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A Comparative Analysis of the Role of Key Actors in Recognizing Rights of Delivery Riders in the UK and Spain

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1. *Introduction*

Platform economy has been on the rise around the globe with non-standard work arrangements becoming more and more common. Platform work is a type of non-standard work arrangement which is an ideal tested for analyzing the suitability of the “binary divide” between employment and self-employment that is found in many legal orders¹. Though platform work already existed since long, the outbreak of COVID-19 epidemic brought several alternative working arrangements into the mainstream. According to a press release by European Commission, over 28 million people in the European Union work through digital labour platforms and their number is expected to reach 43 million people in 2025². Based on these figures, it has become crucial to bring this issue to the forefront and recognize basic social rights of platform workers.

The primary objective of the paper is to understand the current status of the rights of delivery riders in food delivery sector and analyze the role of institutional framework and social partners in the strategies

¹ ALOISI, *Platform work in Europe: Lessons learned, legal developments and challenges ahead*, in *ELLJ*, 2022, 13, 1, pp. 4-29, <https://doi.org/10.1177/20319525211062557>.

² EC, *Commission proposals to improve the working conditions of people working through digital labour platforms*, 9.12.2021, https://ec.europa.eu/commission/presscorner/detail/en/ip_21_6605.

adopted by two different countries, namely the United Kingdom and Spain, in recognizing the rights of these workers. The focus of this research is only on the rights of the delivery riders among the food delivery couriers. The paper has selected two countries belonging to two different Industrial Relations (IR) clusters in order to study the differences in the dimensions of IR regime in terms of the degree of state intervention in resolving social issues as well as the role of social partners in framing public policy.

In this paper, the aim is to understand how the differences in the institutional framework and degree of involvement of social partners in two distinct IR regimes have influenced the approach adopted by the UK and Spain for recognizing the rights of platform workers. The paper has drawn inspiration from a wide range of secondary sources including academic journals, jurisprudence, media reports, policy papers and reports of EU institutions.

The paper has been broadly divided into three chapters. The first chapter explains the current position of legal classification of platform workers in the UK and Spain and the rights that are guaranteed to them for their protection. The chapter also discusses the regulatory framework in both countries on this issue. Further, the second chapter delves into the main research question of this paper which is to understand the role of institutional framework and involvement of social partners in influencing the approach adopted in recognizing the rights of platform workers in the UK and Spain. Lastly, the third chapter brings out the societal and academic relevance of the research, provides research findings and recommendations for recognizing the rights of the platform workers.

2. Literature review

Since platform work has not been defined *per se*, it is generally explained by a wide range of terms used for identical or similar concepts, such as “platform economy”, “sharing economy”, and “collaborative economy” for the larger phenomenon, and “gig work”, “crowd work”, and “cloud work” for the labour-intensive part thereof³. However, the lack of clarity in termino-

³ KILHOFFER, *State-of-the Art. Data on the platform economy*, in *InGRID Supporting Expertise*

logy puts these workers in a vulnerable position as the delivery platforms often deny having any employment relationship with them. As a result, food delivery riders (platform workers) struggle with precarious working conditions such as long working hours, no minimum wages or social insurance to comply with terms and conditions of engagement with platform companies leading to labour exploitation. Further, the recent surge in the number of law suits on this issue as well as various reports by EU institutions analyzing the legal status of platform workers has made it clear that the existing legal framework is not equipped to guarantee even the basic social rights to platform workers⁴. Therefore, the long-standing fight of delivery riders continues with the hope of securing some form of recognition and protection in the near future.

