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Labour rights regulation and the digital platform-based economy: the case of riders

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Introduction

Labour rights regulation and the digital platform-based economy: the case of riders

The digital economy, also known as the 'platform economy', encompasses a growing number of workers. In country X, people who earn 25% or more of their income through digital platforms already represent 6.1% of all workers. Therefore, the issue of the labour situation of these workers is becoming increasingly important and has entered the political agenda of the country.

X is a country with a population of around 50 million people. X is a high-income country which also has a high Human Development Index. Nevertheless, it ranks among the countries with the highest levels of income inequality (as measured by the Gini coefficient) and, especially, unemployment compared with other OECD countries. Moreover, its labour market is characterised by a very high rate of temporary employment contracts and relatively low-paying jobs.

Around eight years ago, a delivery service start-up was founded in the country. Starting with a relatively modest initial investment, this company Y has had successive rounds of financing to raise investment funds. The result is that, although it has generated more expenses than revenue, company Y has expanded quickly in country X and in other countries in the world thanks to capital injections. This company is an on-demand courier service that purchases, picks up and delivers products ordered through its mobile app. Food delivery service is the most popular service requested, although services available also include all other products. Other similar international companies have also entered the market in country X, competing with company Y, although the latter continues to dominate the domestic market.

Specifically, a customer contacts a delivery worker (popularly known as a 'rider') using the app. This rider accepts the request and purchases and delivers the product. The riders are self-employed, and digital platform companies are considered as mere intermediaries between businesses, riders and consumers. Based on the data provided by company Y, a rider works a mean of 5 and half hours a day (computing from the time the order is accepted until the delivery is made), earning around

the equivalent of 1274.64€ per month. However, the company's calculations do not take into account the maintenance costs of the rider's vehicle and mobile phone or the social security contributions made by the rider.

These digital platforms have generated considerable social, legal and political conflict around the issue of riders' labour rights. The core question of the conflict is the following: are riders really self-employed? Or, conversely, are they 'falsely' self-employed persons who suffer from significant deficiencies in terms of social protection? If the latter is true, company Y (and all other similar digital platforms) should establish a contractual relationship with its riders, to allow them to benefit from greater social and labour rights.

In February 2019, the social courts in region Z recognized a rider from company Y as 'falsely' self-employed, and established that he had to be considered an employee of that company. This was the beginning of a wave of legal sentences issued by different regional courts that recognised the existence of an employment relationship between delivery workers and the different digital platforms existing in country X. The reasons alleged by the regional courts were mainly two. On the one hand, the judges argued that the remuneration established between the parts is fixed. On the other hand, the courts noted that the relationship between riders and companies is characterised by alienation and dependency. That is, the riders are subject to the management of the digital platform and its organisational structures, so that, in fact, the delivery workers make their labour available to the platform.

In June 2020, an organisation of riders at the national level promoted a manifesto supported by over fifty organizations and social groups; this campaigned for the effective recognition of all people who provide their services through digital platforms as employees. That is, its demands were not restricted to the riders, but included all workers of the so-called 'platform economy' (such as drivers, caregivers or psychologists). The organisation also had other demands, such as the registration of the algorithms used by these companies, due to their importance in the organisation of work (they determine, for example, the number of working hours per worker, their score and reputation, or the distribution of punishments and rewards).

The most relevant sentence, which was issued by the Supreme Court in September 2020, firmly ruled that there was an employment relationship between company Y and its riders. The Court argued that the

company provides its delivery service by establishing the conditions essential for that service and that it owns the assets that are essential for carrying out the activity (mainly the computer program that connects businesses with customers). The same arguments, very similar to those previously put forward by the different regional courts, were confirmed by another Supreme Court sentence against a large international digital platform operating in the country.

These sentences and the media coverage of them catapulted the issue of riders' labour rights into the institutional sphere. In early 2020, a few months before the Supreme Court ruling, the Minister of Employment (policy entrepreneur) announced her intention to legislate against the 'falsely' self-employed workers in the platform economy sector. This initiative was soon known in the media as the 'riders' law'.

