can be misleading as it is advertising flexibility of work-hours despite peak hour dependence	

Earnings			
Just Eat	• Collective bargaining agreement regulates a guaranteed standard hourly wage, unsociable working hours, overtime, etc.	• Application page advertises max. possible earnings (174 DKK, "*includes pension, holiday pay, special savings, evening/night and public holiday supplements"), instead of the collectively agreed guaranteed standard hourly wages (127.35 DKK) • Contract and collective bargaining agreement clearly states collectively agreed guaranteed standard hourly wages, compensation for extra shifts, 'unsociable working hours', overtime etc.	
Wolt	• No guaranteed hourly wage or compensation of waiting times. Pay is task-based and variable (task fee + varying distance fee (usually) and potentially weekend bonus).	• Earnings calculation system breakdown in Wolt Partner FAQs but unclear how earning components translate into hourly wages • Advertised earnings in FAQs higher than what is considered realistic by trade unions; earnings presented as hourly-based despite being task-based, not mentioning assumed task rate per hour • Riders need to look for information on actual earnings elsewhere: fb groups, whatsapp/telegram chats or reddit threads	
Employee representation			
Just Eat	• Represented through 3F United Food Delivery Workers • Collective bargaining agreement since Fall 2021 with right to employee representation through elected shop steward	• Riders may not be aware of formal right to representation • 3F United Food Delivery Workers informs by organising info meetings, so-called 'solidarity stops' at riders' delivery hotspots, bike repair workshops, a newsletter, facebook posts etc.	
Wolt	• Primarily represented through the Wolt Workers Group (originally a riders' collective) which by 2021 has become part of 3F United Food Delivery Workers. No right to a shop steward. • Right to become a member of 3F even as self-employed	• Riders may be unaware of their right and benefits to become a union member as self-employed • 3F United Food Delivery Workers informs by organising info meetings, so-called 'solidarity stops' at riders' delivery hotspots, bike repair workshops, a newsletter, facebook posts etc.	

5.2 Germany

From the end of 2018 until 2021, the German Just Eat Takeaway company Lieferando (Just Eat Takeaway) had a quasi-monopolistic position in the German restaurant to restaurant food delivery sector after some prior market consolidation. This situation has changed with the increasing demand for food delivery services during Covid-19 which brought about renewed competition from early 2020 onwards (e.g. market entry of Wolt, Uber Eats, and temporary re-entry of Delivery Hero), as well as a new kind of service called ‘express delivery’, ‘quick commerce’, or ‘instant grocery’ with high VC-backed companies (e.g. Gorillas or Flink) promising delivery to customers within 10 minutes. In 2022, Lieferando remains the market leader with approximately 10,000 riders and is continuously growing, but Gorilla which in December 2022 has been acquired by the Turkish platform Getir – an example that emphasises the volatility of this market – has also taken a substantive share of the market.

In contrast to many other countries, the ‘contractor model’ (where workers are solo self-employed instead of being directly employed by the platform) is not common in German food delivery platforms. Instead, platforms achieve flexibility in particular by making use of mini jobbers (see below). Furthermore, until October 2022 statutory minimum wages were relatively low creating additional flexibility for employers on the wage component. The common status of riders as employee in Germany is partly also linked to previous rider mobilisation.

For Germany we have access to employment contracts for Lieferando only, but not for Gorillas. As the contracts in Germany are relatively standardized, we would expect the Gorillas contract to be relatively similar to the Lieferando one.

An overview of the German case is provided in Table 4.

5.2.1 Terms of employment

In terms of *normative resources*, both Lieferando and Gorillas employ their fleet directly, meaning that all riders hold legal employment status. Variations in normative resources still occur due to different contractual specificities: permanent vs. fixed-term contracts; and contractual differences based on hours. While Lieferando offers permanent contracts, Gorillas uses both permanent and fixed-term contracts. Beyond general implications for job security (higher likelihood of unemployment), fixed-term contracts are problematic in particular for non-native riders from non-EU countries as unemployment periods can jeopardize their residency status. At both companies, riders can be on marginal part-time (‘minijobs’), part-time, or full-time contracts. The most important difference in normative rights concerns ‘minijobs’²⁴. In Germany, minijobs are a regulated category of marginal part-time employment with an earnings limit (max. of €520 a month, €450 before October 2022) or time limit (ca. 10h per week). The main difference to other forms of employment is a limited access

²⁴ In Germany, minijobs are a regulated category of marginal part-time employment with an earnings limit or time limit. The main difference to other forms of employment are the deductions and the limited access to social security benefits. For more information see: https://www.minijob-zentrale.de/EN/Home/home_node.html#doccea21796-66a2-4e9e-8554-5d6502fc08bfbbodyText1

to social security benefits (e.g., pension, health insurance, unemployment benefits) which is often justified by the fact that employees in minijobs are not required to pay social security contributions or income tax.

As to the *instrumental resources* regarding terms of employment, Lieferando provides information on the employment status (employee) on the webpage and during the application process. The different contract options are presented on Lieferando's website.²⁵ Special implications for minijobbers are only explained during on-boarding/online recruitment (see below, Rights at work). Gorillas does not state the employment status on the webpage but provides the information during the application process. The information link 'hiring FAQs', sent via email during the application process, provides information on all different contract options.²⁶

5.2.2 Rights at work

In terms of *normative resources*, due to their employee status, riders in Germany are covered by statutory employment regulations including the statutory minimum wage, sickness benefits, working time, and termination protection. In contrast to other employees in Germany in 'standard' employment however, neither Lieferando nor Gorillas riders have access to an occupational pension. Lieferando riders have permanent contracts that come with a maximum 6-months' probation period according to German employment law. Gorillas riders are both on permanent and fixed-term contracts with fixed-term contracts making it more difficult to acquire the contribution period necessary for eligibility to unemployment insurance (Leschke and Finn 2019). Since the Great Recession short-time work allowance has been available for both fixed-term and permanent workers in a company (IBID) and is therefore in principle accessible for regular riders (but not minijobbers) at Lieferando and Gorillas. Minijobbers at both companies face special rules due to German regulations specific to the minijob category. They are exempted from several of the statutory employment regulations, this includes access to unemployment insurance and short-time working allowance which was widely used in Germany during the Covid pandemic as well as health insurance. Minijobbers are however entitled to holidays which are calculated in proportion to their days worked.

Regarding *instrumental resources*, none of the two websites (application interface) informs about rights at work. The contract (only available to us from Lieferando) informs about standard rights at work and refers to the relevant legislation. Looking at general information on contractual terms on the platforms' websites, Gorillas stands out for providing misleading information for applicants: their fixed-term one-year contracts are mis-labelled as permanent²⁷. Information on differences in terms of rights at work between minijobs and regular employment contracts is insufficient at both companies: At Lieferando, riders are only informed about minijob specificities during the onboarding process and not mentioned on the website or the application FAQs. Gorillas - under 'hiring FAQs' (link received during the application process via email) - briefly explains what a minijob is and that it implies an exemption of the pension insurance – no other implications are being informed about.²⁸ In this list,

²⁵ <https://www.lieferando.de/fahrer/the-inside-track/durchstarten-mit-lieferando/wie-laufen-die-vertrage-bei-lieferando-ab>

²⁶ <https://gorillasridersupportde.zendesk.com/hc/de/categories/4407810615057--Hiring-FAQ>

²⁷ <https://gorillas.io/en/blog/11-things-you-need-to-know-about-gorillas>

²⁸ <https://gorillasridersupportde.zendesk.com/hc/de/articles/4407816534801-What-do-I-need-to-know-about-Minijobs->

Gorillas goes on to misinform riders, stating that minijobbers would receive health insurance by the state, though a minijob does not automatically qualify workers for mandatory statutory health insurances (instead it must be acquired in a different way, e.g., status as student, through family insurance, the job centre, or by paying for a voluntary insurance). In both cases, the lack of availability of information for riders on minijob contracts should not be interpreted as sector-specific - this is rather a systematic issue for minijobbers in general because contracts only have to inform about the job's specific work-related rights, not *differences* in rights compared to other contractual forms.

As to *enforcement resources*, there have been legal cases against both Lieferando and Gorillas. A court ruled in November 2021 that riders at Lieferando have a right to a company-provided work phone, a mobile data plan and a bike as they are essential to their work. At Gorillas 12 fixed-term contracts were ruled to be permanent in October 2021 based on a digital signature which was not digital. Three riders lost lawsuits in April 2022 about termination of their contracts as their strikes were not trade union organised.

5.2.3 Work schedule and work hours

In terms of *normative rights*, the general working time law 'Arbeitszeitgesetz' applies for riders at both companies (given employee status) and sets out a maximum of 48 hours per week and at least 15 free Sundays per year. Schedule and minimum hours per week are at the companies' discretion and vary by contract type. For Lieferando, we have information from the employment contract which contains an on-call clause with an obligation to work 25% overtime per week on demand. The employer is contractually obligated to notify the employee about on-call work no later than 4 calendar days before the beginning of each week. As we do not have access to a recent Gorillas' contract, no statements can be made on normative rights that follow from contractual clauses.

As to the state of *instrumental resources*, for Lieferando, the on-call elements of the job are unclear from the website or application FAQs but clearer from the contract – meaning that applicants to the job will be unaware of on-call elements of the job but informed as of the start of employment. The Lieferando contract contains information on minimum work hours and on-call elements but lacks information on minimum and maximum shift lengths and how to request shift changes. It is clear from the information provided both in the contract and the website that Lieferando uses a shift system. Gorillas does not provide information on work hours and the work schedule process on the website, but they have some of this information included in the application questionnaire form and in the information link which is sent later during the application process. A blog post (as part of the Gorillas webpage) informs of the maximum length of each shift but does not state whether there are on-call elements. As employment contracts are standardised in Germany, it is likely that information on on-call elements is included in the contract.

5.2.4 Earnings

As to *normative resources*, for both platforms the baseline monthly earnings of employees are based on the statutory minimum wage (€12/h as of October 2022) and minimum contractually agreed working hours. Minijobs come with a maximum earning of €520 a month which is also regulated by German labour law.

Regarding *instrumental resources*, while Lieferando's application page provides information on average earnings and a sliding scale bonus system (which is not mentioned in the contract), this information is misleading as it does not provide baseline earnings but rather earnings that assume bonuses and tips. It is difficult for riders to get a realistic insight on the applicable bonus as there is no information on average task rate per hour or applicable compensation for bicycle use on the webpage. More concrete information on earnings including bonuses is given in the on-boarding meeting. The Gorilla's application page does not contain information on average earnings, explanation of the earnings calculation system or bonuses. This information is instead mentioned in a separate company blog post. During the application process, a link to 'Gorillas Rider support' is provided. The information provided under 'monthly earnings' only refers to the German tax calculation website instead of listing average earnings; the information on the bonus scheme is extensive (separate PDF document). Having said this, Gorillas Workers Collective voices concerns about insufficiently communicated bonus system changes. And the information on bonuses on different parts of the website is indeed unclear and misleading as it for example implies an added bonus to hourly wages whereas this will only happen if riders make at least four deliveries within an hour. Gorillas Workers Collective also reports repeated missing or late payments as well as wage theft.

5.2.5 Employee representation

In *normative rights* terms, riders in Germany have the right to set up a work council with right to information, consultation and co-determination (Works Council Act / *Betriebsverfassungsgesetz*). Importantly, the works' council does not have the right to organize riders' strikes. Strikes, instead, need to be carried out by a trade union or taken over by them afterwards (Strike Right).

As regards *instrumental resources*, the workers' collectives of both platforms and unions have reported a series of work council busting strategies including using layoffs of works' council members as means of pressure. Lieferando wants to terminate the works' council members' contracts and reverse their latest election (ongoing in September 2022). Gorillas has filed against a works council to undermine it but lost the case (December 2021). Information on rights to employee representation through work councils are not communicated through either platform; they must instead be acquired through other means including dedicated social media groups.

5.2.6 Conclusions

In sum, while both Lieferando and Gorillas use regular employee contracts (permanent ones for Lieferando and both permanent and fixed-term for Gorillas) rather than self-employed contractors, they also frequently use minijob contracts which provide flexibility to the employer and imply limited financial engagement given the maximum monthly earnings of €520 (on minijobs and their attractiveness to employers see Krebs and Scheffel, 2021). Minijobs have commonly been used in Germany in many sectors that rely on additional labour for example during peak times (e.g. construction, industrial cleaning and hospitality). While many – though not all – of the employment rights apply, there is evidence that employers often circumvent labour law requirements for minijobbers (Voss & Weinkopf, 2012). The maximum applicable minijob earnings are insufficient to make a living from the rider job only and minijobs have been criticized to act as dead-end jobs (ibid.).

One reason for the lack of use of self-employed riders in the German food delivery industry could be that many of the early companies were not really part of the fast-paced 'gig economy' - start-up scene

that can be found in other countries – rather ‘traditional’ business models but introducing the use of websites, and later on apps, to order food. The long-established possibility to use minijobs in combination with regular contracts paying relatively low wages (the absence of a statutory minimum wage until 2015 and a relatively low minimum wage rate until October 2022) provides the companies with the flexibility that platforms achieve in other countries by way of using self-employed contractors.

A clear advantage of regular employment contracts and – to a lesser degree minijobs - as compared to self-employment are that they come with contracts that specify the terms and conditions of employment including rights at work and work hours in a comparatively standardized way. Also, employee representation is relatively standardized in Germany due to widely applicable legal acts. Having said this transparency and predictability of working conditions and earnings is to some degree still jeopardized. Information on the common use of minijobs is provided late in the application process for both platforms rather than on the webpage. Given the centrality of web-provided information for the platform economy, this can be criticized. Gorillas wrongly labels 12 months contracts as permanent. Particularly the complex bonus system used in the platform-based food delivery sector which is to some degree also intertwined with work scheduling is problematic from the viewpoint of transparent and predictable working conditions.

Table 4. Summary matrix for Germany*

Firm	Normative resource	Instrumental resource	Enforcement resource
Terms of employment			
Lieferando	Employees, but many on minijob contracts open-ended contracts	- Website clarifies that rider fleet are employees. - Information of employee status is listed during application procedure. - Online on-boarding meeting informs about different hourly-based contract options	
Gorillas	Employees, but many on minijob contracts Option of both open-ended and temporary contracts	- Information of employed status not featured on website but given during application process - Information link received during the application process via e-mail under 'hiring FAQs' of 'Gorillas Rider Support DE' lists different contract options	
Rights at work			
Lieferando	<u>All employees:</u> - Covered by statutory employment regulations: minimum wage, sickness benefits, working time, termination protection etc. No occupational pension. Max 6 months probation period (German employment law) <u>Minijobbers:</u> - Reduced holiday entitlement in function of days/week worked. No entitlement to unemployment benefits and short time work allowance, no entitlement to health insurance, no automatic pension insurance (voluntary insurance possible)	- Application site does not inform about rights at work - Contract informs about standard rights at work such as termination rules, working time etc. and refers to the relevant laws - No information in application FAQs, or website on differences between minijobbers & other employees' rights - Online on-boarding informs about some differences between minijobbers & other employees' rights	Court ruled that riders have a right to company-provided work phone, mobile data plan and bike because they are essential to their work (November 2021).
Gorillas		Application site does not inform on rights at work No access to contracts for this study, but likely similar to Lieferando as use of standard employment contracts - Information link received during the application process via e-mail under 'hiring FAQs' of 'Gorillas Rider Support DE' briefly explains what a minijob is and that it implies an exemption of the pension insurance. - Information on minijob misinforms about health insurance as covered by the state, implying that a minijob would be no disadvantage - Information on website misleading about riders' employment status (mislabels 1 year contracts as permanent) and their work-related rights (framed as privileges)	12 'fixed' term contracts were ruled to be permanent based on invalidity of digital signatures (October 2021) 3 riders lost lawsuits on their termination of contracts as their strikes were not trade union organised (April 2022).