With regard to the issue of delivery riders, countries seem to be divided on the legal status that they assign to the workers depending upon their national political economies: while some countries establish the rights of workers through strategic litigations, others have enacted regulations to deal with the issue. Referring to the literature on Varieties of Capitalism, the UK features a Liberal Market Economy (LME) in which firms coordinate their endeavours relying on market institutions primarily⁵. In contrast to LMEs, Coordinated Market Economies (CMEs) follow the approach in which firms draw their support from political and societal institutions to resolve the coordination issue in addition to markets and hierarchies⁶. However, it is argued that Spain does not strictly fall under either of the two models which are the ideal capitalist models suggested by Hall and Soskice⁷, and instead it follows “Mixed Market Economy” (MME) model. Molina and Rhodes argue that Spain possesses institutional framework along with strategic coordination

in *Inclusive Growth, Deliverable n°12.3, Leuven, InGRID-2 project 730998 - H2020, 2021*, <http://www.inclusivegrowth.eu>.

⁴ URZÌ BRANCATI, PESOLE, FERNÁNDEZ-MACÍAS, *New evidence on platform workers in Europe*, Publications Office of the European Union, 2020, [https://publications.jrc.ec.europa.eu/-repository/handle/JRC118570](https://publications.jrc.ec.europa.eu/repository/handle/JRC118570).

⁵ HALL, SOSKICE, *An Introduction to Varieties of Capitalism*, in HALL, SOSKICE (eds.), *Varieties of Capitalism: The institutional Foundations of Comparative Advantage*, Oxford University Press, 2001, p. 27.

⁶ FREGE, KELLY, *Theoretical perspectives on comparative employment relations*, in FREGE, KELLY (eds.), *Comparative Employment Relations in the Global Economy*, 2nd ed., Routledge, 2020.

⁷ ROYO, *Varieties of Capitalism in Spain: Business and the Politics of Coordination*, in *EJIR*, 2007, 13, 1, pp. 47–65, <https://doi.org/10.1177/0959680107073967>.

through tripartite social pacts⁸, which are the salient characteristics of MMEs⁹.

While state typically plays a greater role in MMEs, its role has changed substantially over the years giving way to various forms of social dialogue in order to resolve various issues of coordination¹⁰. Shifts in the triangle of state, associations and market have been determined by the capacity of economic actors to fill the consequent regulatory vacuum¹¹.

3. Case description: Legal status and regulatory framework

This chapter delves into the case studies of the UK and Spain clarifying the legal status of delivery riders as well as the institutional and regulatory framework in both countries.

United Kingdom

Under employment law in the UK, there are three main categories of employment status: worker¹², employee and self-employed independent contractor¹³. While there is a binary divide in the common law in UK between employees and independent contractors, work is a statutory status. A “worker” is defined under Section 230(3) of Employment Rights Act 1996 (ERA) as “an individual who has entered into or works under a contract of employment, in which the individual undertakes to do or perform personally any work or services for another party to the contract whose status is not by

⁸ HALL, GINGERICH, *Varieties of Capitalism and Institutional Complementarities in the Macroeconomy*, MPIfG Discussion Paper, No. 04/5, 2004, p. 35.

⁹ MOLINA, RHODES, *The Political Economy of Adjustment in Mixed Market Economies: A Study of Spain and Italy*, in HANCKÉ, RHODES, THATCHER (eds.), *Beyond Varieties of Capitalism: Conflict, Contradictions, and Complementarities in the European Economy*, Oxford University Press, 2007, pp. 223–252.

¹⁰ MEARDI, *Mediterranean Capitalism under EU Pressure: Labour Market Reforms in Spain and Italy*, in *WFES*, 2012, 3, p. 59.

¹¹ MOLINA, RHODES, *cit.*, pp. 223–252.

¹² Employment Rights Act 1996, § 230 (3), <https://www.legislation.gov.uk/ukpga/1996/18/section/230>.

¹³ Employment Rights Act 1996, § 230 (3), <https://www.legislation.gov.uk/ukpga/1996/18/section/230>.

virtue of the contract that of a client or customer of any profession or undertaking carried on by the individual¹⁴. All employees are “workers” under the law, however some of the employees who might not satisfy the criteria for the common law test for employee status may be described as limb (b) workers, by virtue of Section 230(3)(b) of the ERA”¹⁵.

