

# PLATFORM WORK IN THE CZECH REPUBLIC

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## Abstract

Paper examines Czech digital labour platforms and their relationship to their workers. Almost 100% of Czech digital labour platform workers are self-employed; while some digital labour platform cases indicate false (bogus) self-employment, others do not. When deciding whether false self-employment is involved, it is absolutely necessary to study the terms and conditions of such platforms, which serve to regulate the relationship between the digital labour platform, the worker and, possibly, the client. The terms and conditions indicate the degree of superiority of the digital labour platform and the subordination (dependency) of the worker, i.e. the extent of the dependent work signs. This is within the competence of State Labour Inspectorate which has the tools required to detect and sanction the performance of dependent work outside an employment relationship. The paper further proposes non-legislative solutions that impact digital labour platforms under Czech conditions in such a way that they themselves consider whether they are in fact employers or only intermediaries who can use self-employed contractors.

**Key words:** digital labour platform, platform workers, platform work, self-employment

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## Introduction

The use of platform work, or work via digital labour platforms<sup>1</sup>, is increasing in importance worldwide. On the one hand, it creates thousands of jobs (OECD, 2019), but a question remains concerning the quality of these positions (ILO, 2021). One of the most commonly discussed problems relates to the legal status of the platform worker. With some exceptions, digital labour platforms (hereinafter referred to as DLPs) are considered intermediaries rather than employers (Cruz, Gameiro, 2023, Hein et al., 2020, Pesole et al., 2019). Therefore, those

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<sup>1</sup> We consider the ILO (2021) definition, according to which digital labour platforms facilitate work using ‘digital technologies to intermediate between individual suppliers (platform workers and other businesses) and clients, or directly engage workers to provide labour’. The work undertaken on these platforms is also commonly referred to as ‘platform work’ or ‘gig work’.

who work for DLPs have the status of self-employed rather than employees who are protected by employment legislation (Aloisi, 2022).

Research to date shows that self-employment is overwhelmingly prevalent for platform workers. De Groen et al. (2021), who conducted an analysis of 590 DLPs operating in European Union countries, stated that 89% of the investigated DLPs offer work only to the self-employed. Piasna et al. (2022) reached a similar conclusion: employees with a non-fixed-term contract are less likely to perform platform work than the self-employed, employees with a fixed-term contract, students, the unemployed and other labour market groups.

In connection with the high rate of self-employment of platform workers, the question is often raised in the professional literature as to whether DLPs are really only intermediaries, or whether they are employers, who use false (bogus) self-employment (Bozzon, Murgia, 2022, ILO, 2021, Williams, Horodnic, 2019). The question also arises as to whether platform workers are really self-employed or are false self-employed persons who should be employed based on employment legislation.

A number of EU countries in the past adopted a definition of so-called subordinate work or dependent work in their national legislation (Belgium, France the Czech Republic, Portugal, Slovakia, Sweden, etc.). As a rule, this is defined as work that is performed in a relationship between the employer and the employee (the subordinate person). If this relationship exists, it is defined as dependent work that can only be performed on the basis of the relevant employment legislation. However, if such work is conducted in the form of self-employment, it is referred to as false self-employment, which is illegal in many countries (the Czech Republic, Germany, Slovakia, etc.).

With platform work, however, it is usually not clear whether it is dependent work or not: workers enjoy more freedom and flexibility in terms of the performance of the work than do employees, they decide when they will perform the work, how much time they devote to work, etc. DLP often does not even check the work performed. On the other hand, although platform work *de jure* does not fulfil the definition of dependent work since the basic assumption of subordination and superiority is usually lacking, those who work for DLPs face the same or similar risks as employees (Bozzon, Murgia, 2022, Rosin, 2022, Todolí-Signes, 2017). They are economically dependent on the DLP, moreover, they have only limited space to influence the performance of the work, which is often governed by the algorithms used by DLP.