Work schedule and work hours			
Lieferando	• Employees: max 48 hours per week and min. 15 Sundays per year free (working time law 'Arbeitszeitgesetz') • hours per week based on contract type: part-time contracts (min 30h), midi job (min. 12h), or mini job contracts (min. 5h) • On-call clause in contract with obligation to work 25% overtime per week on demand • Employer notifies employee about on-call work no later than 4 calendar days before the beginning of each week	• On-call elements of the job unclear from website or application FAQs • Contract states: minimum working hours & on-call elements; contract does not state: min. or max. shift length, how to request shift changes	
Gorillas	• Employees: max 48 hours per week and min. 15 Sundays per year free (working time law 'Arbeitszeitgesetz') • hours per week based on contract type: full-time (40h); part-time (choice between 20h, 25h, 30h); minijobs (8h) (NB: No access to contract for this study = no info on on-call clauses and notification)	• Info on work hours, schedule of shift-based job in application questionnaire form and info link sent during application process; no info on website. • Company blog post informs about maximum length of each shift, but does not state whether there are on-call elements. • No available contract for this study but due to standardised work contracts on-call elements likely included if applicable.	
Earnings			
Lieferando	• Employees: baseline monthly earnings based on statutory minimum wage (€12/h) and minimum contractually agreed working hours • Minijobbers: max. €520/month	• Application page provides average earnings (but misleading as it assumes bonuses & tips) and info on sliding-scale bonus systems • The contract does not include information on sliding-scale bonus system • No info on average task rate per hour which means riders cannot anticipate their bonus; no information online on compensation for bicycle use • More concrete information on earnings and bonuses given in on-boarding meeting	

Gorillas	• Employees: baseline monthly earnings based on statutory minimum wage (€12/h) and minimum contractually agreed working hours • Minijobbers: max. €520/month	• Application page does not contain info on average earnings, earning calculation system or bonus. • Earnings and bonus system mentioned in separate company blog posts but with little detail • Detailed info on bonus scheme under 'Gorillas Rider support' sent during application; info on monthly earnings under 'Gorillas Rider support' refers to tax calculation website instead of listing average earnings • Some of the information on bonus is unclear and misleading; Gorillas Workers Collective repeatedly voices concerns about insufficiently communicated bonus stems changes • Gorillas Workers Collective reports repeatedly missing or late payments and wage theft (No available contract for this study)	
Employee representation			
Lieferando	• Riders have the right to set up a work council with right to information, consultation, and co-determination (Works Constitution Act).	• Worker's collective and unions have reported a series of work council busting strategies (including termination of works council members' contracts); one such strategy is ongoing at Lieferando in September 2022 and Gorillas filed against a work council election to undermine it but lost the case (December 2021)	
Gorillas	• Self-organised strikes limited; must be carried out by trade union or taken over by them (Strike Right)	• Information on rights to employee representation through work councils not communicated through either platform	

*We have access to a work contract for Lieferando but not Gorillas.

5.3 Netherlands

The most important restaurant to customer food delivery platforms in the Netherlands are Thuisbezorgd (Just Eat Takeaway) and Uber Eats at the time of writing. Thuisbezorgd has approximately 70% of the market share whereas Uber Eats' market share is 15%.²⁹ Some other platforms which stopped their operations in the Netherlands in the past years (Foodora in 2018, and Deliveroo in 2022) used freelancers or employed their riders directly but on the basis of zero-hours contracts.³⁰

For the Netherlands we do not have access to employment contracts (relevant for Thuisbezorgd) or services contracts (relevant for Uber Eats). We do have access to the collective agreement that is applicable for all temporary agency workers and thus by extension also applicable to Thuisbezorgd workers.

An overview of the Dutch case is provided in Table 5.

5.3.1 Terms of employment

In terms of *normative resources*, riders at Thuisbezorgd are temporary agency workers, usually recruited by Randstad, the world largest recruitment agency with roots in the Netherlands. Thuisbezorgd riders either apply directly through the Thuisbezorgd webpage or through Randstad. In both cases they receive a temporary agency employment contract by the temporary agency which provides fewer rights than a regular employment contract. Temporary agency workers in the Netherlands are employed under the so-called 'ABU phase system' (by the Dutch Federation of Private Employment Agencies (ABU)) which determines the terms and conditions of employment as a function of the length of employment. Rights at work thus increase with time in employment (Phase A, B and C). In contrast, Uber Eats riders work as freelancers/solo-self-employed. Thus, the situation of riders across the two main platforms in the Netherlands varies substantially regarding rights at work, working hours and work schedule.

As to the *instrumental resources*, for Thuisbezorgd, riders' key information is scattered across two websites (platform and temporary recruitment agency), an employment contract provided by the agency (which changes over time according to tenure), and a collective agreement. This makes information complex, potentially conflicting and misleading. Some parts of the website (FAQs) mention that there is a "proper work contract"³¹, while others inform about the variety of contract types³². It is not clearly stated that the temporary recruitment agency provides the contract and not the platform itself, nor that it is a phase A contract to start with. While there is some information on the implication of different contract types on working conditions (e.g. hours, average salary and the like), this information is vague. All further information on working conditions and terms of employment is announced as to be discussed in a recruitment interview over the phone.³³ Uber Eats

²⁹ <https://www.statista.com/forecasts/1265548/company-market-share-online-food-delivery-netherlands>

³⁰ <https://www.ridersunion.nl/getmedia/f825808f-2f88-4af6-a33e-8dcc1ddcfbc3/Riders-deserve-better.pdf>

³¹ <https://www.thuisbezorgd.nl/bezorger/the-inside-track/bezorgen-met-ons>

³² <https://www.thuisbezorgd.nl/bezorger/the-inside-track/bezorgen-met-ons/contracten-voor-bezorgers>

³³ <https://www.thuisbezorgd.nl/bezorger/the-inside-track/bezorgen-met-ons/het-recruitmentproces-voor-een-koerier>

requires a VAT number as a pre-requisite for application,³⁴ therefore riders know that they are self-employed. However, there is little information on the implications of this status on their working conditions. Only the tax rules applying to self-employed are explained under ‘getting started’ on the Uber Eats’ website.³⁵

As regards to *enforcement resources*, the Amsterdam district court ruled in September 2021 that Uber drivers were employees rather than freelancers.³⁶ Uber has appealed against this ruling, but the verdict is still outstanding. While this ruling is not directly applicable to UberEats, it could have implications for future court cases.

5.3.2 Rights at work

In terms of *normative resources*, labour law is generally applicable to temporary agency workers (Thuisbezorgd) with very few exceptions.³⁷ However, compared to standard employees in the Dutch system, protection of rights at work do not necessarily apply from the first day of work for temporary workers: This means for example that riders have the right to sick leave (regulated as being min. 70% of wages), but they can only make use of this on the third day of illness in phase A contracts (first 52 weeks), or on the second day of illness in phase B contracts. Special rules also apply for termination in the first 52 weeks (phase A contract) where employment can be ended from either side at any time and illness can lead to direct termination if the contract includes an agency clause. Rights increase in proportion to the length of employment with the temp agency in two further steps (Phase B and C).

Thuisbezorgd workers are covered by a collective agreement – however, they are covered by the Dutch Federation of Private Employment Agencies’ (ABU) collective agreement for temporary agency workers rather than the The Dutch Association for Transport and Logistics (TLN) collective agreement for Professional Goods Transport by Road. The latter provides better conditions: it includes for example a higher collectively agreed minimum wage that is not available to Thuisbezorgd riders under the ABU collective agreement.

Uber Eats riders are excluded from all relevant labour laws (or any collective agreements). A statutory or collectively agreed minimum wages, holiday or sick leave thus don’t apply. As self-employed they are also responsible for their own occupational disability insurance. Uber Partner Protection covers work-related medical expenses and the like.

Regarding *instrumental resources*, the complex hiring configuration at Thuisbezorgd – working for a platform via another intermediary, namely a temporary recruitment agency (Randstad) under a contract that by definition renders it complex for the worker to get clear and transparent information on their rights at work. Information sources are Thuisbezorgd website, Randstad website³⁸ and job postings, a collective agreement³⁹ (although also here there is potential for confusion as another collective agreement exists for this sector) as well as individual contracts (which we have no access

³⁴ <https://www.uber.com/nl/en/deliver/>

³⁵ <https://www.uber.com/nl/en/deliver/getting-started/tax-information/>

³⁶ <https://wageindicator.org/labour-laws/platformeconomy/platform-workers-news/may-2022-netherlands-workers-info-exchange-and-adcu-challenge-uber-and-ola-on-data-rights>

³⁷ <https://www.arbeidsrechter.nl/uitzendkracht-uitzendbureau-inschakelen-verplichtingen/>

³⁸ <https://www.randstad.nl/werknemers/vacatures/topwerkgevers/takeaway>

³⁹ <https://www.abu.nl/app/uploads/2022/06/CAO-voor-Uitzendkrachten-2021-2023-versie-juli-2022-EN.pdf>

to). Thuisbezorgd's website (and its direct application system) does for example not provide information on particularities of the temporary agency work contracts (including the phase system with very short initial notice periods). Such information can only be found in the collective agreement for temporary agency workers which is not referred to on Thuisbezorgd's website or in application FAQs. It is however publicly accessible and available in Dutch and English. Compared to Uber Eats, Thuisbezorgd's website on getting started as a rider is extensive. Uber Eats homepage and application information is generic (not altered much to the country context) and very limited as it does not contain any information on rights at work (except for accident insurance through the company). Neither is this information provided in the application process.

5.3.3 Work schedule and work hours

In terms of *normative rights*, Thuisbezorgd riders can opt for contracts with 16, 24, 32 or 40 hours since December 2021, before the maximum contractual hours were 12 but workers could work more on call.⁴⁰ A shift system is in place where workers need to be available 2 evenings a week and at least one between Friday and Sunday. For Uber Eats riders, there is no regular work schedule or shift as they work as solo self-employed and are free to connect/disconnect at any time.

As to the state of *instrumental resources*, Thuisbezorgd riders get slightly misleading information by the temporary recruitment agency as Randstad advertises the job as "A flexible job! Plan your own work days and hours" but then also adds the necessity to be available 2 nights. There is no information in the application FAQs or on the platform website on the specificities of the shift scheduling (reliability-part). For Uber Eats drivers' flexibility is advertised "Be your own boss", peak hours are not mentioned on the homepage but in the application form.

5.3.4 Earnings

As to *normative resources*, for Thuisbezorgd riders, the Dutch statutory minimum wage lays down a monthly minimum wage for everyone in full-time employment (€1,934.40 per month in January 2023⁴¹). Thuisbezorgd chooses to pay slightly above this threshold and adds bonuses as well as a kilometre allowance. Thuisbezorgd workers are covered by the ABU collective agreement (for temp workers) but are not covered through the higher (collectively agreed) minimum wage set in the TLN collective agreement for Professional Good Transport by Road. Uber Eats riders are excluded from all relevant labour law stipulations including the statutory minimum wage as they are self-employed. A piece-rate pay system applies which means that earnings are very unreliable. Waiting times are unpaid and equipment is an additional cost item that the riders need to discount from their earnings.

As to *instrumental resources*, earnings reliability and transparency is again impacted by the difference in employment contracts across the two platforms. Uber Eats does not provide information on average earnings or calculations (including bonus systems) on their website. The estimated net earnings per trip are only shown once the gig appears in the app. Thuisbezorgd riders, in contrast, receive more comprehensive information both from the platform website and the temp agency. However, the information is complex, often not concrete and partly conflicting across the two sources.

⁴⁰<https://www.thuisbezorgd.nl/bezorger/the-inside-track/bezorgen-met-ons/contracten-voor-bezorgers>

⁴¹<https://voorlichting.rijksoverheid.nl/onderwerpen/m/minimumloon/bedragen-minimumloon/bedragen-minimumloon-2023>

To provide an example, the maximum wage advertised on the Thuisbezorgd website is higher than the one advertised by the temporary recruitment agency Randstad. Thuisbezorgd's website does not refer to average earnings of riders on specific contracts but rather the statutory monthly minimum wage which only allows riders to do a rough calculation of potential expected earnings. This calculation is made more complex due to the various bonus and extra systems that can apply. Moreover, the information provided across the two sites is not coordinated and therefore rather confusing. While Thuisbezorgd's webpage mentions various bonus and extras that can be accrued (e.g. kilometre, city, temporary maximum efficiency allowance) it does not provide details about the calculation and implication for earnings. Randstad provides information about the earnings calculation system and with regard to bonuses mentions the possibility of earning up to €3.75 on top of hourly salaries but without being clear about the conditions. Other expenses such as equipment (bike, phone, etc.) and whether they are covered or not are neither informed about by the temporary recruitment work agency or platform. We do not have access to contracts where this information is potentially presented in a more transparent way.

5.3.5 Employee representation

In *normative rights* terms, riders – both those hired by the temporary recruitment agency and self-employed – are represented by the Riders' Union Netherlands which is supported by the trade union FNV. FNV is responsible for collective bargaining with employers where relevant (collective agreement for temp workers), representing the interests of platform workers in social dialogue and with other stakeholders. They also support riders in legal cases, organizing strikes and generate publicity around working conditions of platform workers.

As regards to *instrumental resources*, Riders' Union Netherlands makes contact with riders on social media via their Facebook page and group⁴², as well as on twitter. Media coverage of activities of the Riders' Union also indirectly informs riders about their rights.

5.3.6 Conclusions

In sum, the Netherlands for the sector of platform-mediated food delivery is in a situation where the largest platform, Thuisbezorgd, provides more reliable working conditions as their workers have contracts and a collective agreement as compared to Uber Eats which uses a fleet of solo self-employed with much reduced rights in terms of working conditions (and social protection). Employee representation – though outside the Directive - is available for both groups of workers but Thuisbezorgd riders. While the situation of Thuisbezorgd riders is better than those of Uber Eats riders, they still face challenges in terms of transparent and predictable working conditions. This is brought about by the fact that instead of being hired directly by the platform, they are hired by a temporary recruitment agency and then lent to the platform. The either complex or conflicting information both at the platform and the temp agency as well as additional information in individual contracts which change with tenure and a collective agreement, likely creates issues of transparency for the riders. While riders hired out by Randstad as temporary agency workers to Thuisbezorgd are covered by a collective agreement which is not the norm across Europe, the ABU collective agreement that applies

⁴² <https://www.facebook.com/FNVRIDERSUNION/>

to temporary agency workers has worse conditions than the TLN collective agreement for Professional Goods Transport by Road.⁴³

⁴³ See for example: <https://www.ridersunion.nl/getmedia/f825808f-2f88-4af6-a33e-8dcc1ddcfbc3/Riders-deserve-better.pdf>

Table 5. Summary matrix for the Netherlands

Firm	Normative resource	Instrumental resource	Enforcement resource
Terms of employment			
Thuisbezorgd	- Employee status at temporary employment agency company Randstad (not directly hired by Thuisbezorgd itself) - Hired on the basis of an agency work employment contract, part of the 'ABU phase system' with different contractual rights depending on the length of employment (Phase A contract: max. 52 weeks; Phase B: max. 3 years and/or 6 contracts; Phase C: Indefinite period. In case of interruption of temporary agency work of longer than 26 weeks, the employee goes back to Phase A)	Key information is scattered across different sources (platform webpage, temporary work agency webpage, contracts of different types and collective agreement). Platform webpage itself also contains potentially conflicting and misleading information. In mentions a variety of hourly-based contract types and only briefly mentions that riders must send application to temporary agency. In other parts, it suggests that riders will get a "proper work contract" but does not clarify that it is a Phase A contract provided by the temporary work agency.	
Uber Eats	Solo self-employed (referred to as "zzp'ers" in the Dutch context)	- VAT number is a pre-requisite for application, therefore riders know of their self-employed status, but not of its implications. - Tax rules of being a self-employed are explained under 'getting started' on Uber Eats' website.	The Amsterdam district court ruled that Uber <u>drivers</u> were employees, not freelancers (September 2021). However, Uber has indicated plans to appeal this ruling (<u>not</u> directly applicable to Uber Eats but could have implications for future court cases).
Rights at work			
Thuisbezorgd	- Labour law generally also applicable for temporary agency workers with some exceptions - Special rules of dismissal during 'phase A' (52 weeks) contract: employment can be ended from either side at any time with short or no notice; illness can lead to direct termination in case of agency clause - Rights increase in proportion to the length of employment with the temporary employment agency company (Phase B or C). - Collective agreement coverage: ABU collective agreement (for temporary agency work) applies instead of (better) regulations set out in the TLN Collective Agreement for	- No publicly available information on platform's website on particularities of temporary agency work contracts (e.g. phase system, notice period etc.) during application. - Information on special rules depending on contract phase are outlined in the ABU collective agreement which can be found online.	