The Minister of Employment now needs to deal with a constellation of actors with different interests and resources in order to achieve her goal of regulating the labour rights of digital platform workers. Regarding the political actors, the government of country X is a coalition between a mainstream social-democratic party and a smaller left-wing party. The Minister of Employment belongs to the latter party, while the Prime Minister and preeminent members of the government, such as the Minister of Finance, are social-democrats. Although the social-democratic members are also in favour of regulating the labour situation of these workers, they defend a less ambitious reform compared to the plans of the left-wing party. The main parties in the opposition (a mainstream liber-conservative party and a radical right-wing party) strongly oppose this initiative.

Regarding the social actors, it is not only the riders' association that is in favour of the Minister of Employment's plans, but also the main trade union in the country. Company Y and most of other similar digital platform companies strongly oppose the Minister's initiative, and propose far less ambitious alternatives that do not go as far as recognising riders as employees, but that do improve their employment situations in some specific aspects. Some particular companies in the sector, however, show less opposition to the regulation of the conditions of their workers. Finally, the main employers' association of the country, to which company Y belongs, is critical of the Minister's plans, but is open to negotiating the content of the law.

Given this context, the Minister of Employment has two strategies to improve the working conditions of

platform economy workers and, in particular, of riders:

- **Hard regulation of riders' labour rights and the rest of digital platform workers.** The Minister of Labour supports all riders' organisation demands. [Strategy 1]
- **Soft regulation restricted to riders' labour rights.** The Minister of Labour presents a proposal that avoids the recognition of riders as ordinary employees, but improves some specific working conditions. [Strategy 2]

Which of the two strategies could best support the Minister of Labour's goals?

[Once you have read the description of actors involved in the case (see below), select the strategy that best supports the Minister of Employment's goals.]

[If you choose strategy 1, go to page 9]

[If you choose strategy 2, go to page 16]

Actors

The Minister of Labour

The Minister of Employment is a member of the left-wing party, which is the minority partner in government. This minister is responsible for proposing and executing policies in the fields of employment, labour relations, the social economy and corporate social responsibility.

The Minister of Employment would like to regulate the digital platforms and, in particular, their contractual relationship with riders. She defends that the riders are only self-employed on paper, but have no autonomy, and therefore must be legally recognised as employees with all the labour rights, social rights and benefits associated. Moreover, the Minister also defends that this regulation should be applied equally to all other digital platforms (such as those that offer translation services, hire domestic workers, etc.), and not only to delivery platforms. Finally, she also advocates the registration of the algorithms used by these platforms.

The Minister of Economy

The Minister of Finance is a member of the mainstream social-democratic party, which is the majority partner in the government. This minister is responsible for proposing and executing policies regarding economic matters, reforms to improve competitiveness, telecommunications and the information society, and for digital transformation and the development and promotion of artificial intelligence. In addition, the Minister of Finance is also the deputy prime minister of the government, so she has a specific political pre-eminence in the executive.

The Minister of Finance supports the Minister of Employment's proposal for regulating the working conditions of riders. However, she opposes this regulation extending beyond delivery workers. The alleged reason is that a very rigid reform of digital platforms, at a time characterised by the rapid and strong development of digital technologies, would discourage new companies from the platform economy setting up operations in country X.

The Prime Minister

The Prime Minister is also the leader of the social-democratic party. He leads the action of the

government and coordinates the functions of the other members of the executive.

The Prime Minister fully supports the position of the Minister of Finance: he is in favour of recognising riders as employees, but opposes the possibility of extending this regulation to other types of platform economy workers.

Left-wing Party

The left-wing party is, in fact, an electoral coalition of different political forces situated to the left of the traditional social-democrats: a democratic socialist party, an Euro-communist party, a green party and some minority left-wing regional parties. The left-wing party obtained around 13% of the vote share in the previous national elections. It is currently the minority partner of the national government, and has 5 of the 22 Ministries that make up the executive, including the Ministry of Employment.

