

Platform Reps

CROATIA: Country report 2022



1. Context: Social dialogue and work in platforms

According to Eurofound, the overall quality of social dialogue in Croatia is lower than the EU average (see **Figure 1** below).

Figure 1: Industrial Relations Index (2013-2017)¹



Source: [Eurofound Industrial Relations Index](#)

At the same time, fewer people (measured as a share of the adult population) worked in digital labour platforms (hereafter referred

to as “platforms”) in Croatia than in the EU (**Figure 2**).

Figure 2: The share of workers in platforms in the adult population (2021)²

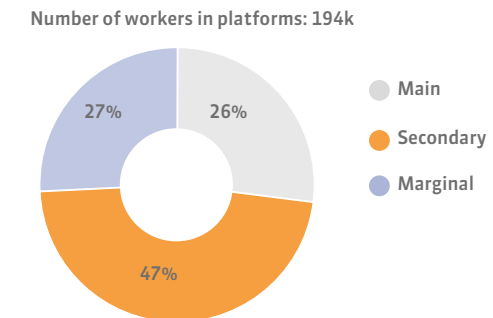


Source: EC (2021); Eurostat.

According to 2021 estimates, up to around 194,000 people might have engaged in work in platforms more than sporadically (i.e., at least

10 hours a week or contributing to more than 25% of their income) in Croatia (**Figure 3**).

Figure 3: Number and categories of workers in platforms (2021)³



Source: EC (2021)

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1. The index measures the overall quality of the “collective and individual governance of work and employment” across four categories, based on 47 indicators. See: Eurofound (2018). *Measuring varieties of industrial relations in Europe: A quantitative analysis*. Publications Office of the European Union, Luxembourg, p. 1.

2. The numbers cited are an upper-bound estimation based on 2021 survey results. They cover all types of work in platforms from low- to high-skill and from on-location (e.g., transport, delivery) to online work (e.g., ICT, data entry, creative work). See: EC (2021). [Study to support the impact assessment of an EU initiative to improve the working conditions in platform work](#)

3. Main workers work through platforms for at least 20 hours a week or receive at least 50% of their income therein. Secondary workers spend between 10 and 19 hours per week or receive between 25% and 50% of their income from work in platforms. Marginal workers spend less than 10 hours a week working via platforms and get less than 25% of their income via platforms.

2. Current legal framework

2.1. LABOUR LAW

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The Croatian [Labour Act \(Zakon o radu\)](#) is the key legal act regulating the employment relationship. However, the Act provides only a vague definition of an employee (Article 4(1)):

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- *In this Act, “employee” means a natural person who, in an employment relationship, performs certain tasks for the employer.*
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The labour code does not explicitly provide an exhaustive list of criteria based on which employment status can be determined. However, Article 7 of the Act lists the main rights and obligations of employees and employers, which infer several key elements of the employment relationship, including:⁴

- A subordinate relationship (working according to the employer’s instructions)
- Personal performance of a job
- Remuneration for the work performed

Besides employment contracts, the Croatian legal system also provides student contracts (a special type of contract, which is in between a zero-hour contract and a civil contract). Finally, besides the employee status, **workers in Croatia can be registered as self-employed, or work as independent contractors under a “contract for services”**. In the latter case, the service provider undertakes to perform a specific “service” (e.g. to manufacture or repair something) in exchange for payment for the service. [The State Inspectorate \(Državni inspektorat\)](#) is responsible for ensuring the proper enforcement of the Labour Act, which, however, applies only to employees

with an employment contract.