	Professional Goods Transport by Road.		
Uber Eats	• Excluded from all relevant labour laws (or any collective agreement) due to self-employed status: no statutory min. wage, no holiday, no sick leave, parental leave etc. • As self-employed, responsible for their own occupational disability insurance • Automatically part of Uber Partner Protection which covers work-related medical expenses and the like	• No information on rights at work on Uber Eats website and application FAQ.	
Work schedule and work hours			
Thuisbezorgd	• Riders can opt for 16, 24, 32, or 40h contracts (since Dec 2021). • Shift system	• Slightly misleading advertisement by temporary employment agency company as a flexible job, though work schedule is rather rigid and decided by employer • No information on specificities of shift scheduling in application FAQs or website (likely in contract and questions can be asked in phone interview)	
Uber Eats	• No shifts or regular work schedule with agreed minimum hours due to self-employment.	• Flexibility is advertised. • Information on peak hours is not mentioned on the homepage but included in the application form	
Earnings			
Thuisbezorgd+13:14	• Statutory minimum wage: lays down a minimum monthly wage for everyone in full-time employment, including temp agency workers • Higher collectively agreed minimum wage set out in the TLN Collective Agreement for Professional Goods Transport by Road not applicable as ABU collective agreement for temp workers applies (no collectively agreed minimum	• Maximum wage per hour advertised by platform is higher than the one advertised by temporary work agency (Randstad). • Thuisbezorgd: no info about the wage calculation system, this info is provided on the website of Randstad • Thuisbezorgd: Info about different contract types by hours	

	wage) • Kilometre allowance per kilometre cycled: €0.10 for a normal bike and €0.19 for an electric bike	volume but does no reference to average earnings on specific contracts. Instead, it refers to the statutory monthly minimum wage. • Thuisbezorgd: informs about bonus schemes and kilometre allowances but not clear what they entail and how they are calculated • Ranstad: info about earnings calculation system; info on earning up to €3.75 on top of hourly salaries in bonuses. • Other expenses of equipment (bike & phone etc.) and whether they are covered not informed about by either agency or platform	
Uber Eats	• Excluded from all relevant labour laws due to self-employment status. This includes statutory minimum wage. • Piece-rate pay system • Unpaid waiting times & equipment	• No information on website or during application on average earnings or calculation system • The estimated net earnings per trip is shown when a delivery request is offered in the app	
Employee representation			
Thuisbezorgd	• Represented by Riders' Union Netherlands which is supported by the trade union FNV. • Its activities include: collective bargaining, representing the interests of platform workers in social dialogue and the like, legal action and organising strikes and other actions to generate publicity.	• Contact with riders on social media in different Facebook groups and pages, as well as twitter • Contact with riders on social media in different Facebook groups and pages, as well as twitter	
Uber Eats			

5.4 France

In France, Deliveroo and Uber are the two biggest food delivery platforms in terms of market share as of January 2021. Uber Eats accounts for 51%, whereas Deliveroo accounts for 41%. ⁴⁴ We have access to the service contracts for both Uber Eats and Deliveroo that defines the relationship between these platforms and their solo self-employed riders.

An overview of the French case is provided in Table 6.

5.4.1 Terms of employment

In terms of *normative resources*, riders for both companies are solo self-employed, holding the status of ‘auto-entrepreneurs’. This means that they do not have employment contracts but are sub-contracted by the food delivery company by use of a service agreement. ⁴⁵

In terms of *instrumental resources*, it can be expected that most riders are aware of their employment status as auto-entrepreneurs because they are obliged to complete VAT registration as a precondition for applying to work which signals their self-employed status. Yet, it is worth qualifying that if riders are unaware that employees are not required to do the same, it is plausible that they may not be aware of their employment status. ⁴⁶

In terms of *enforcement resources*, there have been multiple court rulings recently on Deliveroo riders’ employment status. There have also been multiple court rulings on Uber drivers’ (ride-hailing services) employment status which may have some relevance for Uber’s riders (delivery services). Some of these rulings retrospectively re-categorised workers which had been involved in these court cases into salaried employees. However, Defossez (2022) notes that the rulings have been mixed with some siding the platforms and others siding workers. In fact, Defossez (2022) highlights that some court rulings have refused the “possibility of an automatic requalification of those contracts... and according to [the] latest judgements, it can be concluded that a platform worker is not an employee” (p.29). In short, enforcement resources have thus far played a limited role in recategorising Deliveroo and Uber riders into employees rather than solo self-employed ‘auto-entrepreneurs’.

5.4.2 Rights at work

In terms of *normative resources*, riders are not covered by stipulations in the French labour code on occupational health and safety, annual leave, maximum duration of working hours, minimum wages, collective bargaining, and rules regarding employment termination for salaried employees because they are not employees. In France, labour regulations for workers including rights at work are typically strong, especially for workers with open-ended contracts (Palier & Thelen, 2010). As auto-entrepreneurs, riders are automatically part of France’s general insurance scheme which means that they are covered for example by health-maternity insurance, and disability-death insurance. However, the French social security code only covers salaried employees regarding accidents at work. Thus, it excludes auto-entrepreneurs such as riders from statutory occupational risk insurance. Considering

⁴⁴ <https://fair.work/wp-content/uploads/sites/17/2022/08/Fairwork-France-Ratings-2022-EN.pdf>

⁴⁵ Service agreement is termed “contrat de prestation de services”.

⁴⁶ One reason why this may occur is because numerous riders are of foreign background who may lack (sufficient) information about the French labour market (on foreign background, see France24 2022).

the high risk of accidents that riders face, it has therefore been mandated by law for digital labour platforms like Deliveroo and Uber Eats to provide company insurance which leads to riders being covered for accidents at work, incapacity or death, illness (after 7 days and for a maximum of 16 days), maternity/childbirth, and liability. However, the pay-outs are capped and much lower than salaried employees' statutory insurances. Additionally, as riders are in a service agreement, which de facto imposes an unlimited probationary period, a notice of termination may not be required for both riders and platforms which runs against the intentions of the Directive.

In terms of *instrumental resources*, riders are often unaware of the implications of their solo self-employed status on their rights at work. In part, this is due to a lack of (clear) information being conveyed to riders on the websites of platforms before application and/or often very detailed but too complex service agreements. For instance, the conditions for notice of termination in the service agreement are lengthy, repetitive, unclear and at times misleading. Given this formulation of service agreements, it is unlikely that riders will read it fully. Even if they do so, they may not fully understand it. In relation to companies' insurances, media investigations as well as complaints from rider groups reveal that platforms' own insurance packages are often hard to access. They include unclear instructions on how to process claims, lengthy processes to make claims, and the lack of a contact person that riders may communicate with. These informational obstacles ought to be considered in light of the socioeconomic background of many riders. That is, their often foreign background may mean that they may not have sufficient knowledge or experience about the French labour market to be able to discern all of this information in a way that can enable them to use whichever (limited) work-related rights they may have.

5.4.3 Work schedule and work hours

In terms of *normative resources*, there is no limitation on riders' work hours since they are not employees. Therefore, they are excluded from stipulations of a maximum duration of 10 hours of work per day or 44 hours per week in the French labour code. Likewise, this means that they do not have shifts but are instead 'free' to connect whenever they would like to perform work. This 'freedom' to connect has been supported by a recent legislation on delivery and ride-hailing platform workers' right to disconnect and reject tasks.⁴⁷

Regarding *instrumental resources*, platforms communicate quite concisely that riders have no limitations to their *work hours*, have no shifts, and can disconnect and reject tasks. This clarity contrasts with the complexity and vagueness of information on rights at work. Platforms communicate this information by advertising that riders are able to enjoy flexible work hours. Such stipulations are also necessary to uphold the self-employment status of the riders and minimise court cases where platforms may be challenged on riders' employment status, namely whether riders could be reclassified as employees.

5.4.4 Earnings

In terms of *normative resources*, riders' earnings are affected by their status as solo self-employed. Unlike employees, they do not have contractually agreed minimum earnings and are not covered by labour laws regulating minimum wages (€11.07 hour in August 2022). However, and in line with the provisions to provide transparency about earnings in the Directive, a legislation imposes an obligation

⁴⁷ Loi d'orientation des mobilités.

on platforms to inform the minimum guaranteed price per task and also disclose various earnings-related indicators.

Thus, in terms of *instrumental resources* platforms do disclose some earnings-related indicators. However, the type of indicators varies across platforms and their usefulness to riders to estimate and calculate their earnings is debatable. Neither platform communicates sufficiently in advance how much earnings riders can expect to earn for various types of tasks. Instead, this information is only communicated for a specific task the moment that said task appears on the rider's app. Deliveroo provides various earning indicators that show the average earning per task, per hour with waiting time, and per hour without waiting time. However, the average earnings that they provide are based on very specific scenarios which often do not match reality (e.g. variances in tasks received per hour). Importantly, the earnings calculation system is not disclosed within the rider service agreement, company website, or FAQs during application. Instead press releases are used. Uber Eats differs from Deliveroo in that it communicates a list of average earnings for a long list of different task-related scenarios rather than per hours earnings (which Deliveroo does). Put differently, Uber Eats provides too much and often excessively complex information that renders such information to be of little use to riders, whereas Deliveroo provides scant or unrealistic information which is also of little use to riders.

5.4.5 Employee representation

In terms of *normative resources* for riders' employee representation, it has improved since social dialogue has become institutionalised through the creation of the Authority of Social Relations of Labour Platforms (Autorité des relations sociales des plateformes d'emploi - ARPE) by a legislation passed on 6th April 2022.

In terms of *instrumental resources*, both Deliveroo and Uber Eats inform riders about ARPE, the social dialogue process, and elections on their websites or related pages ('Deliveroo Newsroom' and 'Uber Blog'). However, Deliveroo provides an online form for riders to ask questions about the election of union representatives, Uber Eats does not. This difference may mean that riders from Deliveroo are more aware of their right to employee representation than riders from Uber Eats.

5.4.6 Conclusion

Therefore, it appears that France for the sector of platform-mediated food delivery does not meet several of the aims and minimum requirements of the Directive on essential aspects relating to transparency and predictability of working conditions. However, through a recent law (*Loi d'orientation des mobilités*), French platforms are compelled to provide riders with earnings-related indicators. However, whether this information can be used readily by riders to calculate or predict their earnings is debatable. In short, on top of their weaker rights when compared to employees, French riders often lack clear, concise and usable information. It means that riders may not know or may not be able to de facto exercise these de jure rights.

Besides the aims and minimum requirements listed above, French riders however have the right to refuse delivery tasks and set their own working times without penalty because of the recently passed law giving them the right to disconnect. Information about this right is also communicated to riders. The right to disconnect however does not improve transparency or predictability of working conditions. Given riders often come from disadvantaged socioeconomic background (see Flichy, 2019;

Landier et al., 2016; Srnc and Gossart, 2021), however, it remains uncertain how many French riders would exercise this right. Additionally, this law has also contributed to solidifying the status of riders as self-employed. An article in Le Parisien in 2019 (Lepetit 2019) argued that whereas platforms like Uber have praised the law for “reinforcing the status of independent workers while putting in place new obligations for the platforms”, the trade union for the solo self-employed (Union des Auto-Entrepreneurs; UAE) criticised the law as a reform that is neither social nor responsible [... and] puts the interests of platforms over self-employers.⁴⁸

⁴⁸ The original French report noted that Uber’s response to the law was as follows *“renforce le statut d’indépendant des travailleurs tout en mettant en place de nouvelles obligations pour les plateformes”*. By contrast, UAE’s response was as follows *“ni sociale ni responsable [...] Les plateformes risquent de se précipiter pour offrir une protection sociale à ces travailleurs qui leur seront, de fait, inféodés alors même que l’intérêt du travail indépendant est de pouvoir multiplier les employeurs”*. (Le Parisien 2019)
<https://www.leparisien.fr/economie/uber-deliveroo-ce-que-va-changer-la-loi-mobilites-09-06-2019-8089932.php>

Table 6. Summary matrix for France

Firm	Normative resource	Instrumental resource	Enforcement resource
Terms of employment			
Deliveroo	• Solo self-employed (micro-entrepreneurs) • Service agreement instead of employment contract	• Riders are aware of their status due to VAT registration which is a precondition for application to work.	• Multiple court rulings in favour that Deliveroo should retrospectively recategorize affected riders as salaried employees, but no effect on current riders otherwise.
Uber Eats			• Court rulings in favour that Uber should retrospectively recategorize Uber drivers (not riders) as salaried employees, but no effect on current riders otherwise.
Rights at work			
Deliveroo	• Loi d'orientation des mobilités: right to access performance data collected by company, right to disconnect and refuse tasks, right to be informed of conditions of remuneration (incl. distance of each assignment and min. guaranteed price). • Not covered by French labour laws applicable to salaried employees: occupational health & safety, annual leave, max. working hours, min. wages, collective bargaining, rules regarding termination etc.	• Insufficiently informed about implications of employment status for rights at work • Making use of platform's own insurance hard for riders: process of claims unclear, lengthy, no contact person (according to media investigations & rider groups) • Conditions for notice of termination in lengthy service contract (which riders may not read / understand).	
Uber Eats			

Work schedule and work hours			
Deliveroo	• Work hours without limitations (as excluded from strict French labour laws on employee's working hours: max. 10h/day or 44h a week)	• Company advertises flexibility of work hours.	
Uber Eats	• No shifts, free connection times • Right to disconnect and reject tasks (Loi d'orientation des mobilités) with no influence on work schedule, tasks, rating		
Earnings			
Deliveroo	• Loi d'orientation des mobilités: obligation to inform about min. guaranteed price per task and share earning indicators. • No contractually agreed min. earnings • Not covered by labour laws regulating minimum wages (11,07€/hour - Aug 2022)	• Conditions for bonuses briefly mentioned on website but no detailed explanation or information about amounts • Actual earnings per task are only communicated when the specific task appears on the riders' app (i.e. no prior knowledge of earnings). • Deliveroo communicates types of average earning indicators on company website as a press release: per task, per hour with waiting time, per hour without waiting time. However, average earnings are based on very specific scenarios (e.g. 2-3 tasks), but these scenarios vary a lot in practice. • Earning calculation system not shared on individual contract (rider service agreement), company website, or application FAQ.	
Uber Eats		• Uber lists a longer conditions for bonuses than Deliveroo on website but no detailed explanation or information about amounts. • Actual earnings per task are only communicated when the specific task appears on the riders' app (i.e. no prior knowledge of earnings). • Uber communicates types of average earning indicators based on a long list of different task-related scenarios rather than per hour earnings. • Earning calculation system is shared on company website, but not on individual contract (rider service agreement) or application FAQ. It is based on fixed components - pick-up and delivery -, and variable components - bonus and distance.	

Employee representation			
Deliveroo	• Social dialogue has become institutionalised based on Ordonance of the 6th of April 2021 by creating Authority of social relations of labour platforms (ARPE).	• Deliveroo informs about ARPE and social dialogue process & elections on their 'Deliveroo Newsroom' website • Questions about election of union representatives for riders in May 2022 could be asked to the company in an online form	
Uber Eats		• Uber Eats informs about ARPE and social dialogue process & elections on their 'Uber Blog' • No option to ask questions about election of union representatives for riders in May 2022.	

5.5 Spain

In Spain, the two biggest food delivery platforms in terms of market shares are Dutch-owned Just Eat and Glovo (part of German-owned Delivery Hero since July 2022). Spain stands out when it comes to regulating working conditions on food delivery platforms as it is the first country to have a legislative Act directly targeting the employee status of riders in their Rider's Act (Spanish: 'Ley Rider').

In terms of primary data for this case study, we have access to an employment contract for riders of Just Eat and the collective agreement that Just Eat is a party to. Most Glovo riders are solo self-employed (see below) and thus do not have an employment contract. Only few are employees, but we do not have access to their employment contracts. Since most Glovo riders are solo self-employed, we focus on this group of riders. We thus rely on the document on terms and conditions for rendering services on behalf of Glovo.

Additionally, we note through a press release that Glovo has in December 2022 and thus at the time of writing concluded an agreement with Comisiones Obreras (CCOO) Catalonia. However, details of the agreement are scant and not publicly accessible. There is therefore uncertainty whether it is only applicable to riders directly employed by Glovo or also to their self-employed riders. Similarly, it is uncertain whether it covers riders outside of Catalonia. Our analysis below of Glovo riders predates this agreement. However, when possible, we flag potential changes that may emerge from this agreement.

An overview of the Spanish case is provided in Table 7.

5.5.1 Terms of employment

In Spain, a number of recent legal acts have had a significant impact on the employment status and working conditions of food delivery platform riders.⁴⁹ Most notably, the Rider Act. However, this impact varied across food delivery platforms.

In terms of *normative resources*, Just Eat riders in Spain are at the time of writing directly employed part-time employees. They may be employed on permanent or fixed-term contracts.⁵⁰ It currently has between 2000 to 2500 directly employed riders. It is worth pointing out that Just Eat offers two types of part-time contracts.⁵¹ One of them is a weekend contract where riders are contracted to provide services exclusively on weekends (Friday, Saturday and Sunday) for a minimum of 12 hours. The other contract stipulates a minimum of 16 hours per week. However, a separate report suggests that some of its riders are still sub-contracted through third-party firms which we do not have figures for.⁵² In December 2021 Just Eat - in response to the recent legal acts - signed a collective bargaining agreement with the General Union of Workers (UGT) and CCOO. They were the first Spanish delivery

⁴⁹ They include the Riders Law (12 August 2021), and amendments to the Workers' Status Act (Law 12/2021 of 28 September).

⁵⁰ The collective agreement signed in December 2021 stipulates that 80% of contracts must be permanent (<https://braveneweuropa.com/gig-economy-project-just-eat-signs-pioneer-labour-agreement-with-spanish-unions>).