The left-wing party supports the legal recognition of all platform economy workers (not only riders) as employees, and strongly defends legislation that forces digital platform companies to make their algorithms public to the relevant work organisations and trade unions.

Social-democratic Party

The social-democratic party is the mainstream centre-left party in country X. This party advocates for a social market economy, maintains progressive positions on socio-cultural issues, and supports European integration. It obtained around 28% of the vote share in the previous national elections. It is currently the majority partner in the government; specifically, it has 17 of the 22 Ministries that make up the executive, including the Minister of Finance, in addition to the Prime Minister, who is also the leader of the party.

The party supports the Minister of Finance's position: it defends regulating the working conditions of the riders, but not other workers in the platform economy, since this would presumably reduce the country's competitiveness in this growing sector.

Liberal-conservative Party

The liberal-conservative party is the mainstream centre-right party in country X. This party promotes a more liberal economic agenda, maintains moderate

or conservative positions on different socio-cultural issues and supports European integration. It obtained around 21% of the vote in the last national elections. It is currently the main opposition party in the national parliament.

The liberal-conservative party opposes the proposal of the Minister of Employment. It defends other alternatives that are more respectful both with the freedom of the company and with that of the workers, such as that the law recognises and respects the right of the rider to decide if he/she prefers to work as self-employed or as an employee.

Radical Right-wing Party

The radical right-wing party defends nativist and authoritarian views, as well as a strong liberal economic agenda. It obtained around 15% of the vote and it is in the opposition.

The party strongly opposes the initiative of the Minister of Employment, and defends the figure of the 'digital self-employed person' as an alternative a contractual regulation being established between riders and digital platforms.

The Riders' Labour Association

The riders' labour association works in favour of the rights and working conditions of delivery people at the national level and against the dangers associated with the 'uberisation' of the economy.

In particular, the association states that: a) the relationship between the riders and the digital platforms must be contractual; b) there must be a registry of digital platforms, so that the different companies in the platform economy could be classified in their corresponding sector with its pertinent collective labour agreement; c) the algorithms used by the companies, which organise work, must be registered and made public before the work associations; and d) the new regulation must cover all platform economy workers, not just riders.

The riders' association has promoted labour inspections and lawsuits, most of which have been won. Moreover, the association actively participates in academic, social movement and government events that discuss precarious working conditions and the future of work.

Digital platform delivery Companies

Company Y and most of the other digital platform companies in country X strongly oppose the regulation of riders' working conditions proposed by the Minister of Employment. The companies argue that most riders want to be self-employed because they appreciate the flexibility of the sector (which allows them to work part-time or in other countries) and can earn them a decent income if they work well and hard. Furthermore, digital platforms strongly oppose any obligation to disclose their algorithms because this would harm the development of the emerging platform economy in country X and would represent an arbitrary attack on the principles of free enterprise and industrial property.

An alternative riders' organisation that defends the position of the digital platform companies has recently been created. The creation of this organisation has been controversial due to its links with company Y, which have been reported to the judicial authorities by the main trade union.

However, a minority of digital platforms have shown support for the Minister of Employment's initiative. These companies already have some of their riders as employees, while others are subcontracted personnel. The argument of these platforms is that a new legislative framework is necessary to compete on equal terms within the sector.

Main Trade Union

The main trade union in country X supports the proposal of the Minister of Employment and the demands of the riders' labour association: they are in favour of regulating all digital platforms, not just delivery platforms. It defends the option of a negotiation within the framework of 'social dialogue'; that is, a tripartite negotiation with the government and the main employers' association.

Moreover, the main trade union has taken company Y to court for violating freedom of association. The lawsuit is based on a series of video-calls organised by company Y that aimed to encourage riders to be part of the organisation favourable to the company's positions and that defends the self-employed model.

Main Employers' Association

In country X, company Y and all other digital platforms belong to the main employers' association.