2.2. PLATFORM-SPECIFIC LEGISLATION

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First, some legislative developments have concerned the [Road Transport Act \(Zakon o prijevozu u cestovnom prometu\)](#). The law was liberalised in 2018 to allow the work of ride-hailing platforms such as Uber. Furthermore, in 2021, the Independent Union of Taxi Drivers announced that, due to **unsustainable taxi fares, which Uber and Bolt are dumping**, they would ask the government to limit the minimum fare per kilometre (which should directly affect the salaries of drivers on platforms).⁵

More importantly, **the government is working on amending the Labour Act, including a chapter dedicated to work in platforms.**

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4. Article 7(1) states that “In the employment relationship, the employer is obliged to give the worker a job and to pay him a salary for the work performed, and the worker is obliged to personally perform the assigned work according to the instructions given by the employer in accordance with the nature and type of work.”

5. EC (2021). [Study to support the impact assessment of an EU initiative to improve the working conditions in platform work.](#)

Labour Act amendments

The provisions related to work in platforms are scheduled to come into force on July 1, 2023., but the new legislative changes are still being debated. The draft chapter dedicated to work in platforms includes, among other things:

- Defines the notions of “work performed using a digital labour platform”, “digital labour platform”, “worker”, and “employer”.
- Clarifies the rights and responsibilities of the employer related to the use of automated management systems (including the obligation to disclose information on the algorithm and to ensure human supervision “in order to protect the health and safety of workers”) and data protection and privacy (including the obligation to “establish channels for professional communication with other work-

ers, the employer and third parties”).

- Provides a set of rights for the employees, including the reimbursement of costs related to the use of their own vehicle and equipment, accident insurance and third-party liability insurance, the right to refuse a work assignment without adverse consequences, or the minimum of five guaranteed paid working hours per week.
- Introduces the presumption of the employment relationship with a reversed burden of proof (which is on the employer, which disputes the presumption). Facts on the basis of which the employment relationship can be presumed are in particular (although the Act does not specify whether this list is exhaustive or how many criteria should be met):
 - Personal performance of paid work
 - Giving orders for the performance of work,

within the framework of work organisation and work subordination

- Limiting the freedom to refuse the execution of an order or conditioning such refusal with sanctions
 - Closer determination of when, where and how work shall be performed, regardless of whose equipment is used
 - Supervising the performance of work and monitoring the performance of a worker, in order to evaluate their work and promotion opportunities
 - Prohibition of contracting with other platforms
- Excludes from the above-mentioned employment presumption workers who earn less than 60% of three gross minimum wages quarterly.

Source: Visionary Analytics, based on draft amendments to the Labour Act (see point 3 of the [153rd session of the Government of the Republic of Croatia](#)).

Although the proposed amendments suggest extending some important rights to workers in platforms, the Croatian trade unions strongly oppose the new legislation based on its **overarching flaw that would allow platforms to circumvent any newly imposed obligations**. Namely, the proposal acknowledges that the employer of a person who works in a platform,

can be the platform itself or an intermediary company (an “aggregator”). Currently, those **aggregators operate in legislative limbo and constitute a “fake” employer, shielding the platforms from any responsibilities towards their de facto workers** (see the section below for more details). Instead of prohibiting this practice, the new legislation legalises it (as a consequence of

aggressive lobbying on the part of platforms). Furthermore, the draft legal act is very ambiguous. It is unclear how the presumption would be activated or applied, and how the criteria would be treated, e.g., whether all should be present to trigger the presumption or only some, or whether the list is exhaustive (the wording “in particular” would suggest it is not).⁶

3. State-of-play of workers' rights

Workers enjoy different access to labour rights, depending on their status or regime, as summarised in **Table 1** below.

Table 1: Worker statuses and corresponding labour rights

| Worker status | Legal basis | Social security | Union representation | Collective bargaining |
|--|---------------------------------------|--|----------------------|---------------------------------|
| Employee | Labour law | ✓ | ✓ | ✓ |
| Employee on a fictitious contract with an “aggregator” | Labour law (not enforced in practice) | ✓ (minimum amount corresponding to 2h per week) | ✓ | ✓ (only with the aggregator) |
| Self-employed and independent contractors | Civil law | ✓ (self-paid) | ✓ | ✗ |

Source: Visionary Analytics.