⁵¹ Article 25 of collective agreement which Just Eat is a party to. (SIMA-FSP 2021, p.14).

⁵² <https://braveneweuropa.com/gig-economy-project-just-eat-signs-pioneer-labour-agreement-with-spanish-unions>

platform to sign such an agreement. Crucially, this collective agreement applies to “*all persons who provide their services for the Company and are linked to it through an employment contract*” (SIMA-FSP, 2021).⁵³ Thus, it applies only to those riders directly employed by Just Eat and not to subcontracted staff.⁵⁴ Additionally, the specification of Just Eat’s employees as part-time workers is covered in Articles 23 and 24 of the collective agreement. As Article 21 suggests, contracts need not necessarily be permanent; they may also be fixed term.⁵⁵

By contrast, Glovo’s riders are for the most part solo self-employed, or in the platform’s own terms “autonomous distributors”. Only one-sixth of its riders have employee status. Even though the Riders’ Law (12 August 2021) lays down that food delivery platform riders ought to be considered employees of digital platforms because they are subjected to these platforms’ algorithmic control, Glovo has tried to circumvent this presumption of employment by way of changing its algorithm which now allows riders to freely log in/out of its app (without repercussions) and providing the option of slightly adjusting the delivery fee. Thus, Glovo rejects the presumption of employment by clearly stating that it does not direct or control the work activities of its riders (Glovo, 2021).⁵⁶

In terms of *instrumental resources*, both delivery platforms have made the employment status explicit to riders. Just Eat’s riders receive an employment contract that they are to sign prior to employment. This employment contract, which is written in both Spanish and English, clearly states that the signatory is an employee and includes information on the specific work hours.⁵⁷ Just Eat also advertises on its application website that they offer a permanent contract.⁵⁸ If riders may also be hired on fixed-term contracts which the collective agreement does not seem to preclude, this is not disclosed on the website. Additionally, Just Eat also does not state the various types of part-time contacts which are available on its application website. By contrast, Glovo’s document on the terms and conditions of its platform use, which is available only in Spanish, states that riders have no employment relationship with Glovo.⁵⁹ Instead, they are “autonomous distributors” - that is, solo self-employed. Glovo also states the self-employed status of its riders clearly on its application FAQs where it writes in that its riders are independent professionals.⁶⁰ However, it also states the following in the same webpage “*Later in the registration process, you will be able to choose if you want to use the app as a freelancer or have a work contract (depending on availability)*”. Thus, it highlights that having

⁵³ The citation is a machine translation of the text “*El Convenio es aplicable a todas las personas que prestan sus servicios para la Empresa y estén vinculadas con ésta a través de un contrato laboral*” (SIMA-FSP 2021, p.3). [https://www.ccoo-servicios.es/archivos/Acuerdo%20Sindicatos%20JUST%20EAT\(1\).pdf](https://www.ccoo-servicios.es/archivos/Acuerdo%20Sindicatos%20JUST%20EAT(1).pdf)

⁵⁴ <https://braveneweuropa.com/gig-economy-project-just-eat-signs-pioneer-labour-agreement-with-spanish-unions>

⁵⁵ “El personal con contrato temporal y de duración determinada tendrá los mismos derechos que el personal con contrato de duración indefinida, sin perjuicio de las particularidades específicas de cada una de las modalidades contractuales en materia de extinción del contrato y de aquellas expresamente previstas en la Ley.” (SIMA-FSP 2021, p.12). A machine translation of this text reads “Personnel with a temporary and fixed-term contract will have the same rights as personnel with an indefinite-term contract, without prejudice to the specific characteristics of each of the contractual modalities regarding the termination of the contract and those expressly provided for in the Law.” which suggests that fixed term contracts are not precluded.

⁵⁶ Términos y condiciones de uso de la plataforma de Glovo para los repartidores autónomos (July 2021).

⁵⁷ The Spanish version supersedes the English one, the English one is for information only.

⁵⁸ <https://www.just-eat.es/repartidor>

⁵⁹ Glovo. (2021). Términos y Condiciones del Uso de la Plataforma de Glovo Para Los Repartidores Autónomos.

⁶⁰ <https://coursiers.glovoapp.com/es/>

employment contracts is less likely than being self-employed. It also does not state if it is possible to change to having an employment contract if a rider begins as a solo self-employed.

In terms of *enforcement resources*, there have not been any cases in which Just Eat has been a direct party. However, Just Eat's operational strategy and employment practices can be seen as a response to numerous cases lodged against other food delivery platforms such as Deliveroo which has since pulled out of the market. In most of these cases, the court ruled that riders have employment status, and these rulings formed the basis of subsequent statutory legislations that presume platform workers as employees. Regarding Glovo, the labour inspectorate issued a record-high fine in October 2022 for continuing to operate on the basis of solo self-employed workers which it considers to be an incorrectly assigned employment status.

5.5.2 Rights at work

In terms of *normative resources*, riders of both platforms have different rights at work which is in large part due to their different employment statuses. As employees, Just Eat Riders have access to basic labour rights including a reliable fixed hourly wage, sick and holiday pay (Gilmartin, 2022). Just Eat riders are also subject to the collective agreement that the platform is part of. The collective agreement among others specifies a probationary period of 1 month, rules governing notice periods for employment termination, entitlement to weekly rest of two uninterrupted days including breaks between shifts, and annual holidays. The collective agreement also contains a stipulation that the company will provide equipment and a collective accident insurance. The equipment includes uniform, delivery backpack, and a mobile phone. The agreement also states that riders can use their own vehicles with compensation or be provided with one by Just Eat. Riders are also entitled to night-time, festive holiday, and vacation supplements to their base salary.

By contrast, Glovo riders do not have such rights (except for a company-provided accident insurance) at work simply because most of them are not employees. Owing to their solo self-employed status, they are not covered by Spanish labour laws that are applicable to salaried employees. Improvements have however recently been announced in Catalonia (December 2022) as CCOO Catalonia has negotiated an agreement with Glovo to improve working conditions and earnings⁶¹. Among other things, Glovo agrees to provide electric bikes for its rider fleet, intending to reduce riders' own work-related expenses as well as occupational safety as the company centralises procedures for repair and technical inspection. Additionally, the payment system is set out to improve by introducing regulated bonuses for Sundays (50% increase of hourly wages) and holidays (doubling hourly wages). The agreement also allows for retrospective payments of Sunday/Holiday bonuses of the last year. Lastly, the agreement includes improvements for compensation of mileage for own vehicle use: eight times higher compensation per km for scooter delivery, three times higher for normal bikes, and double in the case of electric bikes. The agreement, which is not yet publicly available, may however apply to fewer riders *if* it only applies to riders directly by Glovo who are outnumbered by solo self-employed Glovo riders.

In terms of *instrumental resources*, Just Eat riders may refer to their rights at work in their employment contract as well as in the collective agreement which Just Eat is a party of. Generally, the information on their rights at work is clearly stated in their employment contract in both Spanish and English.

⁶¹ <https://www.ccoo-servicios.es/comercio/salario/html/56447.html>

However, the application website does not state all of these different work-related rights that riders are entitled to. Instead, riders may need to refer to the collective agreement for which there is no hyperlink on Just Eat's application website. For Glovo, riders may refer to the document containing the terms and conditions of its platforms use. This document provides some relevant information such as: termination may be initiated by any side at any time without prior notice, riders are responsible for their own taxes, and riders have access to insurance coverage while working on the platform. However, the information is sometimes presented in legal jargon. Lastly, it is worth highlighting that Just Eat's employment contract is written in a more accessible and concise manner than Glovo's document listing its terms and conditions. Glovo's application website does not provide any information on the work-related rights that its riders may have. It does however state that riders need to provide their own insulated delivery bags to begin their work.

As regards access to collective agreements, the Just Eat agreement is mentioned by the company itself and publicly accessible. Glovo's agreement – likely due to it being newly negotiated – is at the time of writing only reported of by the union CCOO in a press release. There is currently no publicly accessible version of the CCOO-Glovo agreement.

5.5.3 Work schedule and work hours

In terms of *normative resources*, differences in employment statuses once again govern differences in the work hours and schedules of the two platforms' riders. Just Eat offers part-time contracts. As stated in Article 25 of the collective agreement, the minimum hours for weekend contracts are 12 hours and 16 hours for the regular part-time contracts. As stated in the collective agreement, the maximum work hours per day are 9 hours. However, the maximum varies by location of work and is in several cases as low as 24 hours a week. The precise work hours are stated in the employment contract. Flexibility for the platform is achieved by mandating an increase of work hours to a maximum of 35% per month (with 5 days prior notice) above the contractually agreed work hours and an additional 20% of voluntary hours as listed in Articles 26 and 27 respectively. Just Eat riders will be notified 5 calendar days in advance about their weekly work schedule and they may indicate their shift preference. Furthermore, it is possible for them to reject an order if the estimated time of a current order will take place within the last 15 minutes before their shift ends. Lastly, they also have the right to two uninterrupted days of rest. By contrast, the majority of Glovo riders (solo self-employed) do not have minimum or maximum work hours and do not have a predetermined work schedule. Under Glovo's solo self-employed policy, they are free to connect as they wish.

In relation to *instrumental resources*, there is clear information regarding work hours and schedule in the employment contract and collective agreement of Just Eat's riders. In addition, the collective agreement provides clear examples and relevant scenarios on work hours and scheduling which helps riders to better understand their rights and responsibilities. This detailed information is however not communicated on Just Eat's application website. The website simply states that riders can work via shifts according to their availability. Although Glovo also clearly states that its riders have no stipulated work hours or schedules in its document containing its term and conditions, it does not provide riders information on the most popular and least popular time slots. This information is relevant for riders to plan their work schedule (i.e., when to 'connect') and anticipate the number of hours they may be able to work during specific times of the day and week. Put differently, this lack of information has led to 'hyper connection', that is, an excess supply of riders compared to the demand which affects riders'

work hours and thereby earnings. Glovo's application website does not mention anything about work hours besides stating that riders are free to choose when they wish to connect.

5.5.4 Earnings

In terms of *normative resources*, riders of the two platforms again have different earnings due to differences in their employment statuses as well as the existence of a collective agreement for Just Eat riders. Annex I in the collective bargaining agreement guarantees a basic annual salary of €15232 which translates to €1269.33 for full-timers (gross of €8.50/hour which is somewhat higher than the statutory minimum wage of €7.82). Higher earnings apply for night shifts, festive holiday shifts, and during vacation periods. The collective agreement states the following rates for supplements: nighttime supplement (25% increase over base salary of worker), festive holiday supplement (100% increase over base salary of worker), and vacation supplement. Since Just Eat riders are predominantly part-time employees, their minimum salary is a function of the amounts stated above and their work hours. Furthermore, the collective agreement includes compensation for relevant expenses (e.g. compensation of 0.15 euros per kilometre for using own vehicle, 0.10 euro per kilometre for using own electric bicycle, 0.06 euros per kilometre for using own traditional bicycle), extraordinary bonus and other salary supplements such as payment for complementary hours and overtime. According to Article 54 of the collective agreement, riders are entitled to two extraordinary bonuses accrued semi-annually which correspond to 30 days of base salary and prorated based on 12 ordinary monthly payments. Both complementary hours and overtime are paid at the same rate as ordinary work (with relevant supplements added).

By contrast, the majority of Glovo riders as solo self-employed have no guaranteed statutory or collectively agreed minimum wage or coverage of work-related expenses. Instead, they receive payment per delivery which makes their earnings very unreliable. It is also worth pointing out that Glovo riders technically have the option of slightly adjusting their delivery fees, but such adjustments may affect successful task assignment. Thus, the option of self-adjusting delivery fees is unlikely to affect riders' earnings positively. Overall, earnings is a function of the number of deliveries made. Pay outs for each delivery is a factor of payment per order and variable extras which are based on distance and delivery time. The new agreement between CCOO Catalonia and Glovo of December 2022 intends to improve the salary system by regulating bonuses for Sundays and holidays as well as covering essential work-related expenses of vehicle use: Glovo agrees to provide electric bikes for riders and to increase mileage compensation of own vehicle use.

In terms of *instrumental resources*, the earnings that Just Eat riders can make are clearly elaborated in the employment contract and especially the collective agreement. In the collective agreement, rules regarding remuneration and expenses are laid out extensively. However, it is worth pointing out that the name and link to the relevant collective agreement are not provided in Just Eat's application FAQs limiting the transparency of relevant available information on working conditions, work hours and earnings.

Regarding Glovo, its app offers a reference minimum price to riders for every request which riders must then indicate if they agree with and specify the minimum price for which they would be willing to do a delivery. However, Glovo's blind auction system strongly incentivizes riders to accept Glovo's suggested reference price and set a low delivery minimum price to raise their chances of being

assigned to the task. This is because riders lack relevant information on how the blind auction is conducted as well as typical earnings per task and delivery at which they would be assigned a task. The lack of such information means that they are unable to make informed decisions about the price they can ask for their labour, which in turn affects the predictability of their earnings. Additionally, the lack of information about most popular and least popular time slots which leads to ‘hyperconnection’ as elaborated above may also reduce the predictability of earnings. Additionally, there is no information listed in Glovo’s document on terms and conditions as well as its application website on bonuses. Glovo’s application website also provides scant information on how earnings are calculated, and average earning indicators for various tasks. All it states is that earnings are a function of number of orders for which payment for each depends on the payment per order and variable extras based on distance and delivery time. It does not provide information on the range of earnings to be expected on payment per order and the variable extras on its website. Since it relies on a ‘blind auction’ system, riders will only know their earnings (partly at least) when they bid for delivery tasks on the app. In short, Glovo does not provide information that will allow riders to calculate the earnings that they can anticipate. As regards the new CCOO Catalonia-Glovo agreement, information on it is at the time of writing scarce. As it is unclear if it is applicable to self-employed or only directly employed, and whether it extends to all Glovo riders beyond Catalonia, its de facto impact on riders’ earnings remains open.

5.5.5 Employee representation

In terms of *normative resources*, both platforms’ riders are represented by two trade unions - Comisiones Obreras (CCOO) and Unión General de Trabajadores (UGT) which also negotiated the collective agreement which Just Eat is a party to and which has been in effect since January 2022. Trade union delegates are elected by and from among the trade union’s members who are associated with the platform. Like workers’ representatives, their functions centre on consultations on matters relating to union members, defending members’ interests before the employer and acting as a communication channel between the employer and the union (Eurofound, n.d.). The first union delegate elections at Glovo were won by the CCOO.

In terms of *instrumental resources*, there is no information found on the representation and elections to be trade union delegates on the websites of Just Eat or Glovo. Trade unions have however shared press releases on elections.

5.5.6 Conclusions

There are considerable differences in the predictability and transparency of working conditions across the two major platforms in Spain. This comes about due to the use of dependent employment on the one hand (Just Eat) and solo self-employment on the other (Glovo), though the latter being strongly contested by legal cases and fines. The working conditions of riders for Just Eat generally seem to meet the aims and minimum requirements of the Directive on transparent and predictable working conditions. Having said this, the subcontracting through third party firms used by Just Eat - though we lack precise numbers on the size of this phenomenon - provides a challenge. Namely, the terms and conditions acquired through the collective agreement which have been applicable since January 2022 do not apply to subcontracted workers. The collective agreement which complements individual contracts is the source with the most transparent information on rights at work, working hours and earnings. It is surprising that Just Eat does not provide a link to the collective agreement on its

homepage even though it states under FAQs that it is proud to have been the first firm in the platform food delivery sector to have signed such an agreement.

By contrast, the working conditions of riders for Glovo fall short in several respects. Work-related rights are very limited for self-employed workers and the predictability of work hours, schedules and earnings is very low. Having said this, if the riders are genuinely self-employed which is strongly contested in the Spanish case – they would not fall under the terms and conditions of the directive.

Spain is an interesting case given the active role of the government in responding to legal cases in particular on the employment status of riders by way of concluding the Riders' Law. The Riders' Law which goes hand in hand with increased labour inspections and hefty fines makes it difficult for platforms in the food delivery sector to operate with solo self-employed (Gilmartin, 2022). Glovo – among others – is still trying to circumvent the law in order to keep a cutting edge on the market by way of using the hyper-flexibility of their fleet which is commonly staffed by migrant workers including those without a legal right to work (Gilmartin, 2022). However, some improvements may be coming for Glovo riders following the new agreement with CCOO Catalonia. Competitiveness is much reduced for Just Eat as it has fixed costs deriving from the obligations as employer and better terms and conditions for their employees through the extensive collective agreement and can therefore only afford to have a more limited fleet. Sub-contracting has been used as a flexibilization strategy by Just Eat.