In the landmark judgment of *Uber BV v Aslam*, the UK Supreme Court has rejected the appeal and upheld the decision of the Employment Tribunal that drivers who worked for Uber London (which also includes UberEats) under “worker’s contracts” are workers within the meaning of the statutory definition of Employment Rights Act, 1996¹⁶, since the control exercised by Uber over the drivers was sufficient to indicate that, under the statutory tests, they were workers under the statutory definition¹⁷. Such workers have basic rights that employees possess and they claim these rights by meeting the statutory test.

However, the Central Arbitration Committee (CAC), in another case which was filed by a grassroot trade union, Independent Workers’ Union of Great Britain (IWGB) on behalf of Deliveroo riders, held that Deliveroo riders are not “workers” within the statutory definition of either Section 296 Trade Union and Labour Relations Consolidation Act 1992 (TULRCA) or Section 230(3)(b) Employment Rights Act 1996¹⁸. In this case, Deliveroo sought to prevent a successful application to the CAC by inserting a “substitution clause” which enabled riders to fund a substitute to perform their work for them. Deliveroo provided evidence that a few riders did use that substitution clause which persuaded the CAC that it was genuine. Since “riders have a right to substitute themselves both before and after they have accepted a particular job”, so there was no obligation for them to do or personally perform any work or services as required by Section 296¹⁹. It was on

¹⁴ NYOMBI, CHRISPAS, *A Response to the Challenges Posed by the Binary Divide between Employee and Self-Employed*, in *IJLMA*, 2015, 57, 1, pp. 3-16.

¹⁵ Employment Rights Act 1996, § 230 (3), <https://www.legislation.gov.uk/ukpga/1996/18/section/230>.

¹⁶ *Uber BV and others v. Aslam and others* 5 UKSC, 2021, <https://www.supremecourt.uk/cases/docs/uksc-2019-0029-judgment.pdf>.

¹⁷ ADAMS-PRASSL, *Uber BV v Aslam: '[W]ork relations ... cannot safely be left to contractual regulation'*, in *ILJ*, 2022, 51, 4, pp. 955-966, <https://doi.org/10.1093/inclaw/dwac027>.

¹⁸ *Independent Workers’ Union of Great Britain (IWGB) v. RooFoods Ltd. T/A Deliveroo* TUR1/985, 2016, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/663126/Acceptance_Decision.pdf.

¹⁹ ATKINSON, DHORAJIWALA, *IWGB v RooFoods: Status, rights and substitution*, in *ILJ*, 2019, 48, 2, pp. 278-295, <https://doi.org/10.1093/inclaw/dwz009>.

this basis that the CAC found that the requirements of s.230(3)(b) ERA 1996 were not met. The decision was upheld on judicial review by the High Court and the Court of Appeal²⁰. Lastly, the judgment has been appealed to the Supreme Court of UK and its decision is awaited, at the time of writing this article.

Based on the current decision, it is clear that delivery riders are not workers according to the CAC, the claim of IWGB for recognition and right to negotiate with Deliveroo on pay, hours, and holidays, was denied²¹. Since grassroots unions organize and mobilize workers in the UK and enter into litigations in courts to win strategic litigations to establish basic rights of delivery riders²², these case laws resolve the issue only for the concerned parties in the lawsuit, and may not apply universally to all delivery riders in the UK unless it is a decision by the Supreme Court²³. In case of a decision by the Supreme Court, the principle embedded in the *ratio decidendi* of the case is universally applicable due to the doctrine of precedent. To the extent that it is a decision by a lower court, it may be practically difficult for the grassroots unions to reach a solution which is binding on all delivery riders, due to limited resources and without any institutional support or intervention²⁴. Therefore, it may be possible to put to rest the question of legal classification of delivery riders by way of a specific legislation²⁵, which has been done by Spain.

Spain

In Spanish employment law, three types of distinct professional status have been enshrined: employees, self-employed people and economically dependent self-employed (TRADE)²⁶. In terms of the rights prescribed

²⁰ The Independent Workers Union of Great Britain v The Central Arbitration Committee [2021] EWCA Civ 952.