Despite the existing and proposed legal regulation of dependent work, it is difficult in practice to determine whether, in the case of digital labour platforms, it comprises dependent

work that is performed outside an employment relationship (self-employment), and is, therefore, illegal and punishable under the law in many countries. DLPs are highly heterogeneous in terms of the relationship between them and their workers, and any potential legislation should avoid simplification and a ‘one size fits all’ solution. Moreover, potential legislation aimed at regulating platform work should in no way limit the entry of other entrepreneurs to this business area since they have the potential to introduce new (i.e. more balanced in relation to platform workers) digital labour platform business models (EUROFOUND, 2018).

The following text, based on an analysis of DLPs operating in the Czech Republic, reveals that platform work exists in various forms and varies with concern to the degree of dependence (in the sense of the superior position of the ‘employer’ and the subordinate position of the ‘employee’), and describes approaches and solutions to addressing the situation in practice, either via legislative or non-legislative means.

## **1 Definition of terms and methodology**

### **1.1 Platform work**

Since the professional literature does not provide a uniform definition of platform work, the EUROFOUND (2018) definition is used in this paper, i.e. ‘platform work refers to a form of employment that uses a platform to enable organisations or individuals to access other organisations or individuals so as to solve specific problems or to provide specific services in exchange for payment’. In other words, digital labour platforms in the broadest sense of the term mediate contact between the supply of work and the demand for work; hence, digital platforms that supply goods (eBay, Amazon), accommodation (Airbnb), social media (Facebook, Instagram), volunteering and services offered without remuneration (Couchsurfing) are excluded from the investigation of platform work.

EUROFOUND (2018) also mentions other characteristics of platform work that are important in terms of research in this area, i.e. platform work comprises a business relationship in which at least three parties participate: DLP, the client (customer), the worker (supplier) and, potentially, other participants (e-shops, restaurants, etc.). Moreover, according to EUROFOUND (2018), platform work frequently takes the form of outsourcing/contracting out, which only serves to confirm that the majority of DLP workers are self-employed.

## 1.2 Methodology used for selecting the digital labour platforms for analysis

Czech digital labour platforms were identified in accordance with the methodology used by De Groen et al. (2021). Their dataset includes 590 both global DLPs (Amazon Mechanical Turk, Deliveroo, Uber, Upwork, etc.) and national DLPs that operate in one or more EU countries.

Czech dataset, which comprised 95 Czech DLPs, is based on different criteria for selection:

- a) DLP is operated by a Czech natural or legal person.
- b) DLP is operated by a foreign natural or legal person; however, the digital labour platform is localized for the Czech Republic, i.e. the website of the digital labour platform is in Czech, or at least the most important information (registration, general terms and conditions, description of the functioning of DLP for suppliers and clients, etc.) is provided in Czech.

Further sources of information on Czech DLPs comprised desk research and in-depth interviews with representatives of DLPs (seven in total) who provided an overview of the situation in their particular field and often mentioned their biggest competitors. A criterion for selection for the in-depth interviews concerned the number of registered workers engaged in DLPs, in such a way that the business model of DLP under research reflected the largest possible number of workers.

## 2 Czech digital labour platforms and false self-employment

Dependent work in the Czech Republic is regulated by Act No. 262/2006 Coll., the Labour Code (sections 2 and 3). Dependent work performed by a natural person outside an employment relationship is illegal. The fulfilment of all the indicators of dependent labour is subject to individual assessment by the State Labour Inspectorate.

However, almost 100% of Czech DLP workers are, according to our research, self-employed. Relations between the DLP and the worker (and the client) are governed by terms of business that define the rights and obligations of the parties involved. These business conditions are very diverse with respect to Czech DLPs<sup>2</sup>. However, by studying these conditions in detail, it is possible to determine the role the DLP plays vis-à-vis the worker; the extent of dependent work also depends on this relationship.

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<sup>2</sup> The vast majority of digital work platforms in the Czech dataset (90.5%) publish their business terms and conditions on their websites, albeit with varying degrees of comprehensibility and detail. If the business terms and conditions are not published, or are available e.g. only following the registration of the worker or the customer, it should clearly arouse the suspicion of potential users.

