

Research papers

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Regulating
platform
delivery work
in Argentina.
Tensions
between
regulations and
the priorities of
workers

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Regulating platform delivery work in Argentina

Tensions between regulations and the priorities of workers

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Abstract

The quarantine imposed in March 2020 shed light on the essential labour performed by digital delivery platforms' workers and their precarious labour conditions. In order to protect them, seven draft bills were proposed to Congress in Argentina, oscillating between a salaried/independent classification of these workers. This article uses qualitative and quantitative data to analyse how these regulatory proposals deal with three dimensions that are at the center of workers' own concerns when it comes to the regulation of the activity: the preservation of flexible schedules, the continuity of income self-regulation – even though this often means overworking – and the need to access effectively social protection – where the absence of occupational hazards insurance stands out.

Keywords

Digital platforms; Delivery workers; Regulation; Legislation; Argentina

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cionales de Estudios Latino-americanos y el Caribe (UBA, Argentina), and the Network K at SASE Conference (Amsterdam, Netherlands) for useful feedbacks. This paper also benefited from data shared by the ILO Country Office for Argentina, which AFD and UNGS warmly acknowledge for the collaboration. The findings, interpretations, and conclusions expressed in this article are solely of the authors and do not necessarily reflect the views of AFD, ILO, UNGS or other affiliated institutions.

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Résumé

La quarantaine imposée en mars 2020 a mis en lumière le travail essentiel effectué par les livreurs des plateformes numériques et leurs conditions de travail précaires. Afin de les protéger, sept projets de loi ont été proposés au Congrès en Argentine, oscillant entre une classification de salarié vs indépendant de ces travailleurs. Cet article utilise une méthodologie de type mixte pour analyser comment ces propositions de réglementation abordent trois dimensions qui sont au centre des préoccupations propres des travailleurs en matière de régulation de l'activité : le maintien d'horaires flexibles, la continuité de l'autorégulation des revenus – même si cela implique souvent du surmenage – et la nécessité d'accéder effectivement à une protection sociale – où se distingue l'absence d'assurance contre les risques professionnels.

Mots-clés

Plateformes numériques,
Livreurs, Régulation, Législation,
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Remerciements

Cet article s'inscrit dans le cadre d'un partenariat de recherche entre l'UNGS et l'AFD pour le projet « *Platform economy and personal services in the Buenos Aires Metropolitan Area: Implications on working conditions and gender inequalities* ». Les auteurs tiennent à remercier Luis Beccaria pour ses remarques réfléchies sur la version précédente de cet article, l'agence AFD à Buenos Aires, les agents du ministère du Travail et d'autres agences gouvernementales qui ont participé à l'atelier de validation du projet qui s'est tenu en août 2020, ainsi que ainsi que les participants de la 17^e Conférence sur le marché du travail et l'équité (UNGS, Argentine), la Conférence WORK 2021 (Université de Turku, Finlande), la 5^e Jornadas Internacionales de Estudios Latinoamericanos y el Caribe (UBA, Argentine) et le Réseau K at Conférence SASE (Amsterdam, Pays-Bas) pour des retours utiles. Ce document a également bénéficié des données partagées par le bureau de pays de l'OIT pour l'Argentine, que l'AFD et l'UNGS remercient chaleureusement pour leur collaboration. Tous résultats, interprétations et conclusions exprimés dans cet article n'engagent que les auteurs et ne reflètent pas nécessairement les points de vue de l'AFD, de l'OIT, de l'UNGS ou d'autres institutions affiliées.

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Foreword

Cecilia Poggi (AFD – Economic Assessment and Public Policy Department)

This article is part of a **research partnership** between the **AFD Economic Assessment and Public Policy Department** and the **Area de Economía at the Instituto de Ciencias of the Universidad Nacional de General Sarmiento (UNGS)** for the **period 2020–2021**, seeking to produce and analyse some primary qualitative and quantitative data on digital labour platforms in the Buenos Aires Metropolitan Area. The collaboration aims to explore some characteristics of workers using app-based platforms for the personal service sector, such as those for domestic work, office repair services, food delivery and ride-hailing services. It does so by producing **five complementary articles that together give an initial picture of how workers engage in this new work modality**.

In Argentina, the participation to the platform economy is a recent but rapidly expanding phenomenon. The severe recent economic crisis and its reinforcement with the Covid-19 crisis have been destabilizing to standard work relations, in an environment where informality is widespread and where gender inequalities are experienced across occupations. The high rate of internet connectivity as well as the unstable economic conditions experienced in the labour market provide a particularly favourable environment for the expansion of the platform modality. The project develops five articles inspecting various aspects of the platform economy, and it is considered an initial exploratory inquiry on the topic of on-the-platform work.

The articles presented address each a specific aspect of on-the-platform work, they do not cover wider analyses for the overall Argentinian labour force or for off-platform occupations, nor do they question the demand for platform work. Their value-added is the contribution to a growing and dynamic body of literature shading light on who are the workers that engage in a platform, on their labour conditions, as well as their perceptions about this type of insertion, by proposing a series of gender-sensitive analyses. The project produced its primary qualitative and quantitative data. In-depth interviews and focus groups were conducted with workers of each occupation and an *ad-hoc* survey was designed to collect quantitative data about workers and their experience. The survey is based on a non-probabilistic sample with gender quotas per platform, seeking to ensure comparability among occupations and demographic groups. The timing of the data collections over 2020–2021 make this one of the few projects across the globe having investigated the platform use variations at the onset of the pandemic. Moreover, thanks to a research agreement with the ILO Country Office for Argentina, some articles have benefited in their analysis of an additional dataset shared by the ILO.

The project articles are available on the AFD website (www.afd.fr/en/carte-des-projets/platform-economy-buenos-aires-metropolitan-area-work-conditions-gender-inequality) exploring the following topics:

The first article investigates whether **working through a digital platform increases labour registration in high-informality occupations**.

It analyses how labour entry occurs in three selected platform-based occupations in Argentina. Considering the peculiarities of each occupation, it identifies which elements may contribute to a “formalization effect” and how this is experienced by workers.