²¹ Independent Workers' Union of Great Britain (IWGB) v. RooFoods Ltd. T/A Deliveroo TUR1/985, 2016, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/663126/Acceptance_Decision.pdf.

²² BERTOLINI, DUKES, *Trade Unions and Platform Workers in the UK: Worker Representation in the Shadow of the Law*, in *ILJ*, 2021, 50, 4, pp. 662-688, <https://doi.org/10.1093/inclaw/dwabo22>.

²³ BERTOLINI, DUKES, *cit.*, pp. 662-688.

²⁴ BERTOLINI, DUKES, *cit.*, pp. 662-688.

²⁵ BERTOLINI, DUKES, *cit.*, pp. 662-688.

²⁶ PEREZ DEL PRADO, *The Legal Framework of Platform Work in Spain: The New Spanish "Riders' Law"*, in *CLLPJ*, 2021, 36 - Spain, p. 1.

under law, TRADEs fall between two categories of employees and self-employed. The dichotomy under Spanish law was whether delivery riders fall within the category of TRADEs or employees. Consequently, the Spanish government intervened to resolve the dilemma by enacting Riders' law (*Ley Rider*) which has settled the legal position of delivery riders for the time being, making Spain one of the first countries in Europe to have a specific legislation on this issue. This law came into force on 12 August 2021 upon the conclusion of a tripartite collective bargaining agreement between representative social partners at national level – trade union CCOO (Workers' Commission) and UGT (General Workers' Confederation), as well as employer organisation CEOE (Spanish Confederation of Business Organisations) and CEPYME (Spanish Confederation of Small and Medium Enterprises) – and the Spanish government²⁷.

The new law in Spain brings to a close all ambiguities surrounding the legal status of the delivery riders and recognizes them as employees, under specific circumstances, instead of independent contractors. This provision is said to draw its recognition from the judgment of the Spanish Supreme Court in September 2020²⁸, in which the court held that Glovo food delivery riders were “employees” since the platform dictated working conditions of the workers and unilaterally determined the rates, and the performance of such work was integrated into the business of the firm²⁹. Further, the law grants the right of information to the employees' representatives with respect to the parameters, rules and instructions on which algorithms or artificial intelligent systems are based³⁰.

The difference in the approaches adopted by both countries depends upon the institutional and regulatory framework in each country belonging to two different IR clusters. In Spain, state coordination and intervention are perceived by the social partners, especially the trade unions, as a precondition for effective and democratic industrial relations³¹. On the contrary,

²⁷ *Real decreto – ley 09/2021*, <https://www.boe.es/boe/dias/2021/05/12/pdfs/BOE-A-2021-7840.pdf>; Eurofound, *Riders' law*, Platform Economy Database, 2020, <https://www.eurofound.europa.eu/nl/data/platform-economy/initiatives/riders-law>.

²⁸ D. Desiderio v. Glovo App 23, Tribunal Supremo, Sala de lo Social Case 4746/2019, 2020.

²⁹ ALOISI, *cit.*, p. 12.

³⁰ Eurofound, *Riders' law*, *cit.*

³¹ MARTINEZ LUCIO, *Incertidumbre, indecisión y neoliberalismo emergente. El papel dual y complejo del Estado español en las relaciones laborales y de empleo*, in *SocT*, 2016, 87, pp. 68–88.

UK's performance is below European Union (EU) average in terms of intervention of the state in IR regime while resolving an issue since the UK state provides minimal protection of individual employment rights, which has not kept pace with the needs of workers³². Though platform work is an example of such a field with minimal intervention of the state, the UK government still intervenes more than other states in collective industrial relations. Similarly, the degree of involvement of social partners in public policy and collective bargaining coverage has also been below EU average³³, reflecting the striking difference in the IR regime in both countries.

4. *Role of key actors in the recognition of rights of delivery riders*

This chapter has delved into the main research question of the paper which is to analyze the role of factors that influence the recognition of rights of the platform workers. The paper has based its analysis on two important factors, namely, social partners and institutional framework, in both countries to understand various approaches adopted to resolve the issue.

