

PLATFORM WORKERS' LABOR RIGHTS PROTECTION BASED ON THE EXAMPLE C. ASIA

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(ILAW NETWORK)

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ILAW NETWORK ACTIVITIES TO PROTECT WORKERS IN GIG ECONOMY

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- Strategic litigation;
- Advocacy work (including research, media advocacy, international reporting);
- Third Party intervention (*amicus curie*);
- Awareness raising activities etc.





ROADMAP TO JUSTICE: HOW KAZAKHSTAN'S PLATFORM ECONOMY WORKERS CAN STAND FOR THEIR RIGHTS



Sept



ROADMAP TO JUSTICE: HOW KYRGYZSTAN'S PLATFORM ECONOMY WORKERS CAN STAND FOR THEIR RIGHTS



September 2022

ROADMAP TO JUSTICE

HOW KYRGYZSTAN'S AND
KAZAKHSTAN'S PLATFORM
ECONOMY WORKERS CAN STAND
FOR THEIR RIGHTS

CHALLENGES FACING PEOPLE WORKING THROUGH PLATFORMS

1. precarity;
2. Lack of job stability and regular income;
3. Irregular work schedules and fragmented employment histories.



RESTRICTION OF PLATFORM WORKERS LABOUR RIGHT:

- Remuneration of overtime work;
- Annual leave;
- Sick leave;
- Occupation health and safety.
- Freedom of Association and collective bargaining.

MISCLASSIFICATIONS

Independent contractors, freelancers or ‘partners’ rather than employees.

Labour intermediaries and user companies.



PRINCIPLE OF SUBORDINATION

- Employment contract/service contract;
- Working time;
- Division of work;
- Bonuses and incentives;
- Penalties and liabilities.



KEY FINDINGS

PRINCIPLE OF SUBORDINATION

Gig platforms do not simply provide information services to the workers, but as the employers determine the scope of their work, provide benefits, bonuses and apply disciplinary sanctions for potential violations with no guarantees to challenge the decision prior to its deliberation.



FINDINGS ON AWARENESS OF PLATFORM WORKERS

Platform workers lack knowledge about their employment status, labor rights and liabilities under the signed agreement.

FINDINGS ON COLLECTIVE LABOUR RIGHTS

Kyrgyzstan - Collective bargaining can be initiated at different levels as the law does not impose restrictions on the model and system. Legislation offers a choice to gig employees to create and defend their labor rights through a trade union or to create or participate in a collective bargaining agreement. However, 58 percent respondents claimed that Yandex was either strongly opposed or held a neutral position, one not in support of the initiative.

Kazakhstan - According to the existing Republic of Kazakhstan law on trade unions, platform workers are nearly unable to create trade unions due to their legal status. However, 40 percent of workers surveyed believe that organizing and forming unions could help solve their problems.



FINDINGS ON EQUALITY AND NON-DISCRIMINATION

The research revealed that discrimination against female drivers is mainly related to safety issues, stereotyping approaches and harassment by customers; however, the company does not provide any incentives to engage women in platform work, and there are no efficient guarantees in place to avoid workplace incidents and safety violations of female drivers.



FINDINGS ON MIGRANT WORKERS AND OCCUPATIONAL SAFETY

A main problem faced by migrants, as a vulnerable group of workers, is related to occupational safety issues. Generally, drivers' safety is a significant issue in gig work. The Occupational Safety and Health standards and regulations do not apply to informal labor relations or any other form of contractual relations under civil law contracts; therefore, drivers working for platform companies do not fall under the protection of the labor law and consequently are not subjected to the authority of labor inspection.

KAZAKHSTAN

The supreme Court of the Republic of Kazakhstan acknowledged existence of the labor relationship based on the following facts:

- The remuneration was actually determined by the company unilaterally.
- Failure to agree to changes in the contract on couriers' side (lack of freedom of contract).
- GLOVO established certain standards of business conduct for couriers who work with them. They have the right to independently organize their time, but they are obliged to deliver the order within 60 minutes from the moment of appointment. Execution of the Order without going beyond the maximum delivery time is a prerequisite for the Courier. Failure to comply with this condition entails termination of Agreement. Moreover, a series of refusals from the courier to fulfill their orders, limits their access to the application.
- Couriers perform work for which a payment is charged from customers.
- Couriers do not know the destination and how much they will earn until they accept the information from the organization and fulfill their work. The company also monitors the quality and speed of couriers' work by having an appropriate warning and reward system for this.

RECOMMENDATIONS

- 1) Classify drivers as employees ;
- 2) Ensure labor rights protection of drivers;
- 3) Ensure right to organize and bargain collectively;
- 4) Ensure equality and prohibition of any forms of discrimination;
- 5) Ensure Occupational Safety;
- 6) Ensure social protection, such as minimum wage, unemployment benefit, pension fund etc.



UPDATES

- Attempt to create the sectoral unions of taxi drivers in Kyrgyzstan.
- Legislative changes introduced in Kazakhstan.



- Thank you!