The second article explores **the role of labour regulations in the classification of platform workers** based on the case of Argentinean riders. The article analyses the treatment of three dimensions that tend to be at the centre of workers’ own concerns when it comes to the regulation of their occupation: the preservation of flexible schedules, the continuity of income self-regulation and the need to gain effective access to social protection.

The third article explores **how the digitalization of the work relation affects domestic workers** in Argentina at the onset of the Covid-19 crisis. It analyses the use workers do of *Zolvers*, the only digital platform for domestic work in the

country, and it compares what are the differences between jobs that have been taken on the platform and those outside.

The fourth article investigates **gender inequalities among platform riders and drivers**. It identifies whether there exist gender gaps in terms of hours and income and what is their magnitude. Moreover, it analyses some possible determinants, including features specific to these occupations, like the work schedule, perceptions of safety on the job or access to productive assets.

The last article delves deeper into **female platform drivers’ labour market trajectories**. The article inspects the profile of female drivers joining the platform in exploring which previous job experiences may have helped them to dare into a male-dominated occupation. Additionally, the article reviews how, once in the platform, female drivers juggle between this activity and their socially assigned care responsibilities.

Introduction

In Argentina, the most significant irruption of platform delivery companies occurred around 2018. The environment favoured the recruitment of workers, as the entry of these platforms coincided with a severe economic crisis that had a strong negative impact on the labour market (INDEC 2019; Fernández and González 2019)—which only worsened with the pandemic.

Digital platforms are registered as computer services providers and, for that, they do not appear as employers of delivery workers, who must register as self-employed workers. The imposition of this labour statute has been widely questioned by the literature (Cherry 2016; Di Stefano 2016; Pralss 2018). The debate around their legal status focuses on a series of indicators of labour dependency, such as platforms' setting of the deliveries' price; their intermediation in payments and in communication between workers and clients; the control they exercised in terms of the definition of tasks to be performed (and the way to carry them out) through different incentives and penalties; and the economic dependence of workers on this source of employment, among others (Ivanova et al., 2018).

In any case, the shape these labour relations take brings back pre-existing problems that are usually observed around various forms of labour precariousness that can range from total informality to various forms of "atypical employment" (ILO, 2016). Undoubtedly, one of the most recurrent concerns in this regard points to the difficulties that these labour insertions may imply in terms of access to social protection, traditionally linked to the

standard employment relationship — which implies a formal, full-time and indefinite-term salaried work contract (Berg et al. 2018, Rogers 2017).

As a result of the lockdown established in March 2020, the precarious working conditions of platform delivery workers became even more evident since they were considered "essential workers." When the majority of the population remained at home, delivery workers—even at the risk of becoming infected—were the ones who ensured the provision of basic needs. Thus, between March and November 2020, five preliminary projects were presented to Congress in order to establish a regulatory framework able to recognise labour rights and social security benefits to these workers, which are added to two other projects previously presented in 2019. These gather a variety of legal frameworks that range from the employee statute to the self-employed worker, passing through versions that combine these statutes in the same labour regime.

The article seeks to understand the ways in which the proposed regulations attempt to solve the dilemma around the classification of digital platforms delivery workers, placing special emphasis on the analysis of the treatment of certain aspects that workers themselves express as concerns about a potential regulation of the activity. Without ignoring that riders view is marked by the economic urgency and the most immediate problems they experience, the aim of this study is to contribute to the knowledge on the subject based on the concerns expressed by those involved. The article focuses on the analysis of

three dimensions that workers of digital platforms underline as crucial for the exercise of the occupation: the preservation of flexible hours; the continuity of self-regulation of income levels; and the need to access health coverage in case of a work accident.

The methodological strategy used is qualitative as well as quantitative. First, the qualitative data includes a series of focus groups conducted in March 2019 and 70 individual interviews conducted by telephone in June 2020. Second, the survey was conducted in two stages: 1) a survey of 300 cases carried out in July 2019 by ILO; 2) an update of the previous survey in July 2020—of 150 cases aiming to collect information on the impact of the pandemic (whenever possible, 2019 participants were re-interviewed in 2020); and 3) an intentional quota of 150 women was included between February and March 2021, in

order to have enough cases to be able to extrapolate results about female experiences in the occupation. Finally, the qualitative data was completed by a corpus of documents that includes all draft bills presented to Congress between 2019 and 2020, press articles and expert reports.

The article is organised in four sections. The first section presents the debate concerning the classification of platform workers in the Argentinian context. The second briefly characterises delivery workers in the country. The third section accounts for the concerns of workers themselves regarding a potential reclassification of their work by a legal framework. Finally, the fourth section analyses the legislative proposals, focusing on the way in which the different draft bills regulate working time, the remuneration setting and the access to work hazard insurance.

1. The issue of classifying digital platform workers

Digital delivery platforms require delivery workers to have their own means of transportation (bicycles or motorcycles), as well as a smartphone and a data plan that enables them to use the application. Those who carry out the activity are individually responsible for complying with current regulations (traffic, security and hygiene regulations). Likewise, the equipment necessary to work (thermal take away bags, uniforms, etc.) is usually paid by them, on consignment to the companies. They also have to take care of the insurance required for the development of the occupation and the payment of contributions to the social security system because they officially enter the platforms under the status of self-employed worker.

Many studies on this occupation focus on the evidence that allows verifying or excluding the standard employment relationship. On the one hand, these analyses examine indicators related to legal subordination—defined as companies' capacity to give orders and directives, as well as to control the execution of work and sanction non-compliance. On the other hand, they evaluate aspects related to economic dependence—understood as the extent in which the workers depend on the occupation as their main source of income (Fudge et al. 2003, Supiot, 2000).