Role of social partners

In the UK, non-traditional trade unions or alternative trade unions have been typically active in organizing and mobilizing platform workers, unlike the traditional trade unions. Although, it is acknowledged that an established union, the GMB, has co-funded and supported the *Uber* litigation and the GMB has been recognized by the company for information and consultation/collective bargaining purposes.

Non-traditional unions are small and independent grassroots trade unions which have stepped up their organizing efforts towards delivery riders in the food delivery sector³⁴, irrespective of their limited size and resources.

³² Eurofound, *Mapping varieties of industrial relations: Eurofound's analytical framework applied*. Publications Office of the European Union, Luxembourg, 2017, <https://core.ac.uk/download/pdf/219377105.pdf>.

³³ Eurofound, *Mapping varieties of industrial relations*, cit.

³⁴ VANDAELE, *Collective resistance and organizational creativity amongst Europe's platform workers: A new power in the labour movement?*, in *Work and Labour Relations in Global Platform Capitalism*, HAIDAR, KEUNE (Eds.), Edward Elgar Publishing, 2021, p. 221.

These grassroot unions tend to follow a narrower agenda than the traditional trade unions, which is to organize and mobilize workers in respect of specific issues³⁵. It is pertinent to acknowledge that unlike the mainstream unions, these unions focus on catering to the workers' immediate needs and interests following a logic-of-membership approach³⁶. That said, it is quite challenging for grassroot unions to conclude collective agreements on behalf of platform workers. The first and foremost hurdle is the characterization of platform workers by the platforms as independent contractors and not as "workers", who have the right to collective bargaining. A union must first convince the courts that the platform workers in question are actually employees or dependent contractors of the platform to be able to make use of the recognition procedure or call its members on strike in support of the recognition³⁷. Further, the lack of organizational and financial resources of these unions to devote to recognition campaigns discourages them from participating in formal bargaining processes³⁸.

Alternatively, grassroot unions tend to engage in strategic litigation or legal activism³⁹, in support of workers to bring test cases that might effect a change in the law or clarification of existing rules favouring workers' interests⁴⁰. Recently, strategic litigation has helped in realizing the rights of workers who are involved in "bogus" self-employment⁴¹. To that extent, these litigations help in publicizing the issue and contributing towards ongoing efforts to organize and mobilize workers⁴². However, without a specific legislation or collective agreement extending to all workers, these strategic litigations only help the workers concerned in a particular case and not

³⁵ BERTOLINI, DUKES, *cit.*, p. 670.

³⁶ VANDAELE, *cit.*, p. 221.

³⁷ BERTOLINI, DUKES, *cit.*, p. 669.

³⁸ WOODCOCK, *Digital Labour and Workers' Organisation*, in ATZENI, NESS (eds.), *Global Perspectives on Workers' and Labour Organizations*, Springer, 2018, pp. 157-173.

³⁹ OSWALT, *Improvisational Unionism*, in *CLR*, 2015, 104, 3, pp. 596-670.

⁴⁰ COLLING, *What Space for Unions on the Floor of Rights? Trade Unions and the Enforcement of Statutory Individual Employment Rights*, in *ILJ*, 2006, 35, 2, pp. 140-160, <https://doi.org/10.1093/indlaw/dwlo11>.

⁴¹ *Pimlico Plumbers Ltd and another v Smith* 29 UKSC (2018), <https://www.supremecourt.uk/cases/docs/uksc-2017-0053-judgment.pdf>; *Uber BV v Aslam* 5 UKSC, 2021, <https://www.supremecourt.uk/cases/docs/uksc-2019-0029-judgment.pdf>.

⁴² BERTOLINI, DUKES, *cit.*, p. 669; MOYER-LEE, *Challenging National Law in Occupational Health and Safety*, in *ILJ*, 2021, 50, 4.

workers in the entire industry. As a liberal market economy (LME), the lack of strong legal and institutional support in the UK, such as an extension mechanism for collective agreements (like *erga omnes*) or enactment of a legislation, has significantly constrained British unions' ability to bargain on behalf of platform workers⁴³.