Although those leading the employers' association are reluctant to accept the proposal of the Minister of Finance, they are open to negotiating the content of the new legislation with the government and the main trade union in the framework of 'social dialogue', a position that contrasts with the steadfast opposition of most digital platforms.

Specifically, the main employers' association has two concrete demands that it describes as essential to reach an agreement. The first one is that digital platform companies must have the ability to outsource services to be more efficient in cost-benefit terms. And, secondly, the association defends a nine-month vacation legis (that is, the extension of the time gap between the approval of

the new legislation and its entry into force, in order to give digital companies more time to adapt their organisations and structures).

Choose the strategy that best supports the Minister of Employment's goals:

- Hard regulation of riders' labour rights and other digital platform workers [\[Strategy 1\]](#) [\[Go to page 9\]](#)
- Soft regulation restricted to riders' labour rights [\[Strategy 2\]](#) [\[Go to page 16\]](#)

Strategy 1 – Hard Regulation

Once you have chosen the strategy, select those actors that you think will oppose the initiative and those who will support it.

Actors that support hard regulation:	Actors that oppose hard regulation:

[Go to Appendix A on page 25 to see the list of actors that support and that oppose hard regulation, as well as the distribution of political and legal resources between supporters and opponents]

The policy change is not feasible as it is due to the negative balance of political and legal resources for the Minister of Labour.

What does the Minister of Labour do now?

- a) **Give up on the project** [Go to page 10]
- b) **Wait** [Go to page 11]
- c) **Negotiate** with some of the current opponents [Go to page 12]

Option a) GIVE UP ON THE PROJECT

Does not manage to change any policies and, hence, is unsatisfactory.

Option b) WAIT

Does not get any policy transformation and, hence, is unsatisfactory.

Option c) NEGOTIATE

Negotiate with some of the current opponents is the correct answer

Decide what to change in the current strategy to increase support for the minister. You must select two of the following three options:

- a) Limit the new labour regulation to riders (and exclude the rest of digital workers)**
- b) Give up the proposal to make the algorithms public before the work association**
- c) Grant some vacation legis and the possibility of outsourcing services to the digital platforms**

[If the selected options are a) and b), go to page 13]

[If the selected options are b) and c), go to page 14]

[If the selected options are a) and c), go to page 15]

If the selected options are a) + b), the project is not feasible.

The Minister of Employment wins the support of the Minister of Finance, the Prime Minister and the social-democratic party, but the concessions made to the employers' association and digital platforms are not enough to win their support. The riders' association opposes the new proposal. As a results, the balance of legal resource is now positive (+18) but the balance of political resources is still negative (-2).

If the selected options are b) + c), the project is not feasible.

The Minister of Employment wins the support of the main employers' organisation. However, the Minister of Finance, the Prime Minister and the social-democratic party still oppose the initiative. The riders' association also opposes the new proposal. As a result, the balance of both political (-28) and legal (-70) resources is negative.

If the selected options are a) + c), the project is feasible.

The balance of both political (+32) and legal (+18) resources is now positive.

The Minister of Employment agrees to restrict the new regulation of the working conditions of digital workers to riders to reach an agreement with the Minister of Finance and the rest of the social-democratic members of the government. Then the Minister of Employment takes the government's proposal to the tripartite negotiation with the main trade union and the employers' association. The Minister maintains regular contacts with the riders' labour association during the social dialogue, but excludes company Y and most of the other digital platforms that oppose her proposal from the negotiations. She is open to negotiating regarding the demands of the main employers' association (outsourcing and vacation legis) and including them partially in the new legislation with the aim of reaching an agreement.

This strategy is relatively successful. After some difficult negotiations, the government, the trade union and the employers' association reach an agreement that is reasonably satisfactory to all three parts. The modification of the worker's statute law contains two main points. First, the legislation establishes that delivery workers in the digital sector have an official and legal labour relationship with digital platform companies. This means that riders will enjoy all the social and labour rights for employees. Second, the new law obliges digital platforms to make their algorithms public to the work association. In addition, the law partially contains the main demands of the main employers' association: the ability of the digital companies to outsource services and a three-month vacation legis.