Based on these considerations, the literature tends to deny the independent nature of this work, underlining its inappropriate use applied by digital platforms in this category (Di Stefano 2016, 2017) as a strategy to reduce labour costs and disassociate themselves from an employer's responsibility (Tolodi-Signes 2017). In different countries, the problem tends to be settled with intermediate figures between salaried work and self-employment. However, in Argentina, the dual scheme that structures the labour protection system and access to social security—based on the binomial employee/self-employed worker statutes—establishes the perimeter within which to resolve the dilemma of platform work's classification.

1.1. The normative frameworks on an international level

When considering the regulation of this type of activity, a first option usually evaluated is to include these workers within the general labour regime, or to design a special work regime, based on the labour code, but adapted to the specificities of this new form of labour (De Stefano 2016, Todolí-Signes 2017). The case of the recent sanction of the so-called the "rider law" in Spain during May 2021, constitutes an emblematic case by making this possibility a reality. Thus, the law considers delivery workers as employees establishing their incorporation into the country's general regime¹.

¹ Royal Decree Law 9/2021. Additionally, generating another novel precedent in the world of regulating digital platforms employment, it provides for the

inclusion within the same Statute of an article that obliges this type of companies to make the algorithmic management of the workforce transparent.

A second alternative involves expanding social protections to self-employed worker status—maintaining, as in the previous option, the binary model that structures labour law and labour protections (Fudge et al. 2003, Collier et al. 2017). This usually translates into the introduction of certain protections specially designed for the activity. France, for example, in 2016, regulated the activity of delivery platform workers², considering them statutorily as self-employed workers using the provisions of the pre-existing law on micro-entrepreneurs³. Nonetheless, in view of the organisational propensity of riders and the claims that they usually carry out, collective rights were recognised; that is, the right to collective action, unionisation and collective bargains (Dirringer 2018, Daugareilh 2019).

A last possibility has to do with the use or creation of intermediate statutes between the status of employee and that of self-employed worker. The strategy is not really novel since this type of intermediate legal figures originated at the end of the 20th century to adapt labour law to new forms of work (Supiot 1999). In contrast to the previous options, this alternative questions the binary structure of labour rights and social protections. Thus, it seeks to outline the labour relations that are situated in the “gray areas” that draw the frontier of employment and self-employment (Supiot 2000). The emblematic cases of intermediate categories are the “worker” statute established in the United Kingdom; the para-subordinate worker in Germany, ‘co-co-co’ (contract of coordinated collaboration) in Italy and the “dependent contractor” in Canada (Müehlberger 2007, Dirringer 2018, Daugareilh et al. 2019, Fudge et al. 2003). These hybrid statutes explicitly deny the existence of an employment relationship, but do recognise certain labour protections typically associated with salaried labour, such as the minimum wage, paid vacations, daily and weekly rest, advance notice, among others. Although these statutes were used to contain workers of digital platforms, different analysts agree in that the strategy is problematic given that it can lead to the reclassification of other salaried workers (Fudge et al. 2003, Freedland and Prassl, 2017, Davidov et al. 2015).

1.2. The specificity of the Argentinian case

In Argentina, the irruption of digital delivery platforms occurs in a legal labour framework that, although strongly anchored in the figure of the employee (associated with full access to social protection), has been, in the facts, experiencing an increase of atypical forms of work. On the one hand, the loss of dynamism in the generation of formal employment—especially after the 1970s—produced a significant growth in unemployment and informal work associated with survival (Cerrutti and Grimson , 2004), compromising a mainly contributory social protection regime. On the other hand, the recent tendencies to de-labourisation—understood as the practice of resorting to the use of the category self-employed worker in order to treat the dependency link as if it did not exist, either by resorting to fraud or simulation (Goldin 2020).

In this context, recent statistics indicate that unemployment is around 11% (an indicator that was particularly deteriorated by the pandemic), that more than a third of wage earners work informally, and that self-employment plays a significant role. In effect, autonomous work activities currently

2 Loi No.2016-1088.

3 Loi No.2008-776.

represent almost a third of those employed (29.4%) and, within this category, self-employed workers (89.4%) predominate widely –in contrast to professionals and micro-entrepreneurs who employ other people (INDEC, 2021).

The growth of the category of workers who fall outside the "ideal worker" (salaried and formal) has shown the need to formulate some type of framework that brings them closer to the social protection system, even when this implies a segmentation of it in terms of coverage. In this sense, efforts have focused on protecting the figure of the independent worker. The initiative materialised through the creation of the Simplified Regime for Small Taxpayers in 1998, designed specifically for low-income self-employed workers. It is an integrated tax regime that unifies tax obligations with a minimum contribution to the health and social security system through a single fixed monthly payment, which is why it is known as the "*monotributo*" (single tax in Spanish). Under this regime, workers can access three of the five components of social security: future retirement pension (as well as pensions for disability and death insurance); family allowances⁴; and health insurance through the system of "*obras sociales*"⁵. Nevertheless, they are marginalised both from access to occupational hazard insurance and unemployment insurance.

Additionally, faced with this dual scheme that is structured around the salaried / self-employed worker dichotomy, the existing legislation enables a certain additional degree of heterogeneity when considering statutes of "special" salaried employees. In effect, from the middle of the 20th century the creation of specific regimes designed to protect some groups of atypical workers began to expand, focusing on the way in which the activity is organised, many times marked by the seasonality of employment –for example, in the case of construction workers or rural labourers– or in the contributory possibilities of employers –as happens in domestic service. It is important to note that these are special statutes that recognise the dependent nature of the activities in question. However, they have been questioned for legitimizing positions in which labour and social rights are often limited based on arguments that have to do with the particular characteristics of the activity.

Thus, although local legislation does not contemplate –as in other countries– hybrid work figures that combine intermediate stages between dependent and independent work, in fact there is the segmentation of access to the labour protection system, fundamentally through variations from higher to lower inclusion implied by the regulatory frameworks for full formal wage earners, wage earners covered by special statutes and independent workers under the *monotributo* regime, respectively.

Taking this situation into account and given the specificity of delivery work via platforms, most of the bills presented to Congress between March and November 2020 focused on one of the last two

⁴ It refers to certain amounts of money that are paid for "family burden"; that is, by people dependent on the income generated by the worker (children under 18 years of age).