In Spain, there are trade unions which have been specifically established for organizing and mobilizing non-standard workers as a response to labour market developments in certain industries⁴⁴. The main strategy of these representative unions is to incorporate platform workers in existing collective agreements so that their working conditions are governed by the provisions of such collective agreements⁴⁵. Unlike trade unions in the UK, Spanish unions follow a logic-of-influence approach which prioritizes concluding collective agreements instead of focusing only on immediate needs of the workers⁴⁶. As the literature on mixed market economy (MME) suggests, trade unions (social partners) have been crucial in the IR regime of Spain in developing broader strategies for tackling unemployment and promoting job stability through national social bargaining with the government and/or employers and concluding social pacts⁴⁷. Accordingly, social dialogue is considered as an important instrument in Spain for governing industrial relations to reaffirm the autonomy of social partners *vis-à-vis* the state⁴⁸.

In the food delivery sector, extension of the fifth sectoral collective agreement for restaurants and catering (ALEH-V) in March 2019 until December 2020 was considered as a major achievement for trade unions as platform workers were categorized as "workers" in the agreement removing the uncertainty associated with their legal status⁴⁹. Later, the new law on delivery riders which is the result of a tripartite collective agreement among trade unions, employer associations and the state, strengthens the MME model in Spain, as suggested in the existing literature. It is a pioneering re-

⁴³ BERTOLINI, DUKES, *cit.*, pp. 669–670.

⁴⁴ VANDAELE, *cit.*, p. 215.

⁴⁵ MOLINA, *Enhancing social partners' capacity and social dialogue in the new world of work: the case of Spain*, in VAUGHAN-WHITEHEAD, GHELLAB, DE BUSTILLO LLORENTE, *The new world of work*, 2021, Elgar, pp. 433–434.

⁴⁶ VANDAELE, *cit.*, p. 207.

⁴⁷ ROYO, *cit.*, p. 61.

⁴⁸ MOLINA, *cit.*, p. 431.

⁴⁹ MOLINA, *cit.*, p. 430.

gulation in Europe which has been adopted within the framework of consultation of social partners under Article 154 of the Treaty on the Functioning of the European Union (TFEU)⁵⁰.

Role of institutional framework

Based on 2017 Eurofound report prepared by Jelle Visser for the European Commission with respect to the classification of industrial relations (which was also used in the previous Eurofound report, IR regime is strongly state-centered in Spain whereas it is liberal pluralistic in the UK⁵¹. The UK follows the notion of *laissez-faire* in which state should not intervene in economic life⁵². Whereas, state is a major actor in the IR regime of Spain since the intervention of the state is quite frequent in resolving IR related issues⁵³. This difference is clear considering the lack of a legal framework in the UK on this issue, as opposed to Spain, which has resulted in precarious working conditions of delivery riders as their legal status remains unclear till date.

In July 2017, Matthew Taylor was asked by the government to conduct a review on employment law reforms and he submitted his report – *Good Work: The Taylor Review of Modern Working Practices* which provided certain recommendations on the issue of platform workers, although the team did not include any trade unions⁵⁴. There were broadly three recommendations with respect to platform workers which have been broadly accepted by the government in its response, *Good Work Plan* published in 2018⁵⁵. The recom-

⁵⁰ Art. 154 TFEU, http://data.europa.eu/eli/treaty/tfeu_2012/oj; Eurofound, *Riders' law*, cit.

⁵¹ Eurofound, *Mapping varieties of industrial relations*, cit.

⁵² HYMAN, *The State in Industrial Relations*, in BLYTON, BACON, FIORITO, HEERY (eds.), *The SAGE Handbook of Industrial Relations*, Sage Publications, 2008, p. 258.

⁵³ GUGLIELMO, MEARDI, *Mediterranean Capitalism' under EU Pressure: Labour Market Reforms in Spain and Italy 2010-2012*, in *WFES*, 2012, 3, p. 59.