Table 7. Summary matrix for Spain

Firm	Normative resource	Instrumental resource	Enforcement resource
Terms of employment			
Just Eat	• Salaried employee status by work contract	• Information shared on application website FAQ mentions permanent contracts • Coverage through a collective agreement is mentioned clearly on the application website but no link to the agreement in question • Contract clearly indicates employee status • Contract mentions full title of collective bargaining agreement so it can be searched for	• No cases about Just Eat BUT other rulings had an effect on discontinuing bogus self-employment and laid the foundation for the rider law.
Glovo	• Glovo workforce: ca 2000 out of 12000 hold employee status, meaning the majority is self-employed • Glovo circumvents Riders' Law presumption of employment. Glovo does it by changing its algorithm formula such riders can log in/off 'freely' without selecting timeslot and adjust the price of their delivery fees slightly, they can refuse tasks and subcontract to other workers. Therefore, Glovo could for a while outgo the riders' law.	• The legal status is clear by contractual terms as defined in the document on Terms and Condition. • The application FAQ indicate the option of choosing between self-employed and employee within the application process. However, given Glovo's limited spots for employed riders, there may not be much of a choice • No information on possibility and means to transit from self-employed to employee status.	• Oct 2019: Superior Court of Justice Madrid deemed a Glovo rider to be genuinely self-employed • Sept 2020: Spanish Supreme Court ruled that riders were employees (crucial ruling for rider's law) • Oct 2022: Labour inspectorate fined Glovo for continuing to work with false self-employed workers (€79 million)
Rights at work			
Just Eat	• Collective bargaining agreement: 1 month trial period; annual holiday entitlement of 30 days for full-time employees (less in different part-time scenarios); termination by employee (15 calendar days) • No exclusivity clause (except for during working hours)- other occupational activities must just be informed about.	• All relevant rights at work explained in collective agreement and contract	

Glovo	• Not covered by Spanish labour laws applicable to salaried employees (unless registered as employees) • Possibility of termination at any time without prior notice. • Access to insurance coverage while working on the platform • No exclusivity	• Terms and conditions for self-employed specifies the following rights implications: termination and notice, access to insurance coverage when working on the platform, tax responsibility, exclusivity	
Work schedule and work hours			
Just Eat	• Contractually defined hours providing guaranteed hours and earnings (min. 16h) • Shift notice: contractually agreed that shift planning is shared each week (notice of 5 calendar days in advance). • Max working time dependent on contractually agreed min. working hours. Ceiling for max. working time 20% over min. working hours per month. • Collective agreement further stipulates maximum annual (1792h/year) and daily working hours (9h/day). • Rejection of order possible if estim. time will take place within last 15 mins before shift ends. • Right to two uninterrupted days of rest.	• Contract and collective bargaining agreement clearly state information on shift planning, when work will likely take place, when riders have to inform Just Eat of their preferred availability, the notice period for schedules, mandatory as well as voluntary complementary hours • Collective agreement includes many scenarios that make the content more understandable for rider's work specificities	
Glovo	• Under the Glovo self-employed policy, riders are free to connect as they wish.	• Riders are unaware of the most popular/least popular time slots, they are also unaware of the number of colleagues connected/available at the same time. This leads to "hyper connection" with supply of tasks exceeding demand = affecting earnings	
Earnings			
Just Eat	• Minimum wage: €1,000 (14 times a year) • Collective bargaining agreement guarantees basic annual salary of €15,232(1.269,33 € monthly for full-timers, based on 8,5 €/h gross). Part-time employees receive salary proportionately • Collective bargaining agreement includes compensation for vehicle use, bonuses, salary supplements, complementary hours, overtime, compensation of expenses, receiving tips, and terms of salary increases • Expenses: platform provides smartphones, protection equipment, corporate uniform, backpack/box, compensation for use of own vehicle or use of company vehicle	• Collective bargaining agreement lays out rules regarding remuneration and expenses extensively • The collective bargaining agreement is mentioned in application FAQs of Just Eat, however no link to it nor the name of it. • Application website states yearly income of "up to €11,424*; (...) *for contracts of 30 hours per week, so you must make your calculation according to the hours signed in your contract". Information could be presented more accessible through hourly wages or monthly wages	

Glovo	• Algorithm distributes earnings as a function of a blind auction among all available riders. The rider is thus not informed about the earnings in advance, and must offer a relatively low price if s/he wants to gain the request • Glovo shows a reference price for every request, riders must then indicate if they agree with the price as well as the minimum price for which they would deliver • No coverage of expenses such as equipment (e.g. mobile phone, insulated delivery bag, bike) • Earnings include a mileage per km component • New agreement between trade union CCOO in Catalonia and Glovo has improved payment system: regulated bonuses for Sundays (50% increase of hourly wages) and holidays (doubling hourly wages) • The agreement in Catalonia also improved work-related expenses: Glovo agrees to provide electric bikes for riders and to compensate higher for mileage of own vehicle use	• Information is provided about 'choice' that riders have in deciding prices. Terms and conditions state that price per service is determined and chosen by the riders themselves, given Glovo's market price suggestion. No mentioning of calculation system, no foresight of earnings possible • Since the blind auction system is central to Glovo's task assignments, this information about riders' choice is somewhat misleading given that low price matters in assignment • Lack of transparency on statistics and performance indicators that determine whether a rider is placed in the group that receives orders first, or later	
Employee representation			
Just Eat	• Representation by trade unions CCOO & UGT who both negotiated the Just Eat collective agreement in effect in January 2022 • System of representation: election of 'trade union delegates' by and from among the trade union's members on the platform. Similar to workers' representatives, functions are centred on consultation, defending members' interests before the employer, and acting as the communication channel between employer and union" (Eurofound, 2020). • Trade union delegates voted for by unionised workers • Riders law obliges platforms to give worker representatives access to the algorithm affecting working conditions	• No information on information channels	

Glovo	• Representation by trade unions CCOO & UGT • System of representation: election of 'trade union delegates' by and from among the trade union's members on the platform. Similar to workers' representatives, functions are centred on consultation, defending members' interests before the employer, and acting as the communication channel between employer and union" (Eurofound, 2020). • Riders law obliges platforms to give worker representatives access to the algorithm affecting working conditions • The CCOO union has won the first union elections at Glovo rendering it possible to set up a union dialogue within the company. • CCOO Catalonia has signed an agreement with Glovo on 19th December 2022. NB: Uncertain if new agreement applies to self-employed as well as directly employed riders, and to Glovo riders in all of Spain or only Catalonia.		• 2020: UGT sued Glovo for anti-union behaviour and demanded 25,000 euros of compensation
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5.6 Poland

In Poland, the two largest food delivery platforms by market share are Pyszne.pl (Just Eat) and Uber Eats. We do not have access to employment contracts for riders delivering for Pyszne.pl and Uber Eats. One interview was conducted with a trade union representative to expand and verify information.

An overview of the Polish case is provided in Table 8.

5.6.1 Terms of employment

In terms of *normative resources*, riders for Pyszne.pl and Uber Eats have similar employment statuses. In the case of Pyszne.pl, the company has its own third-party agency which is responsible for employing the riders that Pyszne.pl uses on civil law contracts. In the case of Uber Eats, riders are often hired via intermediary companies that the platform does not own unlike Pyszne.pl. In the case of Uber Eats, riders often register with these intermediary companies to avoid being self-employed. These intermediary companies charge riders for bookkeeping and this charge varies between companies.⁶²

For both platforms, riders are offered civil law contracts. Unlike regular employment contracts, civil law contracts are atypical ‘task-specific’ contracts where *“the contractor provides a service but there is no requirement to specify an outcome...[and] are by definition temporary...[and] are not based on the labour code, but on the civil law instead”* (Lewandowski, 2018, p.7). In short, such contracts are not employment contracts (workers do not enter employment relations with the platform), and they are more precarious than typical contracts.

In terms of *instrumental resources*, neither the websites of Pyszne.pl or Uber Eats state the employment status and contract type of riders. This lack of information on the rather specific ‘task-specific’ contract is especially concerning given that a sizable share of riders are foreigners (see Kowalik et al., 2022); platform work such as food delivery rider is one of the few viable employment options available to foreign students (Rogalewski, 2020). Foreigners – but likely also natives – may lack an understanding of the different employment statuses and contracts as well as their implications in terms of work-related and social rights.

In terms of *enforcement resources*, it is worth noting that the labour inspectorate has conducted an inquiry into Uber Eats upon the request of the Ombudsman in 2019. The inspectorate found several peculiarities relating to the employment practices of Uber Eats. Namely, it took note of the presence of illegal employment of migrant workers, evidence of non-registration with the social insurance system among Uber Eats riders, and that hourly minimum wage rules were not followed. Crucially, however, this evidence had a binding impact on changing platforms’ employment practices. An interviewed trade union representative stated uncertainty about whether the food delivery platform sector was of special importance to the labour inspectorate, and rather suggested that the labour inspectorate does not play any significant role in controlling or supervising working conditions in food delivery platforms.

⁶² <https://www.komputerswiat.pl/poradniki/uber-eats-jak-dziala-i-ile-zarabia-dostawca/28w2tfe>

5.6.2 Rights at work

In terms of *normative resources*, riders of both platforms have different rights at work from workers who are employed on regular contracts which are regulated by the Labour Code. Owing to their civil law contracts, they do not follow the stricter regulations of the labour code including on daily or weekly working time and rest times as well as health and safety. Crucially, the civil code does not provide guarantees on sickness and maternity insurance, work accidents or annual leave payment. Additionally, neither food delivery platforms is covered by collective agreements which would be a means of improving the weak work-related rights of these riders. Nevertheless, there are some differences between the two platforms. Pyszne.pl offers its riders a free backpack and company clothing and an Internet-use supplement (PLN 25), whereas Uber Eats does not provide any equipment for its riders. Lastly, riders who opt to be solo self-employed with Uber Eats are not covered by the statutory regulations for riders employed on civil law contracts, and may thus have even fewer work-related rights.

Regarding *instrumental resources*, information on riders' work-related rights on the application websites of Pyszne.pl and Uber Eats is sparse which is likely explained by the limited rights deriving from the civil law contract type provided. Pyszne.pl states on its FAQs on its application website that riders will receive a backpack and company clothing from them for free but not a work phone. The platform will however cover the costs related to using Internet during work through a supplement of PLN 25 each month. Uber Eats' application website states that riders covered by third party liability insurance should their vehicle be damaged during their courier shift, and it lists down the steps that need to be taken to file claims. It states in its application FAQs that it does not provide equipment to its riders.⁶³ However, it does not distinguish between work-related rights for solo self-employed and riders from third-party agencies. On the application website of one such third-party agency, Eternis, we do not find information about its employed riders' work-related rights.⁶⁴ On the application website of another third-party agency, Allride, we find some information about its employed riders' work related rights – Allride offers “*administrative support, a contract, and a full ZUS insurance*”.⁶⁵ However, there is no information on what the insurance provided by Allride actually covers. In short, information provided by third-party agencies is often incomplete and varies by agencies.

5.6.3 Work schedule and work hours

In terms of *normative resources*, the work schedules of Pyszne.pl's riders are arranged according to the rider's declared availability which he/she provides once a week. The platform requires riders to make themselves available for a minimum of 40 hours each month (i.e. about 10 hour per week). According to Muszyński et al. (2022), Pyszne.pl however “*often changes shift without consulting workers: ‘when demand is low then [...] they often shorten the shift by 10 minutes, half an hour, an hour, without paying for it... [to] counterbalance the cost of maintaining a more regularized workforce*” (ibid. p. 304). Pyszne.pl does not set any maximum number of hours that a rider can perform per month. Additionally, the employment application form includes three options for shifts during the day that riders can indicate their preference for. If a rider needs a break during the month (e.g. holidays), they can declare this in the Scoober app.

⁶³ <https://www.uber.com/pl/pl/deliver/basics/before-you-start/delivery-gear-ideas/>

⁶⁴ <https://eternis.pl/en/uber-eats/>

⁶⁵ <https://allride24.pl/en/uber-eats/>

By contrast, riders at Uber Eats are free to schedule their own work hours with no minimum hours required regardless of whether they are employed under civil law contracts with third-party agencies or solo self-employed. Such a lack of minimum stipulated hours – in contrast to Pyszne.pl – *may* result in a situation where the platform has too many riders that in turn have to fight for orders as has been noted by a trade union representative for the Spanish company Glovo that operates with a similar model.⁶⁶ According to a news report (Kulbaczewska-Figat, 2022), Łukasz Ostrowski who is co-founder of the union of delivery workers co-operating with Pyszne.pl claims that Pyszne.pl “*does not employ an excess of workers: it takes as many people as are actually needed, and sometimes not even enough... bonuses for completing a sufficient number of task [...which until recently] were completely unrealistic [...] in order to get a substantial bonus, one had to do around 250 hours a month.*” This report of excess work however differs from the account of shortened shifts as noted in Muszyński et al. (2022).

In terms of *instrumental resources*, Pyszne.pl communicates on its application website that the rider arranges his/her own schedule. It communicates that a minimum of 40 hours per month needs to be fulfilled, and adds that there is no maximum limit to the number of work hours on its website. However, this information of minimum guaranteed hours is somewhat misleading as the platform may shrink the number of hours assigned to riders without prior notification (Muszyński et al., 2022).

By contrast, there is no information on work hours and schedule on Uber Eats’ application website since it operates on the basis of riders’ schedule flexibility. The information on its website does not distinguish between solo self-employed riders and riders employed by third-party agencies. The main message that Uber Eats conveys on its application page is the allusion to having no boss and to “*take to the streets and deliver whenever you want – for an hour, a weekend, or throughout the week*”.⁶⁷ However, Uber Eats does communicate on its FAQs for riders (Driving and Delivery) on schedules when demand for delivery orders is usually higher (11am to 2pm; 5pm to 9pm).⁶⁸ It also states that Uber Eats may send in-app messages about areas in high demand, rush hours, and restaurants/sellers with high orders. The same message of work schedule flexibility is conveyed on the application websites of third-party agencies like Eternis and Allride.

Despite these subtle differences in communication, the lack of clear and relevant information remains even for Pyszne.pl. In a newspaper report (Wyborcza, 2022), an interviewed rider of Pyszne.pl maintained that there was a great deal of uncertainty about the allocation of work hours both on the part of riders but also shift coordinators.⁶⁹ The interviewee mentioned that a rider could get three hours one day and nine the next day. When this issue was raised with the coordinators, the interviewee noted that they attributed blame to the algorithm. Accordingly, if riders for Pyszne.pl feel that they do not have sufficient information on work scheduling and hours, it is likely that riders for Uber Eats may feel the same given that Uber Eats supplies even less accessible information to its riders on its application website.

⁶⁶ <https://www.crossbordertalks.eu/2022/12/22/polish-delivery-workers/>

⁶⁷ <https://www.uber.com/pl/en/deliver/>

⁶⁸ <https://help.uber.com/driving-and-delivering/article/godziny-i-C2%A0miejsca-ze-zwi%C4%99kszon%C4%85-liczb%C4%85-zam%C3%B3wie%C5%84-na-dostawy?nodeId=3ece579a-21d3-4b0c-96fd-f3f240308ecb>

⁶⁹ <https://warszawa.wyborcza.pl/warszawa/7,54420,28938930,bunt-dostawcow-jedzenia.html?disableRedirects=true>

5.6.4 Earnings

In terms of *normative resources*, riders of the two platforms have slightly different earnings. For Pyszne.pl, a rider's earning is influenced by several components, and it is paid monthly. Essentially, Pyszne.pl works with hourly wages. Pyszne states that riders could earn from PLN 23.50 to PLN 27.50 per hour not including tips. Both values are calculated based on the hourly rate and the average value of the bonus for orders when a rider travels an average of 40 hours a week. Additionally, riders with seniority get a progressive hourly bonus – PLN 1 per hour after three months, and another PLN 1 per hour after six months. However, it seems that this seniority allowance may be phased out by Pyszne.pl to accommodate the costs of paying a basic wage of PLN 22.80 (€4.89) per hour to be in line with the increase in Poland's minimum wage for civil law contracts.⁷⁰ There are also allowances for washing clothes, progressive bonuses for completed orders, and allowances for private telephone, and receiving tips transferred via the app. Further monetary allowances are available to riders who use their own bicycles during their work hours.⁷¹ Previously, Pyszne.pl used to offer a 'weather bonus' for weekend work in autumn 2021 for the winter months. However, this has been withdrawn in 2022 which has led to dissatisfaction among riders since this reduction coupled with inflation means that their real earnings have fallen. This sentiment was expressed by an interviewed representative of a group of employees who planned to set up a trade union.⁷²

In the case of Uber Eats, take home earnings are more complex. According to Eternis which is one of the third-party agencies that employs riders on civil law contracts to render services to Uber Eats, the hourly rate starts at PLN 20 per hour. Note however that this advertised hourly rate is below the statutory minimum wage of PLN22.80 for civil law contracts applicable from 1 January 2023.