⁵ In Argentina, the organization of the health system is divided into three subsectors: *Obras Sociales*, public

sector and private sector. The *Obras Sociales* constitute the system with the widest coverage. These are institutions run by workers' unions to attend to the health of the employees of their particular activity. Since 1993, workers have been authorised to choose to transfer their monthly contributions to the *obra social* of their choice.

strategies (statutes of special wage earners or independent work), and even in some cases they propose to combine them depending on the hours the workers put in.

In general, projects that seek to expand the protections of platform workers, considering them as atypical salaried workers, do so based on a series of indicators of legal and economic subordination that the occupation presents in the country - and that in general are in line with what is observed in the activity at an international level.

Among the indicators of legal subordination, there is standing out of the use of reputation mechanisms that define the way and the cadence in which the work is carried out, as well as the establishment of sanction mechanisms that can include up to the blockade of workers (Mugnolo, et al., 2020). The score assigned to workers includes different aspects related to the evaluation of the platform -delivery acceptance rate, number of orders delivered, punctuality in registering within the hours committed to the platform- as well as the rating given by customers. It is a system that has direct consequences for those who are evaluated, including the number of orders offered, the distance involved in each one, the number of "promotions" or "incentives" received and, in some platforms, the priority to choose working time bands (ILO, 2020).

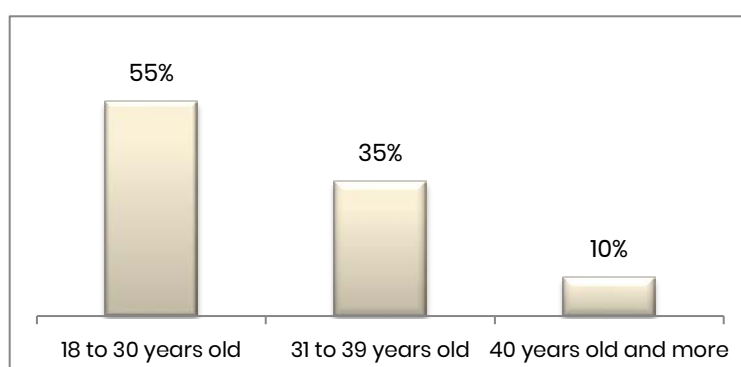
Another mechanism used by the platforms to exercise control over the work process is the blocking system. Those who are blocked will not be able to work until they are re-enabled -a suspension can last hours, days, or become permanent. The reasons may be due to non-compliance with administrative requirements, not connecting to work at the chosen schedule or having complaints reported by clients. Among the reasons for blockages that are perceived as more arbitrary, workers mention customer complaints related to receiving the wrong products, when they are usually delivered sealed by the suppliers; and the inability to respond to the call of technical support while driving/cycling in the street. Likewise, there were also cases of blockades derived from the participation of workers in protest and demonstrations (López Mourelo and Pereyra, 2020; Del Bono, 2019).

Economic dependence is related to issues such as that income depends exclusively on this type of insertion as well as that price is set unilaterally by each delivery company. Undoubtedly, in the Argentinian case the economic support that delivery platforms provide for workers is important. Far from being a side job, typical of the so-called gig-economy, insertion is characterised by long average working hours (Madariaga et al., 2019). Regarding the issue of price setting, there is a "base" rate for each trip determined by the platform that also, in some cases, varies according to the qualification of the worker as well as according to the distance involved in the journey. The base price is considered almost unanimously as very low and workers point out that its revision in an inflationary context has been practically nil. This base rate is usually complemented by so-called "promotions" or "incentives" that increase the price per delivery on specific occasions (for example, when the number of orders exceeds the availability of riders). Lastly, an additional indicator of the economic subjection of workers to companies is the intermediation of the platform in payments; hence, several interviewees expressed complaints about delays in deposits (ILO, 2020).

2. The profile of digital platforms' distributors

In order to understand the concerns of the riders regarding the potential regulation of the activity, it is important to know their socio-demographic and economic situation. This workforce is made up of young people, a segment that experiences significant difficulties to enter the labour market. In effect, the respondents are on average 30 years old and about 55% are concentrated in the 18 to 30 age group: only 1 out of 10 is over 40 years of age.

Figure 1. Platform delivery workers by age groups, Buenos Aires, 2020



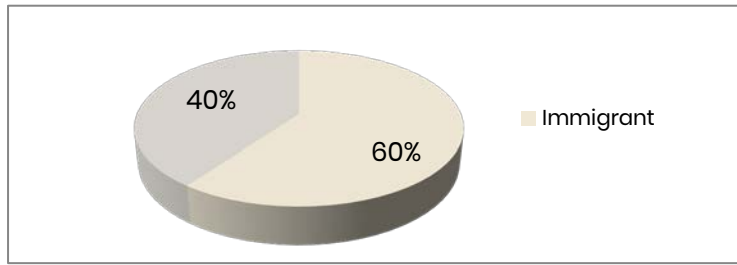
Source: ILO Survey Delivery Workers 2020, Buenos Aires

On the other hand, coinciding with what the international literature indicates, approximately 60% of the workers surveyed are migrants. In Argentina, as in other countries in the region, the vast majority (78%) comes from Venezuela. As a matter of fact, the landing of digital delivery platforms coincided with the arrival in the country of a strong flow of Venezuelan workers⁶, who found in this occupation –with low entry barriers– a first labour insertion. Likewise, the proportion of Argentine riders increased during the economic crisis generated by the pandemic. Even if it continues to constitute a minority in the occupation, it went from 25% in 2019 to 40% in 2020, suggesting that this activity functions as a refuge in times of contraction in the labour market.

⁶ Due to the economic crisis that Venezuela is experiencing, the number of migrants from this

country went from 57,000 in 2017 to 130,000 in 2019 (López Mourelo and Pereyra, 2020).