⁵⁴ TAYLOR, *Good Work: The Taylor Review of Modern Working Practices*, Department for Business, Energy & Industrial Strategy, UK, 2017, <https://www.gov.uk/government/publications/-good-work-the-taylor-review-of-modern-working-practices>.

⁵⁵ *Responses to Matthew Taylor's recommendations*, in *Policy Paper Good Work Plan*. Department for Business, Energy & Industrial Strategy, UK, 2018, <https://www.gov.uk/government/publications/good-work-plan/good-work-plan#responses-to-matthew-taylors-recommendations>.

recommendations were (i) first, to retain the three-tier approach to employment status but rename it as “dependent contractors” (the category of people who are eligible for worker rights but are not employees), (ii) second, to develop tests to adequately differentiate the “dependent contractor” status in which control should be of greater importance and less emphasis should be placed on requirement of performing work personally, (iii) third, government should adapt piece rates legislation to ensure that workers in gig economy are able to enjoy maximum flexibility while being able to earn national minimum wage, (iv) fourth, government should extend the right to a written statement to dependent contractors as well as employees to improve certainty and understanding of all working people⁵⁶. However, the Taylor Review was heavily criticized and much concern was shown with respect to the implementation of the proposals⁵⁷.

In response to the recommendations, the UK Government introduced a written statement of terms and conditions requirement for workers through the Employment Rights (Employment Particulars and Paid Annual Leave (Amendment) Regulations SI 2018/1378) that made the entitlement to the written statement of terms and conditions a primary right, and the Employment Rights (Miscellaneous Amendments) Regulations SI 2019/731. Further, after over four years since the response is issued, the UK government issued guidance in July 2022 on the employment status of gig workers and the rights applicable to them, to advise employers, engagers and individuals about the law and how to comply with it⁵⁸. However, it has been clarified that «this guidance does not impose any legal obligations. It does not change the law»⁵⁹.

On the other hand, the Spanish government has enacted a specific legislation in 2021 on delivery riders which guarantees labour rights to the delivery riders amending the Spanish Workers’ Statute law, significantly. The

⁵⁶ Responses to Matthew Taylor’s recommendations, cit.

⁵⁷ BALES, BOGG, NOVITZ, ‘Voice’ and ‘Choice’ in Modern working Practices: Problems with the Taylor Review, in *ILJ*, 2018, 47, 1, pp. 46-75.

⁵⁸ New guidance brings clarity on employment status for workers and businesses, 22.07.2022, <https://www.gov.uk/government/news/new-guidance-brings-clarity-on-employment-status-for-workers-and-businesses>.

⁵⁹ Employment status and employment rights: guidance for HR professionals, legal professionals and other groups, 26.07.2022, <https://www.gov.uk/government/publications/employment-status-and-employment-rights/employment-status-and-employment-rights-guidance-for-hr-professionals-legal-professionals-and-other-groups#section-1-guidance-overview>.

law was passed as a legal decree to avoid any further delay⁶⁰, providing a grace period of three months for the companies to adapt to the provisions of the law from the date of its official publication. Pursuant to the Supreme Court ruling in a case recognizing the former worker as an employee of Glovo, the state intervened to negotiate with other actors of MME, namely trade unions and employer associations in order to reach an agreement on the issue⁶¹. After six months of negotiations, the parties concluded a tripartite collective bargaining agreement, which was enacted as a law in Spain⁶². Based on the literature on various capitalist market economies discussed in Chapter 2 of the paper, it is evident that in addition to the state, trade unions and employers in MMEs (here, Spain) also play a stronger role organizationally than in LMEs (here, the UK), in resolving the coordination issues in the economy.

5. *Concluding remarks*

The difficulty of mapping the contours of gig economy has had serious implications on the social rights of delivery riders. Considering the lack of clarity in the definition of the term and legal framework of most countries with respect to the legal status of the delivery riders, it has been a challenge for the countries to adapt their existing laws for this work arrangement. Most countries are grappling with the issue of regulating the platform economy sector leading to increasing instances of human rights violations of delivery riders and series of conflicting judicial pronouncements.