Unlike in several other European countries, the critical problem in Croatia is not the misclassification of workers as self-employed but the creation of a mechanism that allows platforms to circumvent the labour law provisions. According to the Ministry of Labour, about 80% of workers in Uber, Bolt, Glovo and Wolt in Croatia are employed via the “aggregators” (while the remaining 20% are self-employed or independent contractors).⁷

These aggregators usually hire employees based on precarious contracts for two hours per week, which allows them to pay only minimal social security contributions (proportional to the hours registered). Work performed by the employees beyond these two hours goes undeclared, and

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7. Pavić, F. (2022). *Digitalne platforme: “Posebno zaštitimo radnike u sektoru turizma i prometa”*

8. Interview results

9. Interview results

10. Interview results

workers are stripped of the pertinent social security contributions. ⁸Furthermore, the aggregator (considered a legal employer in the upcoming new legislation) has no control over the work whatsoever, meaning that, for example, it cannot ensure labour rights are respected (such as health and safety or working time limits). Finally, aggregators sometimes charge workers for the “intermediation” services, so, in fact, workers are the ones factually covering their social security contributions, creating a fictitious employment relationship.⁹

Other obstacles in guaranteeing access to rights or workers include:

- **No case law:** While working conditions are precarious and deteriorating, work in platforms is still considered relatively decent (given the poor corporate culture and low wages in the economy overall). This, along with other factors (including the length and cost of court proceedings and the temporal character of employment), prevents workers from claiming their rights through judicial procedures. With the new upcoming legislation, litigation will become even more difficult as only aggregators can be sued (even though they do not exert any control over the working conditions).
- **Poor enforcement mechanisms:** The labour market authorities are underfunded and lack the capacity to perform inspections and enforce the law.
- **Unfavourable political climate:** The current government favours the uncontrolled development of the platform economy; therefore, beneficial legislation or pressure toward labour inspectorates is unlikely.
- **Platforms registered in another state:** Companies are not obliged to register in Croatia to operate there, creating legal uncertainty and additional obstacles to establishing the employment relationship.¹⁰

4. State-of-play of union action

Union action gained momentum in 2021 – in February, SSSH established contact with Uber drivers who went by the name of the Independent Union of Taxi Drivers mentioned above (although they never underwent official registration as a union), and who were discontent with delayed payments. In September 2021, **workers, with support from SSSH, set up the [Digital Platform Workers' Trade Union](#)**. In October, a strike was organised, which grabbed a lot of media attention and provided good publicity for the union movement. Afterwards, SSSH started building informal contacts in most platforms in Croatia. However, increasing membership rates proved challenging, and some uncertainty arose regarding representing the interests of workers in different platforms and sectors with substantially different needs.¹¹

Some successful efforts at the local level have also emerged. In the small town of Varaždin, riders organised a strike against Glovo, which led to **an (informal) collective bargaining process with the platform based on specific demands of the riders** (e.g., concerning waiting time or working conditions during bad weather). However, after the movement initiator and leader left the platform, the efforts diminished.¹²

Croatian Society of Independent Professionals

The Croatian Society of Independent Professionals is a non-profit association that was established in 2013 by the Coworking Croatia Initiative. It brings together over 2,700 independent and self-employed independent professionals. It aims to improve the working situation of freelancers and provide members with operational and legal support, a platform for education and professional development, channels for self-promotion, networking and business opportunities as well as an affordable and socially integrated office infrastructure for daily work and/or meetings with business associates and clients.

The Society can be seen in the context of a broader trend of Croatia becoming a destination for (high-skilled) online workers. For example, in 2021, the government introduced a special “digital nomad visa” for third-country nationals who are employed or perform business for a company that is not registered in Croatia.

Source: Visionary Analytics, based on Eurofound (2022). [Croatian Society of Independent Professionals](#); and EC (2021). [Study to support the impact assessment of an EU initiative to improve the working conditions in platform work](#).