For solo self-employed, earnings are a function of the following: pick up, delivery and distance between the restaurant and the customers' location.⁷³ Riders get a fixed amount for picking up one or more orders from one restaurant, and a multiplier based on the distance between restaurants when there are pick-ups from multiple restaurants. Each delivery provides a fixed amount. Additionally, a per-minute rate based on the estimated time to complete the trip from the time the rider arrives at the restaurant to the time the delivery is completed is applied in some cities. There is also a bonus called "revenue boost promotion" that "guarantees a certain revenue multiplier for deliveries starting and ending in a designated area at specific times" (Uber Eats 2023).⁷⁴ Uber Eats however does not state the value of this multiplier. While this multiplier applies to the solo self-employed, there is no public information on whether rider employed by third-party agencies are eligible for this multiplier.

In addition, Uber Eats also charges riders a substantial fee for using the app itself for both solo self-employed and riders from third-party agencies. Additionally, and as mentioned above, riders are often hired by intermediary agencies which levy a fee for bookkeeping including financial transaction between Uber Eats and the rider. This fee varies between agencies. For instance, Eternis charges PLN 20 per settlement. Since riders providing service for Uber Eats receive earnings every week

⁷⁰ <https://www.crossbordertalks.eu/2022/12/22/polish-delivery-workers/>

⁷¹ <https://students.pl/artykuly/praca-w-pyszne-pl/>

⁷² <https://warszawa.wyborcza.pl/warszawa/7,54420,28938930,bunt-dostawcow-jedzenia.html?disableRedirects=true>

⁷³ <https://www.uber.com/pl/pl/deliver/basics/earnings/understanding-delivery-fares/>

⁷⁴ <https://help.uber.com/pl-PL/driving-and-delivering/article/zwi%C4%99kszenie-przychod%C3%B3w-z%C2%A0dostaw?nodeId=29ff4fd5-f07e-40f6-b76f-1d07f7850356>

(settlement), this means that a PLN 20 bill is levied by Eternis whenever riders working for the agency receive their weekly earnings.⁷⁵

All in all, these stipulations mean that there may be variation in earnings between Uber Eat riders who are employed by third-party agencies and those who are solo self-employed. Additionally, our interviews suggest that earnings between Pyszne.pl and Uber Eat riders seem to vary. This is evidenced when the remarks of two riders, each delivering for separate platforms, for are juxtaposed. In response to the withdrawal of the 'weather bonus', a rider for Pyszne.pl suggested that it would have made a difference for Pyszne.pl riders who drive for 8 to 10 hours a day.⁷⁶ In response to questions about earnings, an Uber Eats rider suggested that riders have to often devote 11 to 13 hours a day to driving to achieve a desired income.⁷⁷ Although the context in which these two comments were made differ, they nevertheless provide a glimpse into differences in work hours that may be partly due to differences in pay structure between the two platforms.

In terms of *instrumental resources*, neither platform clearly states the earnings structure nor pay system on their application website. However, Pyszne.pl does provide limited information on its application website on riders' potential earnings per hour (without tips).⁷⁸ Yet, this information is useful only to a limited degree as it does not provide a breakdown of how much riders can expect to earn from various bonuses. Lastly, Pyszne.pl advertises on its application website that riders earn an hourly wage.

Turning to Uber Eats, its application website and FAQs does not state the potential earnings that riders from third-party agencies may make. We found this information on hourly wage on one of these third-party agencies, Eternis. The application website of Eternis also states the average and maximum earnings per week of its riders for Uber Eats. However, it does not indicate whether there are non-hourly wage components and their rates that allow riders to achieve these higher weekly earnings. As riders are typically hired by a number of third-party agencies, we do not know how much variations there is in terms of the information provided by different agencies.

Uber Eat's application website also does provide earnings indicators about how much its solo self-employed riders can make. Although it states the parameters by which the standard delivery charge is calculated, it does not provide earning indicators for any of these parameters. In other words, it remains a black box for riders which makes it difficult for them to estimate their earnings. However, it does states on its FAQ website (Driving and delivery) that riders will see "*highlighted high-order areas with higher multipliers in the Revenue Boost promotion*" when they sign into the Uber Driver app. Yet, they do not disclose information on the value of this multiplier, and the metrics by which it arises on is FAQ website. This means that riders cannot be certain of when there would be a multiplier (spontaneous alert via the app), and the factor by which it boosts their base task-related earnings.

⁷⁵ <https://eternis.pl/en/price-list/>

⁷⁶ The results of the research were presented at a Polish-German seminar on platform work organised by OPZZ and the Ebert Foundation on 18 October 2019 in Warsaw (quoted by Rogalewski, see above).

⁷⁷ <https://docplayer.pl/181190004-Cyfryzacja-i-praca-platformowa-cyfryzacja-platformowa-informator-dla-pracownikow-adam-rogalewski.html>

⁷⁸ https://www.pyszne.pl/kurier?utm_source=mainsite&utm_medium=referral&utm_content=header

Lastly, Uber Eats does not disclose on its application website FAQs the cost of fee that it levies on riders for using the app.⁷⁹

5.6.5 Employee representation

In terms of *normative resources*, riders are not yet represented by the unions. However, there are conversations between Pyszne.pl and the Labour Confederation (Konfederacja Pracy).⁸⁰ Such developments have not yet spread to other platforms in a sizable manner. It is worth pointing out that employee representation is not yet universally supported by riders as some of them seem sceptical of its need.⁸¹

In terms of *instrumental resources*, an interviewed union representative noted that it was not riders themselves who were reaching out to the unions. Rather, it was intermediary agencies who were reaching out to them on behalf of riders' concerns about the level of earnings which intermediary agencies could not directly influence (i.e., platforms set the earnings rates). Additionally, the interviewee also suggested that language and 'cultural' barriers facing foreign-background riders were also raised by these agencies.

5.6.6 Conclusions

It appears that the working conditions of riders in Poland fall somewhat short of the aims and minimum requirements of the Directive, and this problem is more pronounced for Uber Eats. Even though both platforms afford riders substantial flexibility in deciding their work schedule, there are distinct difference in terms of how they employ such flexibility. It seems that Uber Eats uses it to lower its own costs more than Pyszne.pl, and it employs a dual employment strategy of both solo self-employed riders and riders who are employed by third-party agencies.

Regardless of these differences, there is a shared problem about a lack of transparent information and predictable work hours that allows riders to estimate their earnings. If information is present, it is generic and not substantially useful for riders to calculate their earnings. Given that riders are not employed by these platforms but through third-party agencies, it might be that these agencies are the source of such information. However, we are uncertain about potential variations across agencies in terms of the content, scope, and relevance of information as we have no access to the information they provide to applicants and new riders. Additionally, it is worth pointing out that riders in Poland have much poorer work-related rights than regular employees in the country. Namely, their civil law contract grants them fewer protections and guarantees than what regular employees receive. Furthermore, some of these agencies appear to advertise hourly wages that are below the statutory minimum wage for civil law contracts.

All in all, it seems that the system of using third-party agencies by riders to avoid solo self-employment status means that the onus on providing transparent and predictable information including but not limited to work schedule and earnings to riders is passed from the platforms to these agencies. Therefore, any attempt to implement the Directive in a way that these riders will benefit from more

⁷⁹ <https://www.uber.com/pl/pl/deliver/basics/earnings/tracking-your-earnings/>

⁸⁰ <https://www.crossbordertalks.eu/2022/12/22/polish-delivery-workers/>

⁸¹ <https://www.crossbordertalks.eu/2022/12/22/polish-delivery-workers/>

transparent and predictable information about their work may need to consider the role of these third-party agencies.

Table 8. Summary matrix for Poland

Firm	Normative resource	Instrumental resource	Enforcement resource
Terms of employment			
Pyszne (Just Eat)	- No regular legal employment status - Civil law contracts: atypical, 'task-specific', and temporary contracts that are based on the civil law rather than the labour code - Hired through company's own third-party agency	Company websites do not state the employment status and contract type of riders	
Uber Eats	- No regular legal employment status - Civil law contracts: atypical, 'task-specific', and temporary contracts that are based on the civil law rather than the labour code. - Hired through various intermediary companies (which demand service fees from riders) - No regular legal employment status - Option of self-employment (in lieu of civil law contract) if not hired through third-party intermediary company	- Company websites do not state the employment status and contract type of riders - Company websites does not distinguish between solo self-employed riders, and riders employed by third-party agencies.	- The labour inspectorate has conducted an inquiry into Uber Eats upon the request of the Ombudsman in 2019. The inspectorate found: presence of illegal employment of migrant workers, evidence of non-registration with the social insurance system among Uber Eat riders, and that hourly minimum wage rules were not followed. - NB: This has had no impact on changing the platforms' employment practices.
Rights at work			
Pyszne (Just Eat)	- Civil law contracts translate into exclusion from the labour code (regulating e.g. working time and rest times, health and safety, sickness, holidays, and employers' provide work equipment) - Civil code applies but does not include any guarantees on sickness and maternity insurance and work accidents, nor annual leave payment.	Work-related rights not listed on the application websites for Pyszne.	
Uber Eats		- Work-related rights not listed on the application websites for Uber Eats - Uber Eat's website states third party liability insurance should riders vehicle be damaged during their shift, it lists steps that need to be taken to file claims. - No distinguishing between solo self-	

		employed riders, and riders employed by third-party agencies.	
Work schedule and work hours			
Pyszne (Just Eat)	• Riders need to be available for min. 40h/month, but no guaranteed hours • No maximum working hours stated • Shift system • Work schedules arranged according to rider's declared availability provided once a week • Holidays can be taken by indicating it in the driver app Scoober	• Employment application form includes three options for shifts that riders can indicate their preference for. • Application website informs that rider arranges his/her own schedule with min. of 40h/month and no maximum hours' limit • NB: Effectively, large uncertainty about allocation of work hours due to work scheduling through algorithms	
Uber Eats	• No min. working hours • No max. working hours • No shift system • Free to connect/disconnect at any time	• No information on work hours and schedule on Uber Eat's application website • Main message communicated on website is riders' schedule flexibility by alluding to the lack of a boss • No distinguishing between solo self-employed riders, and riders employed by third-party agencies.	
Earnings			
Pyszne (Just Eat)	• Hourly wages: - Since 2017, there is a minimum hourly rate for civil law contracts: from 1 January 2023 – the statutory minimum hourly rate will amount to PLN 22.80/h (gross) • Earnings vary: - Basic rate: PLN 19.90/h (Pre 1 January 2023) - Rate with use of own bike: PLN 21.9/h - Courier with seniority: progressive hourly bonus – PLN 1/h after three months, and another PLN 1/h after six months (May be phased out) - Progressive bonus for completed orders - Some compensation for work-related expenses: vehicle use, clothes wash, private telephone	• Website lists two plausible earnings per hour. The higher value one includes the hourly rate and average value of the bonus for orders when you travel an average of 40 hours a week. • However, specific bonus and hourly rates not detailed on the website.	

Uber Eats	• For <i>riders who are employed by third-party agencies with civil law contracts</i>, they are paid hourly wages. Eternis, a third-party agency, states that the hourly wage for delivery with Uber Eats starts at PLN20. - Yet, since 2017, there is a minimum hourly rate for civil law contracts: from 1 January 2023 – the minimum hourly rate will amount to PLN 22.80/h (gross) • Note: riders that are <i>self-employed</i> and not on a civil law contract are not covered by any min. wage, their earnings are solely based on the company's discretion in their pay rates • Uber Eats charges riders a fee for using the app itself. • Options for 'revenue boost promotion' in high-order areas on the Uber Driver app. However, uncertain is this multiplier is eligible for riders who are employed by third-party agencies as well. • Pricing mechanisms / earning structure can be changed at any time = no predictable incomes • No compensation of work-related expenses	• No distinguishing between solo self-employed riders, and riders employed by third-party agencies. • Uber Eats' Website does not inform on: - whether earnings are task-based or paid by the hour (at least for employees of third-party agencies). - earnings parameters - bonus system - amount of service fee for app use as riders • Website informs only vaguely on earnings calculation: "For each delivery, you earn minimum amounts for pick-up and delivery and the distance to your destination" - without mentioning amounts of each component. - No clarity on which riders this applies to. • Website informs that pricing and earning calculation may change at any point: "... we may test features and pricing in ways not described on this page". - No clarity on which riders this applies to. • Revenue summaries can be found in the rider's app - estimating earnings is thereby to some degree possible but require some weeks of work	• The labour inspectorate found in 2019 that hourly minimum wage rules were not followed. • NB: This has had no impact on changing the platforms' employment practices.
Employee representation			
Pyszne (Just Eat)	• Union has recently engaged in dialogue with platform	• No information found on the website	
Uber Eats	• No union representation	• No information found on the website	

6. Discussion

The TPWC aims to regulate uncertainties around work for all workers in the EU. Although it targets workers with employee status, the problems that it highlights, its aims, and solutions are even more relevant for the most flexible non-standard workers; platform workers are named explicitly. Amongst other aims, the Directive seeks to enable workers to receive more complete information on the essential aspects of their work early and in writing, to be informed within a reasonable period in advance when work will have to be done especially for workers with unpredictable working schedules and on-demand work, and prevent abuse of zero-hours contract work (EU 2019). As our country cases show, in spite of these comprehensive aims that go way beyond what the previous Written Statement Directive provided, there are several challenges that may limit the extent to which the Directive can substantially ameliorate the working conditions of one of the most precarious type of jobs, namely riders for food delivery platforms (De Vault et al., 2019; Hauben et al., 2020; Heiland, 2022; Mendonça et al., 2022).

Firstly, there is substantial variation in the terms of employment of riders both across and within countries. Crucially, the disparity in predictability and transparency of working conditions can be traced to these variations in terms of employment. Our country cases demonstrate that riders are engaged in a plethora of employment forms – solo self-employed, persons directly employed at the platform ('dependent employed') either full-time or part-time and on open-ended or fixed-term contracts, employees of third-party firms, temporary agency employment, and minijobs. These contract types provide different degrees of flexibility to the platforms and have implications for the predictability and transparency of working conditions for the riders. The most problematic type of employment, in this regard, is solo self-employment. Solo self-employed typically are not covered by national labour laws and health and safety regulations, unlike employees. The case of whether the riders in question are genuinely self-employed has been contested in several countries through legal cases, and the results have been mixed overall. While the provisions in this directive do not apply to genuinely self-employed riders, bogus self-employed are explicitly mentioned as target.

The type of contracts that riders find themselves in largely depend on country-specific and platform-specific factors, and are also in some cases reactions to government-induced change in statutory legislation. In terms of country-specific factors, existing ingrained labour market legislation and structures as well as industrial relations systems influence the possible types of contracts that platforms may employ in order to flexibly react to fluctuations and peaks in demand for delivery services. They do so not only by way of using solo self-employment, but also by making use of established forms of contracts that provide them with numerical flexibility. For instance, minijobs have been commonly used in Germany in many sectors and have also proven to be attractive for food delivery platforms. They are particularly problematic when compared with other non-standard forms of employment as the earnings threshold is so low that it will be impossible to make a living of one single minijob. Moreover, they provide very limited access to social security benefits including pension rights. They have commonly been equated with dead-end jobs (e.g. Voss & Weinkopf, 2012). Temporary agency employment contracts are commonly used in the Netherlands, and not only in the platform-based food delivery sector. In fact, such contracts have been one of the components of the Dutch flexicurity model that has been criticized as of late for yielding problematic economic and social

consequences (Bekker & Leschke, forthcoming). Likewise, the use of civil law contracts rather than standard employment contracts in Poland grants riders fewer work-related rights. These contracts are less regulated than other temporary contracts with lower protection against dismissals (no need for justification for termination of contract), no paid leave unless agreed, no period of notice unless agreed, and no severance pay unless agreed (Lewandowski, 2018, p. 20). Social security contributions also tend to be lower among workers with civil law contracts leading to social security coverage gaps.

Likewise, more robust industrial relations systems seem to increase the likelihood that riders may be hired directly as employees such as in Denmark or Germany. However, the Danish case where the second-largest food delivery platform uses solo self-employed workers rather than employees shows that platform flexibilisation strategies can outweigh strong industrial relations. Broadly speaking, in a context of stronger industrial relations systems, the conclusion of collective agreements between unions and platforms is more likely as the Danish, Dutch and Spanish cases would suggest. However, even then, the level of bargaining activity on platform work still varies among countries with stronger industrial relations systems as evidenced in differences between Denmark and Germany.