The analysis of the business conditions of Czech DLPs revealed that some platforms really only serve as contact mediators between the client and the worker and leave it to them to decide on the contractual relationship (if any) (Epoptavka.cz, Helperbook.cz). Moreover, a number of Czech digital work platforms (Copywriting.cz, Hlidacky.cz) state in their business terms and conditions that they are not responsible for the consequences of any illegal situations that may arise (the non-delivery of or non-payment for the work), whether on the side of the customer or the employee; finding solutions to such situations is the responsibility of the parties involved.

In such cases, since it is not possible to establish a relationship of superiority between the digital work platform and the worker, the dependent work criterion is not fulfilled.

In contrast, several digital work platforms enter into the relationship between the customer (recipient) and the employee (supplier) and conclude contracts with either one of the parties (Doucuji.eu concludes contracts with its clients) or with several parties (Dámejídlo.cz concludes contracts with the supplier, i.e. the restaurant or shop and the worker, i.e. the courier). Some digital work platforms consider their workers (contractors) to be subcontractors (Stovkomat.cz) in their contractual terms, which, again, excludes the existence of an employment relationship.

In some cases, the client pays the worker for the work performed (i.e. without the participation of the digital work platform), whereas in other cases the client pays the digital work platform, which then pays the worker (Bolt.cz).

Some digital work platforms try to provide their workers with “above-standard” services in the form of training courses (how to attract customers, accounting work, etc.), online applications, e.g. to help with work planning, interfaces for online teaching in the case of teaching/tutoring digital work platforms (Grason.cz, Studyhub.cz) or the collection of deposits, i.e. the customer deposits the entire estimated price of the work with the digital work platform and the digital work platform pays the worker once the customer issues the payment instruction. Paradoxically, such activities whereby the digital work platform shows interest in the success of its workers could, theoretically, be interpreted as a sign of the superiority of the “employer” and the subordination of the “employee”<sup>3</sup>.

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<sup>3</sup> A representative of a Czech digital work platform active in the field of home services stated that in Germany, where she also runs a similar digital work platform, the local authorities warned her that if she did not want to be suspected of false self-employment, she should not offer to provide such “above-standard” services to her workers.

The extreme in this respect concerns digital work platforms that use applications to track the location of their workers and what they are working on. These applications are common for digital work platforms that provide delivery and taxi services. Such digital work platforms have been subjected to frequent criticism in the literature (ILO, 2021, EUROFOUND, 2018). In the Czech Republic, we have identified 13 digital work platforms involved in delivery and taxi services. They consist of both Czech companies (Damejidlo.cz) and global delivery platforms (Bolt, Wolt, Uber). The working conditions of these digital work platforms have often been criticised even in the Czech media<sup>4</sup>. However, false self-employment does not concern only those digital work platforms that provide delivery services, it is a widespread problem throughout the whole of the delivery services sector (Flecker et al., 2013), and any solution to this issue should not be limited only to digital work platforms, but to the entire sector.

On the other hand, a number of Czech digital work platforms provide work for those in professions and sectors where self-employment is common in the Czech Republic, e.g. craftsmen, IT workers, graphic designers, etc. In such cases, the digital work platform represents only one of the communication channels through which the worker reaches out to potential customers. In practice, there are cases in which workers are registered with several digital work platforms, i.e. they acquire customers via a number of platforms. This approach applies particularly to those who work in the tutoring, care services, pet sitting, crafts and IT sectors, etc.

The final aspect that must be taken into account in the relationship between digital work platforms and their workers is that Czech digital work platforms declare in almost 100% of cases that they only offer additional income positions, i.e. not an income that corresponds to a full-time wage<sup>5</sup>. This indicates that workers who work for digital work platforms also receive income from other sources: they comprise those in receipt of social benefits (students, parents on parental leave or pensioners), workers whose income from their main job is insufficient, or those who use a digital work platform as only one of a number of channels via which they target potential customers. In such cases, it is difficult to determine indications of dependent labour in the relationship between the digital work platform and the worker.