Trade unions have drawn several lessons for the future of collective action. First, it is easier to start organising and bringing workers together in smaller municipalities. Second, more and more third-country nationals find employment in platforms. Given limited opportunities in the broader labour market, they might stay in the jobs for longer, potentially leading to more sustained organisation efforts. Finally, different platforms react differently to collective action; while some ignore or oppose the movements, others are ready to engage.¹³

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11. Interview results

12. Interview results

13. Interview results

Union action on behalf of workers in platforms in Belgium can be analysed at three levels, as summarised in **Table 2** below.

Table 2: Obstacles to unionisation for workers in platforms

| Legal | Social and cultural | Related to platforms' business model |
|--|--|---|
| <ul style="list-style-type: none"> - Strong lobbying of platforms at the policy level | <ul style="list-style-type: none"> - Low culture of unionisation and collective action in Croatia in general, especially among the young workforce - A degree of distrust towards authorities and “the system” among some workers - Language barrier with third-country nationals, who constitute a significant share of the workforce in platforms | <ul style="list-style-type: none"> - High worker turnover and the temporal character of employment (which also means no continuous engagement of unionisation leaders) - Variety of sectors covered by platforms and, therefore, difficulties to find a common narrative to collective challenges - The narrative pushed forward by platforms about work autonomy and independence |

Source: Visionary Analytics, based on interview results.

5. Action checklist

Potential application of the proposal for a Directive of the EC and/or the ETUC policy proposal

The current legislative proposal is, according to the government, inspired by the proposal for a Directive of the EC, including, for example, how the platforms are defined. Although it involves some good provisions, **the existence of the “aggregator” mechanism (and, particularly, legalising this mechanism in the new proposal) will effectively prevent workers from gaining access to any labour rights.** It remains to be seen whether the EU Directive will allow the recognition of intermediaries as legitimate parties in the employment relationship; in the optimistic scenario, the Directive should specifically forbid such practices and therefore help abolish this system in Croatia. Should the proposal

not specifically ban intermediary companies or make it incompatible with the overall wording of the Directive, the impact of the Directive in Croatia will be severely limited.

Another concern is that the implementation or enforcement of the rules dictated by the Directive will depend on the states and the capacity of their institutions facing the likely efforts on the part of platforms to adapt and evade any new rules. Therefore, there is a strong need for a powerful EU Directive. In this context, the SSSH suggested amendments to the Act that follow those of the ETUC proposal, including the general presumption of employment. Implementing the ETUC proposal would, therefore, improve the legal clarity in Croatia. Within the demands for an ambitious proposal

for improving working conditions in platform work, ETUC has also called on the European governing bodies to enact provisions which will prevent platform companies to benefit from loopholes – such as creating or using intermediary employment entities – to avoid the responsibilities as employers.

Finally, the existence of various contracts and work arrangements (including student contracts and LLCs) provides some legal obstacles in implementing either the EC or the ETUC policy proposals, which imply a determination of status between employment and self-employment only.

Source: Visionary Analytics, based on interview results.

Preliminary suggestions for actions are summarised in **Table 3** below.

Table 3: Action checklist in two main areas

| Policy | On-the-ground action |
|--|---|
| <ul style="list-style-type: none">- Strongly lobby to abolish the illicit operation of the “aggregators” and raise the attention at the national and EU level to this problem.- Push for clearer and stricter rules for the platforms in the upcoming legislation (via the tripartite social dialogue).- Consider solutions to tackle the abuse of the two-hour contracts that lead to undeclared work and unpaid social security contributions. | <ul style="list-style-type: none">- Keep monitoring the situation of workers in platforms, and use the opportunities that may arise to organise workers and pursue collective action (find another “momentum”).- Given the unfavourable political climate, try the judicial path by bringing cases related to the misclassification of worker status or working conditions before the Croatian courts.- Consider tapping into the self-organisation efforts of online freelancers in Croatia and expanding them into other sectors where platforms operate. |

Source: Visionary Analytics, based on interview results.