Company Y strongly criticises the new legislation because it has not been negotiated in consultation with digital companies and will harm the development of the platform economy in country X. Company Y, moreover, decides to leave the main employers' association and together with other digital platforms, founds a specific association to defend the particular interests of the digital sector and its companies. The right-wing opposition parties (liberal-conservative and radical right parties) also oppose the new legislation. Finally, the riders' association says that the new regulation, although significantly improving their specific situation, could have been much more ambitious, to include all workers in the platform economy.

Learning objectives

This case is an example of one of the most frequent strategies to modify the preferences of the actors and implement a policy innovation: changing the content of the decision. Specifically, the content is enlarged to take care of the goals of the other actors who are negatively affected by the decision (in this case, the main employers' association). To be successful, the policy entrepreneur should carefully choose the actors whose consensus is necessary (this is why satisfying the digital platforms is less crucial) and make proposals that address some of the interests and goals of these actors. On the other hand, the policy entrepreneur adopts an additional strategy required by her social-democratic partners, namely the manipulation of decisional networks. In particular, the number of actors involved in the decision and therefore the complexity of the negotiation is reduced by restricting the scope of regulation to riders.

Another lesson is that the implementation of a new regulation is not always quick and easy. In this case, digital platforms try to minimise the effects of the legislation and to maintain the figure of the self-employed worker. Specifically, these companies are changing some aspects of their relationship with riders to give them more autonomy and justify their self-employment status. Moreover, digital platforms are evaluating the possibility of making extensive use of outsourced delivery services. An international delivery digital platform decides to leave country X.

Strategy 2 – Soft regulation

Once you have chosen the strategy, select those actors that you think will oppose the initiative and those who will support it.

Actors that support soft regulation:	Actors that oppose soft regulation:

[Go to Appendix B on page 26 to see the list of actors that support and that oppose soft regulation, as well as the distribution of political and legal resources between supporters and opponents]

The policy change is not feasible due to the Minister of Employment’s negative balance of legal resources.

What does the Minister of Employment do now?

- a) **Give up on the project** [Go to page 17]
- b) **Wait** [Go to page 18]
- c) **Negotiate** with some of the current opponents [Go to page 19]

Option a) GIVE UP ON THE PROJECT

Does not get any policy transformation and, hence, is unsatisfactory.

Option b) WAIT

Does not get any policy transformation and, hence, is unsatisfactory.

Option c) NEGOTIATE

Negotiate with some of the current opponents is the correct answer

Decide what to change in the current strategy to increase support for the Minister. You must select one of the three options:

- **A) Negotiate 'zero-hours contract' legislation with the liberal-conservative party.**
[\[Go to page 20\]](#)
- **B) Negotiate about the figure of the digital self-employed worker with the radical right party.**
[\[Go to page 21\]](#)
- **C) Negotiate the improvement of some additional working conditions with the left-wing party, but without the recognition of riders as ordinary employees.**
[\[Go to page 22\]](#)

If the selected option is a), the project is feasible.

The liberal-conservative party supports the new legislation, and the balance of both political (+30) and legal (+58) resources is positive. However, this is not the best possible outcome (from the point of view of the policy entrepreneur's goals) given the different actors that are present in the case, their interests and the distribution of resources (**play the game again to find the best possible outcome!**).

After some negotiations, the government, the employers' association, digital platforms and the liberal-conservative party reach an agreement on a new regulation which establishes a set of measures that, while avoiding the recognition of riders as ordinary employees, increases their autonomy and improves some of their specific working conditions. For example, the reform allows riders to connect to the application freely with no specific time slots, to modify delivery rates (within some limits) or to outsource delivery services. Moreover, the new regulation also establishes the 'zero-hours contract' as an alternative option available to riders. This contract does not specify any particular number of hours or times of work, and provides some basic social security benefits.