This paper has chosen the case studies of two countries with varying IR regimes, namely, the UK and Spain. Based on the literature on Varieties of Capitalism and the case studies, it can be inferred that the UK shows characteristics of liberal market economy in which the state has adopted a passive role in the IR regime thereby other non-traditional actors (grassroot unions)

⁶⁰ DEFOSSEZ, *The employment status of food delivery riders in Europe and the UK: self-employed or worker?*, in *MJECL*, 2022, 29, 1, p. 33, <https://doi.org/10.1177/1023263X211051833>.

⁶¹ Eurofound, *Court judgement on employment status (Glovo)*, 2022, Platform Economy Database, Record number 2272, <https://apps.eurofound.europa.eu/platformeconomydb/court-judgement-on-employment-status-glovo-106119>.

⁶² WAEYAERT, LENAERTS, GILLIS, *Spain: The "Riders" Law, new regulation on digital platform work*, EU-OSHA, 2021, <https://osha.europa.eu/en/publications/spain-riders-law-new-regulation-digital-platform-work>.

in the market play an active role to coordinate their efforts to resolve the issue, relying on market institutions. On the contrary, state as an institution along with social partners (trade unions and employer organisations) drive the market economy in Spain, reflecting features of mixed market economy, which has effectively led to enacting a specific law on delivery riders to resolve the issue at hand. Based on the case studies of the UK and Spain, it may be concluded that there is a requirement of collaborative effort from both the state as well as social partners in order to find a solution to the social issue of recognizing rights of the delivery riders.

Moreover, the new law in Spain marks an important shift in the regulation of platform work since it is the first country in Europe to enact a specific legislation on this issue. This act might motivate other member states to follow suit in the future. Though European Union has also introduced a proposal for a Directive on improving working conditions of platform workers⁶³, it is yet to take the shape of a binding law within the member states of the EU as it is still in the pipeline. However, once the proposal becomes effective and is transposed by member states into their national law, it might resolve the issue of platform workers in the EU to a large extent.

The comparative research and analysis on the legal position of the platform workers and regulatory framework in the UK and Spain clarifying the standpoints on the issue might be relevant for further academic research. In light of the COVID-19 outbreak, there has been an exponential rise on the number of platform workers, accordingly, this research is likely to foster legal discussion about the classification issue and basic social rights of delivery riders, considering the current scenario. Further, the research has highlighted the role of state as an institution and social partners in developing public policy in a country which brings out some underexposed areas on this issue which enhances the academic relevance of this research.

In terms of enhancing societal relevance, a comparative analysis of the situation in two countries belonging to different IR clusters helps to better appreciate different strategies adopted by various countries on this prevalent issue. Further, the research has highlighted the interaction of two major actors in framing public policy and legislations in the IR regime is important since it shows that a collaborative effort from both the state as well as social part-

⁶³ *Proposal for a Directive of the European Parliament and the Council on Improving Working Conditions in Platform Work*, COM/2021/762 final, <https://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX:52021PC0762>.

ners is required in order to find a solution to this issue. Moreover, a focus on the successful joint effort of the state and social partners like in Spain can also stimulate other national governments to adopt new policies on this issue.

Abstract

The outbreak of COVID-19 epidemic led to the exponential increase in the number of non-standard work arrangements including platform workers. Based on the analysis of figures, European Union recognizes the need for highlighting the issue of ensuring basic social rights of platform workers (delivery riders). The lack of clarity in the existing law regarding the legal status and rights of deliver riders, results in exploitation by organisations of such workers. In this paper, the aim is to understand the current status of the rights of delivery riders in food delivery sector and to analyze the role of key actors i.e. institutional framework and social partners in adopting strategies by two different countries, namely the United Kingdom and Spain, while recognizing the rights of these workers. Lastly, the paper proposes a workable solution based on the learnings from both the case studies.

Keywords

Platform workers, Riders' Law, delivery riders, industrial relations, trade unions.