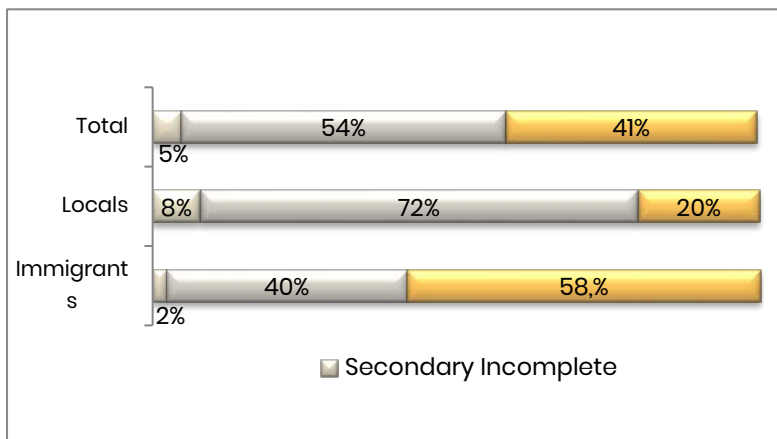
Figure 2. Delivery workers by immigration status, Buenos Aires, 2020



Source: ILO Survey Delivery Workers 2020, Buenos Aires

It is a population with relatively high educational levels: 41% completed tertiary or university studies. Although Argentine workers have generally completed secondary studies, the highly qualified profile that characterises Venezuelan migrants stands out: 58% of them completed higher education. On many occasions, they are professionals (engineers, dentists, administration graduates, etc.) who cannot practice their profession due to lack of local experience and / or difficulties in accrediting their university degrees.

Figure 3. Delivery workers by maximum educational level, Buenos Aires, 2020



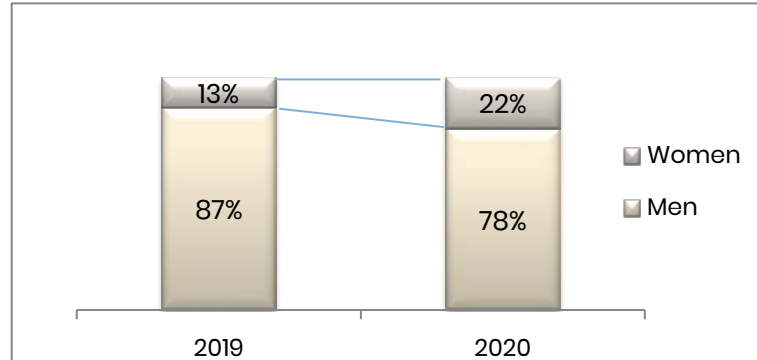
Source: ILO Survey Delivery Workers 2020, Buenos Aires

An aspect less explored in inquiries about this occupation has to do with the growing presence of women. The available data indicate that there is an (incipient) figure of a female delivery worker contrasting with the traditional local figure of the “*motoquero*”⁷, historically associated with the workers of the activity. The woman ratio in this occupation went from 13% in 2019 to 22% in 2020 (Figure 4). This

⁷ The word is part of the informal register in Argentina, referring to a male that works and enjoys leisure time on a motorcycle.

situation can be related to the abrupt increase in the unemployment level among women between 18 and 29 years of age during the pandemic, which went from 19% to 26% between 2019 and 2020 – widely exceeding that of men –who went from 17% to 19% in the same period.

Figure 4. Platform delivery workers by sex, Buenos Aires, 2019–2020



Source: ILO Surveys Delivery Workers 2019 and 2020, Buenos Aires.

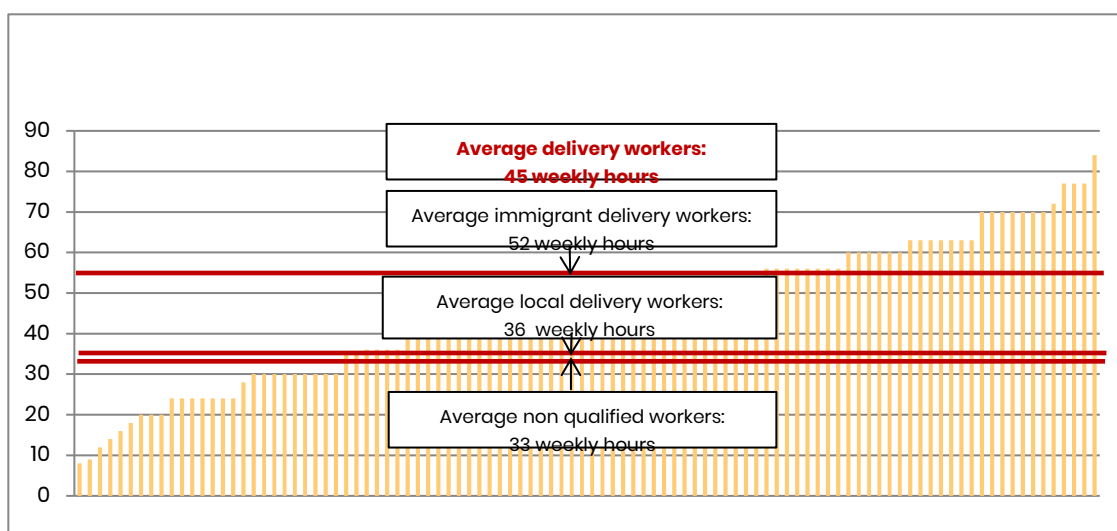
The data indicate that the average size of riders’ household is 3.45 people. About 33% state that they live with at least one person under 18 years of age and, despite the young composition of this workforce, a not inconsiderable percentage of respondents (32%) indicate that at least one person in their household is economically dependent on their work on the delivery platform. Lastly, confirming the relationship of economic support between these workers and the platforms, the vast majority of respondents (83%) declared that their job as a delivery person constitutes their only occupation and therefore, their main source of income.