Additionally, governmental responses to riders' labour market situation are also relevant. In Spain (which has a stronger tradition for extensive statutory labour law legislation like France), riders' protests, Spanish trade unions like CCOO, and a series of judicial rulings have seemingly motivated the government to take concrete legislative action that renders it difficult for platforms to use solo self-employment rather than dependent employment. Initiatives to improve the situation of platform workers have also been discussed in other case countries - for example in Germany. Most governments support the ongoing EU legislative process on improving the working conditions of platform workers through the proposed EU directive on platform work which the main EU trade union (ETUC) supports but employers' associations like BusinessEurope remain somewhat more skeptical about ⁸². However, as the Spanish case also shows, platforms are trying to circumvent legislation that aims to provide better conditions for food delivery riders by presuming that they are dependent employees. Platforms try to circumvent such legislation for example by adapting their algorithmic management in ways that give riders (seemingly) more control of their pricing, working hours and tasks. The French government's response seems to be one that entrenched riders' status of solo self-employment because it focused on improving riders' own control of work (e.g. the right to disconnect) rather than on platform companies' responsibilities. The different governmental strategies highlight different national political stances on regulatory approaches to platform work.

Yet, country-level factors alone are not decisive. Rather, they provide the environment within which platforms operate. Thus, the platforms' strategies are decisive with regards to riders' employment status or lack thereof. In Denmark, Just Eat directly employs its own rider fleet and recently chose to be part of a collective agreement. However, Wolt, in the same country-context, decided to operate in a different way under which its riders are solo self-employed. Likewise, in Spain, Just Eat (which was founded in Denmark) uses direct employment and has concluded a collective agreement, whereas Glovo attempts to circumvent the presumption of direct employment by arguing that its riders are not subjected to the control of its algorithm, are autonomous and have freedom to connect. However, the Polish case shows that firm strategies can still differ subtly with knock-on effects on working conditions

⁸² <https://www.besnesseurope.eu/publications/commission-proposal-directive-improving-working-conditions-platform-work-0>

even when they seemingly practise similar approaches to riders' employment status. Pyszne.pl relies on riders hired from its own agency that is itself distinct from the platform, whereas Uber Eats relies on riders hired from third-party agencies that are unconnected to the platform itself. This means that Uber Eat riders may face greater agency-specific variation (e.g. bookkeeping charge) in working conditions than Pyszne.pl's riders do. It is also important to point out that those platforms who employ their riders directly often also make use of other circumvention strategies concurrently like subcontracting (the Spanish case) or providing their food ordering services to restaurants working with their own delivery staff under various potentially precarious types of contracts (Just Eat across different cases). This approach may lead to two-tiered workforce of riders with different rights and entitlements within the same platform.

The use of different strategies with regard to the employment status by on-location platforms competing in the same market can also have strong effects on their degree of competitiveness and might thereby lead to profound changes in the market with knock-on effects on the riders or certain segments of the riders both in terms of availability of work as well as the pertaining working conditions.

Next, these variations in working conditions across employment forms have knock-on effects on riders' work-related rights, work hours and work scheduling, and even earnings. Broadly speaking, riders who are direct employees of the platforms (often Just Eat Takeaway) have better work-related rights than riders who are solo self-employed or employees of third-party agencies who render services to these platforms (see the Netherlands and Poland). The reason that directly employed workers enjoy better work-related rights is because dependent employment – in contrast to solo self-employment – is governed by stricter statutory regulations in employment and labour laws. The cases of the Netherlands and Spain (third-party subcontracted riders for Just Eat) also illustrate that riders employed by third parties do not enjoy the more generous and protective collective agreement when compared to riders directly employed by the platforms. Since statutory provisions in the labour code and collective agreements regulate work scheduling, work hours, and earnings (i.e. the application of statutory or collective agreed minimum wages), riders who are directly employed by the platforms typically enjoy more clearly defined work schedules with advanced notice, stipulated minimum (and often maximum) hours, and defined hourly-rate earnings. In terms of securing predictable and transparent working conditions as called for by the Directive, it follows that such riders who are directly employed by the platforms often have relatively clearer work schedules and can relatively better anticipate their earnings. Having said this, it has to be highlighted that in order to keep a degree of flexibility to accommodate fluctuating demand, platforms that make use of direct hiring in our country cases frequently make use of part-time employment – or as in the German case even marginal part-time (minijobs), which is another form of non-standard employment. Thus, in terms of the power resource framework of Vandenbroucke et al. (2021), this means that differences in the normative resources of rights at work, working schedule and work hours and earnings are influenced by differences in the normative resources connected to terms of employment.

In addition, variations in employment forms and in particular the distinction between dependent employed and solo self-employed seem to also have an effect on the clarity and scope of information communicated by platforms to their riders on various aspects of their work. That is, these variations in employment statuses do not only have an impact on the de jure rights (normative resources), but

they also influence the amount and clarity of the information that riders have on their rights (instrumental resources). From the power resource framework of Vandenbroucke et al. (2021), instrumental resources like adequate, relevant and usable information is important for citizens to be able to exercise the de jure rights that they have. Typically, the situation is best for directly employed riders, and especially so if they also benefit from a collective agreement. Having said that, we found that the platform-specific collective agreements established in Denmark (Just Eat) and Spain (Just Eat) provided much more transparent and detailed information than the more general Temporary Work Agency collective agreement applicable to platform workers at Thuisbezorgd in the Netherlands. Conversely, the solo self-employed receive least information on the earnings structure and how work is assigned. If they do receive information, the information can be inaccessible (legal jargon), unconcise or contradictory, or not sufficiently relevant or applicable to the actual scenarios that riders face. For instance, Deliveroo complies with recent French legislation to provide information on riders' earnings by listing average earnings for various scenarios. However, these scenarios are often too specific and do not encapsulate the huge variance and combination of tasks that riders face daily. Thus, this information is not particularly useful or relevant for riders to reliably compute their earnings. Overall, the platform-based food delivery sector might be particularly challenging for the stipulations laid out in the TPWC Directive because of the complexity and variation of earning calculation systems (e.g. task-based vs. hourly, bonus systems) and work scheduling models (shift-based, on-demand, etc.). These features make the list of essential aspects of work lengthy and complex jeopardizing the transparency and predictability of working conditions.

We suggest that there are at least four plausible reasons for this difference in information provision. Firstly, provisions in statutory labour codes or collective bargaining are typically precise about work hours, schedules, earnings and other work-related rights. Platforms which rely on directly employed riders do not have much room to deviate from these precise stipulations. This lack of deviation and variation may reduce ambiguity in the information communicated via different channels. Secondly, platforms which directly employ their riders – also under the stipulations of the new directive - have more incentives to provide clear and relevant information to prevent potential labour disputes that they are in a relatively weaker position to fend against at least when compared to the platforms that use solo self-employed. Thirdly, platforms often change their operational strategies both in response to competition as well as rulings and legislation (see the case of Pyszne.pl in Poland or the case of Glovo in Spain). However, statutory labour codes and collective bargaining may limit the degree to which platforms can change their employment practices. Thus, perhaps the lack of information or its ambiguity that is typically observed in platforms where riders are solo self-employed reflects these platforms intent and strategy of retaining flexibility in their operational strategy. Fourthly, when platforms market their work on the basis of the solo self-employed model, they often frame this work based on notions of 'being your own boss' and 'freedom'. In tandem with these notions, these platforms may therefore feel less in need to provide clear information. In fact, not providing concise and transparent information might even support their case of just providing the technical means – the app - that allows the independent contractors to provide their services – without appearing to act as an employer such as in the case of Glovo in Spain.

Furthermore, we notice that information about employment status, work-related rights, work schedule and earnings is often dispersed on different websites – platforms' application websites, their FAQs, third-party agencies (if relevant), other websites and channels unaffiliated to the platform.

Sometimes the information is contradictory which may present challenges to riders' understanding of their rights and entitlements. One would expect platforms' application websites to contain most of this information in a clear and authoritative way given that riders are performing work for them. However, this does not appear to be the case.

Relatedly, we argue that the lack of relevant, concise and clear information on rights at work, work hours, work schedule, and earnings is especially problematic for this job because of the sociodemographic profile of riders. Given the low entry barriers in all country cases, a sizable share of riders is foreign-born. This seems to be particularly the case for the platforms that make use of solo self-employed workers.⁸³ On the one hand, such low entry barriers may provide these individuals who typically struggle to gain a foothold on the labour market or retain a traditional full-time job with some work and income. On the other hand, the sociodemographic of these workers may also mean that they may be even more affected by the lack of clear, usable and relevant information about their work-related rights. Specifically, non-natives are more likely to lack the language skills and/or requisite knowledge about the respective national labour markets and labour law. Therefore, they may be less cognizant of their work-related rights, and - given their more limited alternative employment options and their often lower likelihood of being organized – less likely to dispute their weak state of rights than the average native worker. Yet, they are also probably the group of workers who need most clarity about their rights at work, work hours, schedule, and importantly predictable earnings as they are on average more likely than native workers to suffer from labour market disadvantage. Hence, the absence of information or lack of clear, relevant, and useful information that can be easily accessed by all riders is especially problematic for this group of riders. In terms of the power resource framework (Vandenbroucke et al., 2021), the lack of instrumental resources (usable, relevant and uncontradictory information) may exacerbate these riders' lack of normative resources (work-related rights).

Furthermore, employee representation (which is not part of the Directive) varies across countries. It appears that countries with stronger industrial relations system like Germany and Spain have some degree of workplace representation via works councils and union representation. However, the degree of workplace representation varies across platforms even within Germany and Spain. Crucially, such representation remains under threat even in countries like Germany and where there is workplace representation in the platform. For instance, both Lieferando and Gorillas have allegedly employed work council busting strategies. Furthermore, whether employee representation effectively leads to a higher likelihood of collective bargaining agreements among platform workers needs further research. For instance, Wolt, unlike Just Eat, still does not have a collective agreement despite employee representation there.⁸⁴

Additionally, with regards to enforcement resources, it appears that labour tribunal and judicial rulings have thus far only had somewhat little and indirect effect on the state of normative (work-related rights) and instrumental (information) resources. It is however worth caveating that platform work remains a fairly new sector which may partly explain why labour tribunal and judicial rulings have not

⁸³ In France, for example, there have been documented instances where riders' accounts have been sublet to other workers who may not have the legal right to perform work in the country.

⁸⁴ Larsen et al. (2021) and Ilsøe and Larsen (2022) note that there are ongoing negotiations between Wolt and the trade unions on a possible collective agreement.

yet had as much impact (at least when compared to other more established sectors) Although there have been rulings in favour (but not always) of riders, the impact of these rulings is typically confined to the workers and platforms who are party to the case such as in France and Germany. Thus, the immediate impact of these rulings may be limited in the sense that not all riders benefit (or not) from these rulings. However, as platforms may pre-empt further legal challenges, the rulings may still come to benefit other riders who are not party to the cases, *if* these platforms' responses are in the direction of improving riders' working conditions. Also, they might incite governments to change legislation regulating platforms as the Spanish Riders' Law and introduce much higher fines in cases of non-compliance. Yet, platforms' responses in favour of improving riders' working conditions is far from given if one considers Glovo's current employment practices that try to circumvent the new stricter legislation.

It is also worth noting that cases are often about riders' employment status as in the Netherlands, Spain and in France. If judicial and labour tribunal rulings are to have an impact on riders' work-related rights and the provision of clear and useful information about their rights, they occur indirectly via recategorising riders from more precarious solo self-employed status into employees. Otherwise, judicial rulings have had limited impact on these elements. The exception is Germany where a court ruled in November 2021 on matters of work-related rights. Namely riders at Lieferando have a right to company-provided work phone, mobile data plan and bicycle. In short, enforcement resources – which Vandenbroucke et al. (2021) consider to be an important part of the tripod of resources to enable citizens to use their social rights – have had some (limited) impact thus far. Looking forward, the TPWC may however open some scope to improve the rights of platforms workers who have the status of employees. Specifically, the directive provides a legal platform and thus opportunity to start infringement cases if the member states have not implemented the directive according to its intentions. Through infringement cases, subsequent amendments of national labour law to comply with the directive could also give better opportunities to raise infringement cases and get platforms to conform. In short, enforcement resources may play a greater role in the future to improve the working conditions of riders who are employees.

In summary, we argue that the aims of the Directive are relevant because they highlight some of the labour market challenges that food delivery platform riders face. As discussed above, differences in countries' labour market structures condition the employment status (or lack thereof) that these riders have. However, as platforms rapidly and continuously adjust their operational strategies and thus their employment practices to their operational environment such as the disappearance of some platforms from the market and entrance of others, we would suggest that policies need to be directed at the sectoral level to harmonise substantial variation in different platforms' employment practices as still evident in Spain and Denmark. However, these policies' efficacy will also depend on whether platforms are able to find loopholes to circumvent regulations. Importantly, implementing the Directive in a way that platform riders will benefit from more transparent and predictable information about their working conditions as much as possible also requires considering the role of third-party agencies and sub-contracting – an issue that the proposed Directive on platform work has acknowledged. These problems are especially acute due to the sociodemographic background of these riders. They often have low labour market attachment, are foreign-born, and less educated. When these riders already suffer from cumulative socioeconomic disadvantages, their poorer working conditions exacerbates these socioeconomic disadvantages. Additionally, individuals who are foreign-

born and less educated often exercise their de jure social rights less than individuals who are not foreign-born and who are better educated (e.g. Bonoli et al., 2017; Bonoli and Liechti 2018; Ghysels & van Lancker, 2011). Thus, instrumental resources in the form of better information (in the case of riders) will be helpful to close this gap in social right use; a point that is also echoed in findings from other research within this project (e.g. Alcidi & Corti, 2022; Westhoff et al., 2022).

7. Conclusion

The Directive on Transparent and Predictable Working Conditions (TPWC) has the potential to improve working conditions for all workers in the EU. However, whether it will be able to do so to a sufficient degree for workers who currently face greatest precarity and worst working conditions remains to be seen. In part, this depends on whether the implementation of the Directive responds to the circumstances that these workers are subject to. Our analysis focused on the state of working conditions facing riders within the food delivery platform sector to illustrate this point. Platform workers were explicitly mentioned as one of the targets of the directive. After a short recap of the directive and a brief literature review, we analysed the scope of the directive across six countries focusing on the two largest food delivery platforms for each country. This provided us with sufficient variation both across and within countries in order to do a comprehensive assessment through the lens of the resource framework. Drawing on desk research, documents and in particular contracts, terms of services agreements and collective agreements as well as some expert interviews, we scrutinized normative, instrumental and enforcement resources across the following issues in focus of the directive: rights at work, work schedule and work hours and earnings. Furthermore, information on the employment status and contract types of the respective platform workers preceded the analysis as it turned out to be the decisive factor in transparency and predictability of working conditions. At the end of each case, we briefly highlighted issues pertaining to employee representation. Though not part of the directive, this aspect provides us with important framing information on the instrumental resources available and has therefore been included in the analysis.

Drawing on this analysis, we argue that the Directive can have an impact also on some of the most precarious workers, but it risks being limited and selective for several reasons. Firstly, there is extensive variation in working conditions even within a single sector. Riders' working conditions vary substantively not only across countries but also within countries. Typically, a Directive is likely to have sizable impact if it can be easily implemented and enforced (Pircher, 2015; Zhelyazkova & Thomann, 2022; Mailand et al., 2022). The proliferation of different scenarios makes such enforcement much more challenging. What may work for riders who are employed directly by the platform may not work for those who are sub-contracted or lend out to the platform by an agency.

Secondly, the Directive is broadly targeted to cover all workers in the EU (see e.g. Georgiou, 2022) which is a clear improvement as compared to the earlier Written Statement Directive. However, platform work and the food delivery sector itself present unique circumstances that are unlikely to be addressed by such a broad-sweeping directive. A clear limitation is the ongoing classification of riders as independent contractors (solo self-employed) in spite of this having been legally challenged in various cases – often but not always successfully. Individuals who are not under the strict control of the employer are insufficiently captured by the Directive (Georgiou, 2022) and those categorised as genuinely self-employed workers are excluded from the scope of the directive (Adams-Prassl, 2022). The ETUC had in the consultation processes preceding the Directive proposal also advocated for applying the Directive to the self-employed. Moreover, Bednarowicz (2019) however highlights that the European Court of Justice may in the future contribute to stretching and expanding the definition of workers. To provide another example, platforms rely on a 'black box' algorithm for work scheduling which contrasts with most other types of work. Thus, any attempt to improve the predictability and

transparency of work schedules of platform workers needs to address this ‘black box’ highlighting one of the specificities of the platform phenomenon which had also been one of the targets of the directive. In this regard, the Commission’s (2021) more recent proposal for a directive on platform work should be welcomed.

Thirdly, the Directive may have limited impact because platforms are nimble. They may be quick to respond to the stipulations of the Directive, but not necessarily in compliance with the spirit of the Directive. Put differently, platforms may change their way of operating, the contracts they are using and/or refine their algorithm in order to circumvent the Directive. Food delivery platforms’ use of mini-jobs in Germany illustrates this point. In principle - and in comparison to many other countries -, riders are shielded from being precarious solo self-employed in Germany. However, platforms’ sweeping use of mini-jobs, which creates a high degree of flexibility for the platforms, circumvents this good intention by reinstating labour market precarity in the form of low wages and dead-end jobs. A similar takeaway can be made in relation to Glovo’s response to recent Spanish legislation which provides a presumption of employment in platform work by changing its algorithm to justify that its riders are independent contractors. Yet, it is worth pointing out courts – in the future – may be able to limit platforms’ adaptation for the worse if they fall foul of the intentions of the Directive. Put differently, the Directive at the very least *potentially* provides trade unions and the European Court of Justice with a legal platform to adjudicate on platforms’ strategies.