The main trade unions and the riders' association are opposed to the new legislation and believe that the government, and specifically the Minister of Employment, have betrayed them. The riders' association announces that it will intensify strikes and protests, and that it will undertake legal action. This agreement causes an internal crisis in the left-wing party and its MPs decide not to support the new legislation. The radical right-wing party also votes against the soft regulation.

Learning objectives

Instead of implementing an innovative policy change that guarantees the status of employee for riders, the reform entails a small improvement compared to their previous situation. Moreover, the new regulation has not prevented the social and labour conflict that it intended to tackle, given the announcement of more protests and legal action to be undertaken by the riders' association. Finally, this strategy has also had a high political price for the Minister of Employment: it has caused a deep political crisis in her party and weakened the government in favour of the right-wing opposition.

The Minister of Employment, therefore, has not been able to choose the best possible strategy to maximise her goals (i.e., she has not been able to build an adequate coalition of actors to recognise riders as employees).

If the chosen option is b), the project is not feasible.

The negotiations with the radical right-wing party are opposed by the social-democratic partner, which distances itself from the initiative. As a result, the balance of resources worsens

If the selected option is c), the project is not feasible.

The left-wing party only accepts the possibility of recognising riders as employees. Therefore, the balance of resources remains unaltered.

Appendix

A) Distribution of actors – Strategy 1

Two types of resources are necessary to implement the new regulation: political and legal. The former refers to the consensus an actor is able to obtain. The latter refers here to the actors' capacity to adopt legislative decisions. On the one hand, members of the government and political parties possess, to varying degrees, both types of resources. On the other hand, social actors do not have any legislative power, but they are very important for legitimising political decisions and ensuring the new legislation is adequately implemented.

Actors supporting hard regulation (political and legal resources in brackets):

- The Minister of Employment (political: 6; legal: 5)
- Left-wing Party (political: 4; legal: 10)
- Riders' labour association (political: 8; legal: 0)
- Main trade union (political: 13; legal: 0)

Actors opposing hard regulation (political and legal resources in parenthesis):

- The Minister of Finance (political: 7; legal: 5)
- The Prime Minister (political: 14; legal: 8)
- Social-democratic party (political: 5; legal: 31)
- Liberal-conservative party (political: 11; legal: 30)
- Radical Right-wing party (political: 10; legal: 11)
- Digital platform delivery companies (political: 9; legal: 0)
- Main employers' association (political: 13; legal: 0)

The balance of both political and legal resources is clearly negative for the Minister of Employment (balance of political resources: -38; balance of legal resources: -70). Therefore, the policy change is not feasible as it stands.

B) Distribution of actors – Strategy 2

Two types of resources are necessary to implement the new regulation: political and legal. The former refers to the consensus an actor is able to obtain. The latter refers here to the actors' capacity to adopt legislative decisions. On the one hand, members of the government and political parties possess, to varying degrees, both types of resources. On the other hand, social actors do not have any legislative power, but they are very important for legitimising political decisions and ensuring the new legislation is adequately implemented.

Actors supporting soft regulation (political and legal resources in brackets):

- The Minister of Employment (political: 6; legal: 5)
- The Minister of Finance (political: 7; legal: 5)
- The Prime Minister (political: 14; legal: 8)
- Social-democratic party (political: 5; legal: 31)
- Digital platform delivery companies (political: 9; legal: 0)
- Main employers' association (political: 13; legal: 0)

Actors opposing soft regulation (political and legal resources in parenthesis):

- Left-wing party (political: 4; legal: 10)
- Liberal-conservative party (political: 11; legal: 30)
- Radical right-wing party (political: 10; legal: 11)
- Riders' labour association (political: 8; legal: 0)
- Main trade union (political: 13; legal: 0)

Although the balance of political resources is positive (+8), the balance of legal resources is negative (-2). This is because the new proposal is opposed by the left-wing party's MPs in parliament. Therefore, the policy change is not feasible as it stands.

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