3. Riders in front of potential regulatory changes: main doubts and concerns

Many of the protests driven by organised groups of delivery workers have included a wide spectrum of queries about the operation of these apps. Among the most common ones are the low price paid per trip, the need for greater job stability –mainly through the cessation of blockades– and issues related to insecurity –traffic accidents, robberies (Del Bono, 2019). It is also common that the spokespersons of these groups often question the alleged independent nature of the activity (Filipetto *et al.*, 2020)⁸. The qualitative inquiry indicates that while the protection afforded by the employee status is undoubtedly recognised as valuable and desirable (as one delivery worker points out “*who wouldn’t like to have the peace of mind of being formally hired?*”) However, there are two central issues, closely related, that cause concern in the event of a potential formalization of the activity, since they are the ones that largely establish this occupation as a valid work alternative. These are, on the one hand, the (relative) time flexibility offered by the activity and, on the other hand, the possibility of maximizing income, even if it is through self-exploitation.

Furthermore, workers interviewed coincide in pointing out that, for the occupation to “pay off,” one must be on the street for about 12 hours a day, with only one day of weekly rest. In fact, the survey data indicate that, on average, these workers dedicate 45 hours per week to the activity. Venezuelan migrants, also pressured by the need to send remittances to their country, are the most prone to self-exploitation, working on average 52 hours per week.

Figure 5. Platform delivery workers by weekly hours worked by immigration status. Comparison with non qualified workers in general, Buenos Aires, 2020



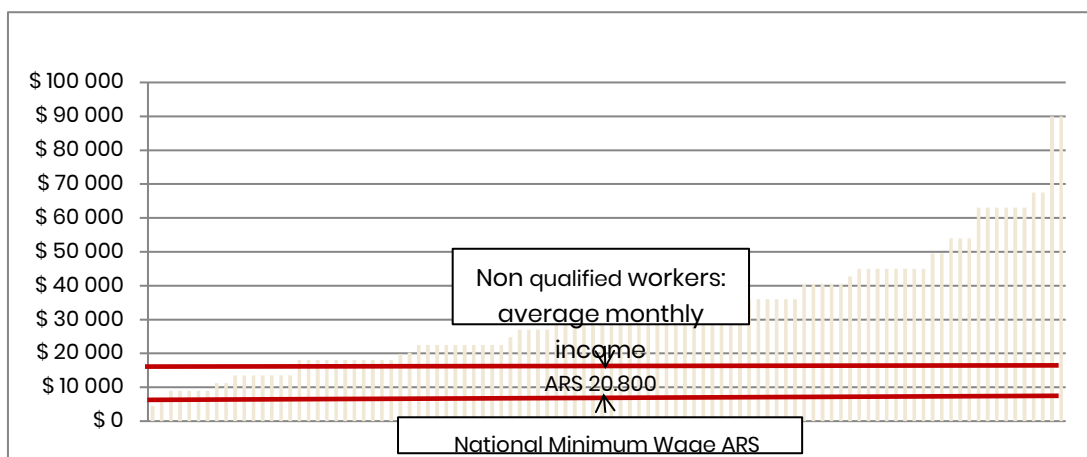
Source: ILO Survey Delivery Workers 2020, Buenos Aires and Household Permanent Survey, III Trimester, 2020

⁸ For studies that delve into the protests and the collective organization of digital platform workers in

Argentina, see Elbert and Negri (2021), Diana Menéndez (2020) and Perelman *et al.* (2020).

Consequently, the average income of these workers in July 2020 almost tripled the value of the minimum wage- which has experienced a significant devaluation as a result of the economic crisis combined with high levels of inflation.

Figure 6. Platform delivery workers by average monthly income. Comparison with average monthly income of non qualified workers and Argentina’s Minimum Wage.



Source: ILO Survey Delivery Workers 2020, Buenos Aires and Household Permanent Survey, III Trimester, 2020

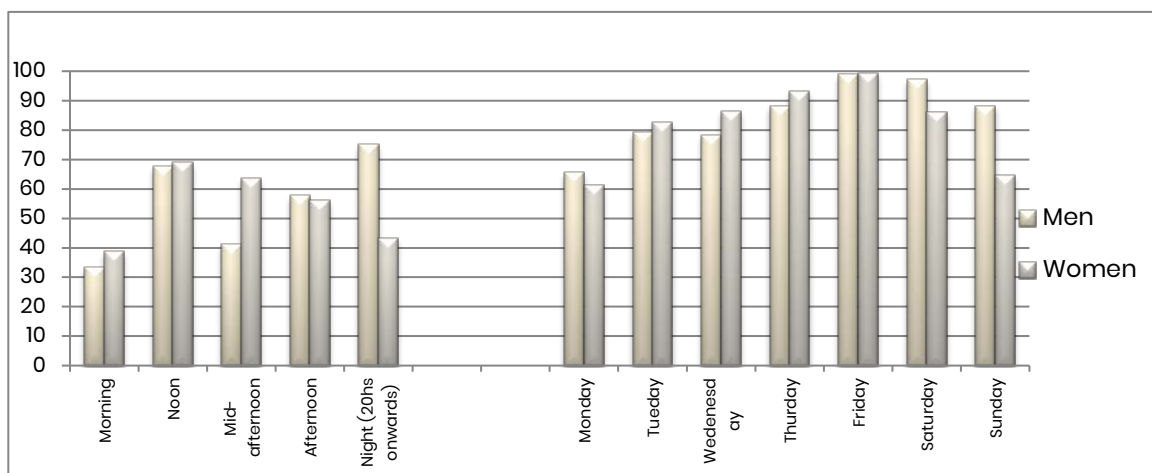
In this context, when faced with the possibility of working for a set wage, incredulity arises. On the one hand, the main reason that generates distrust has to do with questions about the continuity of intensive work journeys –which tend to be regulated/limited in typical salaried labour relationships– that allows to generate a higher income (“I worked all day on December 25th and January 1st and made a lot of money, had I been formalised I might not have been able to choose to work like that”; “when you are formalised, you can work very hard and you don’t see that reflected in your earnings”).