Overall, the Directive may have positive impacts on other types of atypical work including part-time work, temporary work, and even zero-hour contract work which was an explicit target of the directive. However, our analysis suggests that the impact of the Directive on platform work may be more constrained. Even if the TPWC does improve some of the currently poor working conditions of platform work, it does so unevenly and, importantly, it does not directly address other disadvantages that platform workers face. For instance, platform workers, if they are solo self-employed, often have more limited social protection rights than workers with open-ended or even temporary contracts. That is, solo self-employment often confers less social protection rights than dependent employment in most European welfare states. This may comprise the exclusion from unemployment insurance, unaffordable health care insurance and lower pension pay-outs. To this end, reducing the broad economic disadvantages that platform workers typically face would require reducing the use of solo self-employment in favour of dependent employment. Concurrently, it is necessary to regulate against the use of potentially low wage and dead-end job employment such as mini jobs. If these elements are (political) infeasible, enhancing the access of solo self-employed to social protection could be another way to go. Here, lessons learned during the Covid pandemic might be useful (e.g. Spasova et al., 2021). In short, national welfare states have an important role to play in reducing platform workers’ disadvantage beyond their working conditions. Related supranational policies are arguably less effective if they are designed without recognising relevant institutional setups and complementarities that exist in different welfare states.

Yet, whether such policies will be politically pursued remains to be seen. As Rahman and Thelen (2019) argue *“platform firms enjoy a much more direct and unmediated link to their users...[of which] the most successful of such firms have proved to be extraordinarily adept in leveraging their loyal consumer base into an active public narrative and political advocacy strategy in order to secure legislative and legal support for the platform business model”* (ibid, p.180). Hence, although reforms

are needed to improve platform workers' economic disadvantaged both in terms of working conditions and social protection, there may be serious political obstacles that impede them being passed. Even if they do pass, uncertainty remains about how comprehensive these reforms would be and whether platforms succeed to circumvent the new regulation.

Additionally, and as raised in the foregoing sections, platform work often coincides with socioeconomic disadvantage. This is no different for riders in the food delivery sector. Thus, the generally worse working conditions that riders face in this sector may compound their existing socioeconomic disadvantage. Even though the degree of precarity in working conditions varies across welfare states and industrial relation systems, it remains much higher when compared to more standard workers. Put differently, our findings demonstrate that riders' socioeconomic precarity is systemic not only to platform work, but also the food delivery sector itself. In part, this may be due to the novelty of platform work in relation to other types of work and sector. Contemporary welfare states and industrial relations system have not yet had time to adjust to the specificities of platform work and the food delivery sector to the extent that welfare and labour policies passed with good intentions may be used by platforms to entrench socioeconomic disadvantage like Lieferando and Gorilla's use of minijobs in Germany. In this regard, we return to a point that we had previously made – namely, a policy that targets the specific issues afflicting platform work like the proposed EU directive on platform work is very much welcome to ensure that the aim of the better social rights for all European citizens – as enshrined in the EPSR – truly reaches all citizens rather than those who are better-off to begin with.

Lastly, we would like to propose four avenues for further research. Firstly, at the point when this study was conducted, most Member States had not transposed the Directive.⁸⁵ Furthermore, to comprehensively assess implementation success and deficits – including circumvention strategies of businesses – one would need to focus on a longer time period after transposition has happened. This made it infeasible to examine how the Directive has concretely changed the working conditions of food delivery workers through its implementation at the national level. Thus, our approach was to identify the key dimensions targeted by the Directive that are relevant to platform workers, and then examine the circumstances facing one group of platform workers on these dimensions. Future studies could analyse how different member states vary in their implementation of the Directive, and if such variation affects the circumstances of platform workers in these dimensions. Secondly, we focus on one group of platform workers, namely on-location riders for food delivery platforms, for reasons of comparability. Even within this single sector, we find extensive variation along the key dimensions across platforms and countries. Future studies could examine if there is also substantial variation across platforms and countries in other sectors and types of platform work, including going beyond on-location platform work and also scrutinizing online platform work. Thirdly, our emphasis has been on platform workers because they represent the group of workers who have most precarious working conditions, and they were explicitly named as one of the targets of the directive. Nevertheless, this Directive aims to ameliorate the working conditions of other precarious workers as well, this goes in particular for zero-hour contract workers. To this end, future studies could consider examining the impact of the Directive on these other types of workers. Additionally, our study does not focus on whether platforms impose exclusivity against other employment on their riders. Aloisi (2022) suggests

⁸⁵ https://ec.europa.eu/commission/presscorner/detail/en/INF_22_5409

that non-exclusivity is one of several contributions of the Directive. However, as a sizable number of food delivery platform riders are solo self-employed who are 'autonomously servicing' these platforms, these riders are unlikely to be subjected to such exclusivity clauses. Conversely, exclusivity may be a more salient issue among riders who are dependent employees. For instance, based on a contract we have access to in Spain, riders who have part-time contracts with Just Eat are not allowed to perform any work or service to other companies or third parties during work hours. Outside of their work hours, they are not subjected to exclusivity. Yet, the issue may be more complex when it comes to riders who are employed by third-party agencies. Contracts may vary from agency to agency such that riders who perform services to similar platforms but who are contracted to different agencies may face varying degrees of exclusivity. In this regard, we propose that future research could turn its attention to how forms of dependent employment are associated with different degrees of exclusivity, and the extent to which the Directive overcomes it. Lastly, our study does not examine issues of data collection which platforms especially rely on for their business models. While this issue reflects a broader societal concern of lack of privacy, it is outside the focus of this deliverable. Future studies could consider how the Directive affects data collection.

8. References

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9. Appendix

Appendix 1: Case study guide and interview guide

Common guidelines for writing of case studies on food delivery platforms (two companies with highest market shares in your country)

EU policy under investigation: EU Directive 2019/1152 on Transparent and Predictable Working Conditions

To receive detailed information on transparency and predictability of working conditions on food delivery platforms in your country, the following data will form the basis of case studies:

- **Online application information** (website, FAQs, application portal, job description)
- **Employment contracts or service agreements** of the first and second largest food delivery platforms (by market share) in your country
- **Collective bargaining agreements** (where applicable)
- **Interviews with trade unions representing riders (and/or self-organised rider group representatives if relevant)** on transparency and predictability of working conditions on food delivery platforms

We suggest paying particular attention to the information provided during the ‘application process’ (when signing up with the relevant company) with a ‘transparency & predictability’-lens (e.g. which average earnings are advertised when signing up vs. which hourly wage (if any) is contractually agreed upon later?). For more information on what to watch out for, please see section 4 below on the food delivery context.

As regards **interviews with trade unions** or other representation bodies, they are relevant to receive access to contracts and to map out which issues of transparency and predictability of working conditions matter (and how they may differ) in each national context. These interviews should also shed light on variances in business models and employment practices of the leading firms active in your case country. Additionally, interviews can help detect de facto transparency and predictability issues that may not be self-evident when looking at the contract or formal legal protections (i.e. do riders know about their rights? / are rights fulfilled? / how are they helped?). An **example interview guide** can be found in this document in section 5. Feel free to alter it in accordance with your country’s industry specificities / legal context.

The food delivery industry context – suggested themes for case study

The following elements have been developed based on close scrutiny of food delivery platforms in a range of European countries. Not all elements might be relevant for your specific country context and other elements might emerge.

This section intends to provide background to prepare interviews and assessment of contracts. We expect that contracts will cover some of these points. Some of the information will only emerge from the interviews.

We suggest that you use the below structure for your case. Some of the sub-sections may not be relevant. In turn, you might need to include other issues of transparency/predictability of working conditions relevant for your specific country case.

What are ‘essential aspects of work’ with regard to food delivery platforms which workers should know about to ensure transparent & predictable working conditions?

1. Employment status & implications

Given that many food delivery platforms use a contractor model of employment, many courier/riders must register as self-employed, while some may remain in the grey zone of unclear employment status (if their yearly turnover/salary is below the VAT registration threshold). As self-employment excludes riders from labour law protection, changes eligibility for social security programmes, and rules out the right to collectively bargain, riders will face a series of disadvantages that they may not be aware of before starting to work as riders. Additionally, self-employment comes with different tax statement obligations and unpredictable upcoming tax deductions. Some riders may not be aware of their self-employed status at all, given that the work strongly resembles formal employment. **It is therefore essential that riders are informed about their employment status as well as its implications before starting to work for the food delivery platform in question.**

2. Rights protection

As predictability of working conditions should also include predictability of one’s rights, it is essential that riders have **access to information about laws applicable to them**. Where riders can choose between different contract types at one company, riders should know whether their choice implies forgoing protections.

This is particularly relevant for self-employed riders but also matters for employed riders. Legal employment status does not come with full information on one’s rights either, and different types of non-standard contracts may bear different risks of non-applicability of labour law. It does not suffice to include a general mention that a contract is ‘in line with national labour law’ – as breaches of the latter are common in the food delivery sector (even when unnoticed by riders).

In particular, **riders should receive information as regards applicable laws and collective bargaining agreements** regulating sick leave, liability/insurance, holiday pay, and worker’s representation, as legal breaches are particularly common in these areas.

3. Earnings

Payment model / salary calculation

Food delivery platforms use different payment systems with implications for transparency of salary calculations and predictability of minimum monthly income. **Generally, the more components (i.e. complex bonus system) salary calculations include, the lower the income stability/predictability.**

Payment models also differ whether they **pay by the hour or solely by task** (see below), or a **mix of the two** (including a baseline hourly wage and topping up by task). Consequently, platforms differ in whether they compensate for **waiting times** too. This is why **unpaid labour** has been a discussion in the food delivery context.

Bonuses

Bonus systems are an essential part of most food delivery platforms payment system. They can either be **performance-based** (rewarding for task rate, speed, distance) or **fairness-based** (compensation for overtime, weekend bonus, late night shifts, bike/vehicle wear and tear). Some bonus systems are steady with a bonus per task/distance/hour etc., others have a staircase model with fluctuating bonuses, increasing every x-number of deliveries. Performance-based and/or staircase bonus models lower not only the **predictability of earnings**, but also tie earnings to speed and thereby **risk-taking**.

In some cases, bonus systems also include a compensation component of work equipment (e.g. for wear and tear of vehicle). This creates the impression of added income, though compensation only balances out riders' own expenses to perform their work.

Frequency of payments

Depending on the platform, riders can get paid at different frequencies (e.g. weekly, bi-weekly, semi-monthly, or monthly). Information must be given from the start of employment as riders likely plan/budget based on when they will be paid. Long stretches between paydays can be difficult for riders with low incomes to budget financially.

Equipment & own expenses

Food delivery platforms differ in terms of the equipment they provide for riders. Generally, to perform the job, riders will need different equipment depending on the vehicle they choose.

Equipment for delivery by bike / scooter:

- (e-)Bike / scooter (& fuel)
- Helmet
- Phone holder
- Mobile phone
- Data plan
- Insulated food delivery bag (branded / non-branded)
- Rain jacket & pants (branded / non-branded)

Equipment for delivery by car:

- Car (& fuel)
- Gas
- Phone holder
- Mobile phone
- Data plan
- Insulated food delivery bag (branded / non-branded)

Companies differ greatly in the kind of equipment they provide (as well as in the quality of equipment). At many companies, equipment will have to be paid for by the rider, either fully deducted or taken as deposit from the first salary. At some companies, gear needs to be bought in a separate online shop as a pre-condition to signing up as rider on the app. Platforms differ as regards mandatory branded gear: especially at companies contracting self-employed riders, platforms have removed clauses on branded gear to outgo accusations of bogus self-employment. Differences in equipment provision can be bound to national legislation and court rulings.

Any equipment that is not covered by the company but by the courier/rider, will come with (on-going) expenses. In some instances, riders will get a compensation for e.g. wear and tear of their vehicle. This has been fought for by rider groups for years and was not a given until recently. **Generally, equipment expenses remain substantial at most platforms and therefore lower monthly gross incomes** – at times, to below statutory minimum income (or living wage threshold).

Importantly, **compensation schemes for work-related expenses tend to be wrongly presented a ‘bonus’** and are part of salary calculations. This gives the false impression of increasing average incomes when all it does is compensating for expenses usually covered by employers, without which the work as a rider could not be performed.

Information on rules as regards costs of equipment and responsibilities for equipment maintenance need to be clear from the beginning as they are essential to the transparency and predictability of earnings. Should there be an option to claim tax relief for work related expenses, riders should be informed about rules and procedures thereof.

4. Working time / schedule

All the below elements of working time/schedule are connected to transparency and predictability of earnings.

Shift planning

Being able to work on shifts improves income security as it means that at least some of the weekly hours / baseline earnings will be guaranteed, even in the case of low demand, long waiting times etc. If shifts are available, riders will be paid for the whole shift (ca. 6 h), rather than solely by hour or tasks. **However, not all food delivery platforms offer shifts - and if they do, not all riders are necessarily guaranteed a shift.** A shift system can also increase competition among riders if there are generally less shifts than riders trying to sign up for shifts – gone within a minute when shifts are put online. The scarcity of shifts is not openly communicated from the get-go – rather, riders will find out about it on the job.

Some platforms offer riders to choose between shift work OR solely task/performance-based earnings (i.e. piecework pay). They may choose so each week which kind of schedule type they want to use. Usually, task-based earnings are advertised as leading to higher hourly average incomes – however, this only proves to be true during peak hours or when in luck.

Some platforms have discontinued using shifts in some of their markets altogether, especially if they sub-contract riders. In part this is to create the impression that riders are indeed genuinely self-

employed. In this process, self-employed riders' income has become even more unpredictable, worsening working conditions.

For companies with shifts: Shift and working days flexibility is not necessarily a given. Most likely shifts can be allocated even on days registered as unavailable, subject to the company's shift plan. Shift changes may be limited (e.g. twice a year) – or regular (e.g. weekly or monthly). Meaning different levels of flexibility (and unpredictability) for riders.

Guaranteed hours

While self-employed riders have no monthly guaranteed hours by default, riders who are employed can be on zero-hour contracts or on contracts with minimum hours/week (in part depends on national legislation). In some cases, minimum working hours reflect average working hours / week and form the basis for rather strict work schedule planning. In other cases, riders could be in contracts in which their contractually agreed/guaranteed hours are kept low (though not set to zero), with option (and expectation) of topping up hours. Unless contractually agreed minimum hours reflect actual average hours, these 'guaranteed hours' are still insufficient to provide true income security.

Note: Discussions on guaranteed hours go hand in hand with debates on working time flexibility and job satisfaction. In some cases, riders report to prefer the flexibility as opposed to strict minimum hours per week – however, especially platforms themselves use this argument to justify their employment practices. Which level of flexibility is desirable for *decent* working conditions remains an open question in this context.

On-call work

In many contracts, riders will be signing an 'on-call' clause. Essentially, this means unpredictable but regular overtime. Employers reserve the right to decide over riders' actual working time beyond contractually agreed minimum (or zero) working hours in accordance with business needs. For riders, this means variable – and if notice periods are short, unpredictable - work schedules. On-call / On-demand work arrangements vary in their level of unpredictability depending on the baseline of agreed min. working hours (or non-existence thereof), extent of additional working hours (i.e. contractually agreed % of additional on-call work per month), and minimum notice period for scheduling on-call work. Even when on-call work becomes regular, it does not change the contractually agreed minimum working time.

For decent working conditions in on-call work settings, minimum hours should be high, variability relatively low, and notice periods 'reasonable' (see Directive, though open what is considered a reasonable timeframe). On-call / on-demand employment contracts should be clear about how riders' working time is to be established: *“employers should inform workers how their working time is to be established, including the time slots in which they may be called to work and the minimum notice period that they are to receive before the start of a work assignment”* (see Point 22 of Directive 2019/1152). What kind of on-demand work arrangement is permissible will depend on the national legal context.

Dependence on peak hours

All riders (whether employed or self-employed) will to some level be dependent on peak hours (when most orders are placed). Peak times therefore effectively determine working hours and are likely around lunch time and again around dinner time. This means that even if riders are 'available for work' for a much longer time during the day, tasks will be limited to certain hours. This prolongs the working day for many riders (especially full-timers without shift system) who will have a 'forced' break of a few hours before it is 'worth it' to go back onto the app. Self-employed riders or riders on zero-hour contracts, and/or in task-based payment systems and/or performance-based bonus systems, will be most dependent on peak hours for their earnings.