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<sup>4</sup> For example Uhlová, S. (2020). Když má kurýr den, tak za práci ještě zaplatí. *A2larm.cz*, 5. 12. 2022. Available at <https://a2larm.cz/2020/12/kdyz-ma-kuryr-den-tak-za-praci-jeste-zaplati/> (in Czech only) or Kofroňová, J. (2022). Dřiči si dovedou vydělat i 100 tisíc hrubého. Jistota však neexistuje, říká kurýr. *Aktuálně.cz*, 18. 1. 2022. Available at <https://zpravy.aktualne.cz/ekonomika/kuryri-vymenuji-jistoty-za-svobodu/r~4054d0b277a511ecbc3f0cc47ab5f122/> (in Czech only)

<sup>5</sup> Interviews with representatives of the digital work platforms surveyed reported that some digital work platform workers earn incomes that correspond to the income from a full-time job; however, such cases are very rare.

### 3 Conclusion

Although we haven't analyzed all business models of DLPs operating in the Czech Republic, it is obvious, that business models of Czech DLPs are very diverse. Although almost 100% of Czech platform workers are self-employed, platform work cannot automatically be considered to be false self-employment. It is necessary to analyse the specific business model of the respective DLP and the relationship between the platform and the worker, and the client if applicable. Each DLP should be assessed separately in this regard; no simple algorithm is available that is able to determine the degree of superiority of the digital labour platform and the subordination of its workers.

This finding should be taken into account especially with regard to the potential legislative adjustment of the working conditions of platform workers. Currently valid Czech legislation has the means to detect illegal employment (undeclared work) in the form of false self-employment. The State Labour Inspectorate, as the responsible authority in the area of compliance with obligations arising from labour legislation regulations, has the tools required to detect and sanction illegal employment including the performance of dependent work outside an employment relationship. Inspections by the State Labour Inspectorate address illegal work in the sense of performing work outside an employment relationship and fines are imposed for false self-employment; however, the amount of such fines is not sufficiently demotivating<sup>6</sup>. Therefore, in many cases, the sanctioned entity pays the fine and continues to support false self-employment. In order to more effectively control this form of undeclared work, it will be necessary to both increase the fines imposed and to strengthen the personnel capacity of the State Labour Inspectorate.

A further area to which attention should be devoted concerns education on the rights and obligations of participants in the labour market. Virtually all the representatives of the DLPs interviewed mentioned the low level of awareness of platform workers of the rights and obligations associated with the performance of employment or self-employment. In particular, the knowledge of platform workers of obligations related to tax and social and health insurance contributions is generally poor. According to the respondents, many digital labour platform workers are interested only in the amount of (net) earnings or level of time flexibility (especially students). In this regard, some DLPs organise educational events for their workers and prepare support videos. It is clear that self-employment is administratively more demanding for platform workers than employment based on a contract; however, DLPs

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<sup>6</sup> In 2021, the average fine for enabling the performance of dependent work outside an employment relationship was CZK 36,750 (approx. €1,470). Source: The State Labour Inspectorate (2021)

continue to resist this form of employment. Moreover, if a worker does not understand the concept of self-employment, s/he can hardly be expected to be able to assess the differences between employment and self-employment and the effects on his/her economic and social situation now and in the future. The education of, especially, young people and high school and university graduates in the area of contractual relations in the labour market would help many people to orient themselves in this issue and to better assess offers from DLPs, which would act to exert pressure on digital labour platforms to conclude employment contracts. In the case of the Czech Republic, where the unemployment rate has remained below 3% since the beginning of 2017 and where many employers are struggling with severe labour shortages, such pressure ‘from below’ is not an unrealistic scenario.

The findings of our study clearly indicate that in the case of Czech digital labour platforms, tools are available to solve the issue of false self-employment even within the existing legislative system. Moreover, it is likely that efforts will be made to introduce further EU measures to the legislative framework in the Czech Republic. However, the basis for assessing the level of dependent work should remain the examination of individual digital labour platforms and their relationship to their workers.

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