In any case, the discussions that arose in the group interviews on the subject of the dependency relationship tended to end with the shared agreement regarding the desirableness of having some security on income and social protection coverage, although remarking that it would be necessary to know what the possibilities of preserving the current earnings are, as well as the level of choice around when and how much to work (“if you are formalised and they assure you that you will have your 32 thousand monthly pesos; then yes,” “indeed, formalised yes, but with the money being made now,” “if I can work as much as I want and when I want, then yes”).

Among women interviewed –particularly those with young children– this possibility of choosing when and how much to work also attains a positive meaning, but is associated with other factors. As it might be expected, time flexibility is presented as enabling not only the maximization of income, but also the possibility of reconciling paid work with socially assigned care responsibilities. Consequently, a potential statute change - particularly one that recognised dependency on the job - generates some unsettlement. This resulted, at least in the beginning, in a resounding rejection of the idea working in a

formalised salaried relationship (“with an employer I wouldn’t last, if one of my children gets a cold that’s it, they’d kick me out”; “if they tell me that the hours are set, that’s it, I can’t do it, I have to look for something else,” “many times it has happened to me that if my mother or ex-husband can’t take care of the children and I cannot go out (...) in another job they’d fire me”). It is important to note that the female positive assessment of flexibility is not restricted only to the possibility of assuming care responsibilities but is also closely linked to the possibility of avoiding time slots and zones perceived as dangerous (“at night there are zones that they are dangerous for a woman (...) so being able to choose whether to go out or not is an advantage,” “if you don’t go out at night you miss a lot of orders, but I prefer security”).

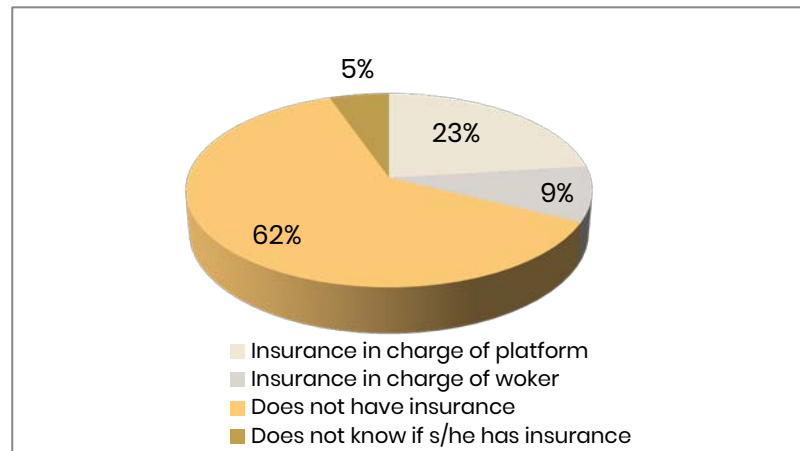
Figure 7. Days and hours chooses to work by sex, Buenos Aires, 2020–2021



Source: ILO Survey Delivery Workers 2020, Buenos Aires and AFD/UNGS Survey Female Delivery Workers, Buenos Aires, 2021.

Figure 7 shows that the “choices” that women must make in order to work are made at the expense of their own possibilities of generating a better income. Indeed, whether due to care responsibilities or safety reasons, female riders avoid working times that are set as the “peak” in terms of demand – particularly at night and/or on weekends.

Figure 8. Platform delivery workers by coverage and funding of occupational hazard insurance, Buenos Aires, 2020.



Source: ILO Survey Delivery Workers 2020, Buenos Aires

Now, although there are concerns about the continuity of certain characteristics of the insertion that they perceive as necessary to work and/or make a living out of the occupation, the testimonies also show the need for *changes* that any regulation of the activity should contemplate. In line with the slogans of many of the protests mentioned, one of the most pressing issues that riders consider should be taken into account has to do with insecurity in the streets and the lack of social protection in the face of frequent phenomena such as violent robberies and traffic accidents. Consequently, workers' concerns tend to focus strongly on the absence of a Labour Risk Insurer (LRI⁹). Indeed, 62% of those who work in this sector affirm that they do not have LRI or any kind of accident insurance. Among those who declared themselves covered, almost a third took out some insurance on their own (Figure 8)¹⁰.

There are plenty of personal or close stories on this topic. Sergio, a Venezuelan engineer, recently lost a tooth when he was hit on a public road. The conversation in this regard reveals the vulnerability of these workers in the face of these contingencies:

"In (...) December I had an accident, no one took responsibility for any of that. I had an order and they [the technical support operators] were looking to reassign the order without even asking: 'how are you feeling?' It took them 4 hours to acknowledge my accident. I imagine they saw me in the same place for 4 hours and they thought something happened. (...) So far I have not gotten it [dental treatment], it costs \$ 16,000 or \$ 20,000. \$ 20,000 is two months of my rent. Time will pass until I can repair the tooth (...) That's how autonomy works when we have an accident. In that case, you are autonomous, so take care of the costs."

⁹ Law 24.557 / 1995 establishes insurance for occupational hazards and occupational diseases for formal salaried employees.

¹⁰ In mid-2019, pressured by a court ruling, these platforms began to hire or require workers to take

out personal accident insurance. Unlike a LRI, these personal insurances only cover a fixed amount of money, regardless of the damage and do not cover occupational diseases.

On occasions, robberies or accidents are presented as triggers of some collective-solidarity actions among the delivery men themselves (*"I know a kid who was delivering an order, and in order to rob him they broke his jaw in three parts (...) They [workmates] raised money using WhatsApp groups to be able to pay for the surgery," "one of the glovers was shot, he was attacked and since we rallied for him, Glovo paid everything: hospitalization and a few days to keep him until he returned to work. But that's because we rallied them for it"*).

As the testimonies show, workers think the main advantage of this type of occupation is the autonomy in determining their work hours. This means having the ability to freely choose the time slots, the days and number of hours they work, based on their own needs. In this regard, time flexibility implies for most riders (especially male migrants) the possibility of working around the clock, generating the highest level of income possible. However, as the workers put it, this seemingly ideal work dynamic that relies solely on an individual decision needs protections. Given the precarious nature of this insertion, claims focus on the problems perceived as more immediate and pressing, particularly the need for protection against potential (but common) accidents at work.

4. The normative proposals regarding the challenges of the activity

The normative proposals that are awaiting parliamentary treatment raise different possibilities of legal frameworks. In the first place, it is proposed to incorporate delivery platform workers into the general employment regime, since the employee status represents the key to access to all labour protections and social security. Second, it is suggested to establish a special statute in order to grant these workers a large part of the rights recognised to salaried employees, but adapted to the specificities of the occupation. Third, a position in the antipodes is one that leaves the hiring conditions of platform delivery workers unquestioned and proposes changes with the sole purpose of specifying the responsibility of the digital platforms in terms of the protection of workers against work accidents. Finally, a mixed regime is proposed that differentiates and assigns two labour statutes. On the one hand, it classifies as salaried those workers who work more than 21 hours per week or work exclusively for a platform. On the other hand, it characterises as independent workers those who work less than 21 hours a week. The legislators then propose two protection regimes, differentiating between those who "actually" work in delivery and those who, presumably, do it as a side job. In all cases, the different preliminary projects seek to resolve the tension between autonomy and protection. That is, they propose different forms of articulation between the autonomy of determining the working schedule and, consequently, the level of income these workers can make, with social protection in case of incidents.

4.1. "I work when and as much as I want"

The self-determination of working time represents one of the main concerns of legislators due to the risk of overexploitation observed in delivery platforms. Both preliminary projects that propose to frame riders in the status of salaried worker —under the general regime or a special regime—, as well as those that consider that the most appropriate statute is that of an independent worker, establish restrictions on working hours and set a maximum. In most cases, these limitations are in line with the provisions of the Labour Contract Law (Law No. 20,744) that applies to all private sector workers. Consequently, it is stipulated that the working day must not exceed 8 hours a day —even if the working hours are discontinuous¹¹— or 48 hours a week, with rest time equal to or higher than 12 hours a day. Likewise, all preliminary bills establish that workers must enjoy a minimum weekly rest of 36 hours. Even in the case of the provision of services by a self-employed worker, the 36 hours of rest must be abided. Disconnection in that case cannot be considered, “under any circumstances as a breach¹².”

Based on the consensus around the need to limit working hours to a daily standard, but also taking into account the way in which platform delivery work is organised, some preliminary projects propose a minimal expansion of working hours established in the general Labour Contract Law. The justification is that the working time is defined by the login time. One of the preliminary projects —which frames riders as salaried workers—, proposes, for example, extending the daily working hours up to 9 hours¹³.

To guarantee that the limits of the working day cannot be extended beyond what is established by law; one of the draft bills proposes to prohibit the performance of overtime in the case riders hired as a formalised worker in a dependency relationship¹⁴. Another suggests using the same digital device to establish locks after 8 hours of work and after five consecutive days of work¹⁵, both for those who work under the salaried modality and as self-employed workers.

The influence of the Labour Contract Law in regard to the duration of the working day is visible throughout the different proposals, with the exception of two cases. On the one hand, one of the draft projects —which proposes a mixed regime where those who work exclusively for a platform are considered wage earners— states that the 8 hours workday can effectively be extended if the worker wishes, but raises restrictions: there must be a break of 2 hours between logout after the first 8 hours and reconnection. Likewise, this draft also proposes that the weekly rest be 24 hours every 5 consecutive days of work¹⁶. On the other hand, a different preliminary project —which agrees that the independent worker statute is the most appropriate for the sector— is the only one that alludes at the possibility for riders to continue overworking, allowing up to 12 hours a day for different digital platforms¹⁷.

¹¹ File 0821-D-2020 (art.18.1); File 2500-S-2019 (art. 2).

¹⁵ File 5545-D-2019 (art 1).

¹² File 6082-D-2020 (art.10).

¹⁶ File 5545-D-2019 (art 1).

¹³ File 0821-D-2020 (art 18.1).

¹⁷ File 1263-S-2020 (art.9).

¹⁴ Law Draft from the National Executive Power (NEP).

Regardless of the number of hours worked, one of the greatest draws of the occupation, according to workers is the possibility of choosing the logging time slot. In regards to this, the draft bills clearly show the contrast between the situation of self-employed workers—who can “determine their working hours, freely choose their logging time and the distribution of worked hours”—and that of wage earners who “may establish with the employer a special regime for the distribution of hours and freedom to log in according to the need for the service¹⁸.” Therefore, in the latter cases, the platform has the power to establish a maximum number of logging accesses.

Thus, as the interviewed couriers conceived, the regulation proposals imply the limitation of working hours, as well as the reduction of the margins in which to choose the time slots. This has repercussions on the level of income that they can generate through overwork while, at the same time—in the case of formalised dependency relationships—it may limit the participation of many women in the occupation.

4.2. Income maximization as an incentive

Even though the restrictions on the number of working hours have a direct impact on the possibilities of maximizing the income this occupation can generate, the bills presented to Congress try to maintain the variability of income as an incentive. This implies allowing an increase in income when the worker accepts more deliveries—therefore working more hours, although within the established limits.

For self-employed workers, the proposed form of remuneration remains the existing one: pay per delivery. In the case of the projects that propose the setting to a formalised employee status, it is suggested for it to be combined with a guaranteed minimum remuneration, with supplementary payments per delivery. The minimum remuneration must be equivalent to the amount of the legal minimum wage, proportionate with the duration of the work day¹⁹—or even higher in the case of the project that contemplates salary negotiations within the framework of a National Commission for Work on Digital Platforms²⁰—. Likewise, replicating existing conditions, the pay for delivery must be predetermined, and must increase by “at least 20% when the service is provided with rains or storms²¹.” Also, it will be possible to “increase the amount of remuneration to workers who are available (...) at times of higher demand from customers²².” As a novelty, the last of these mentioned preliminary projects stipulates that the total remuneration will be increased by 20% when the rider provides the work elements related to transportation of products.

¹⁸ File 3482-D-2020 (art.11).

¹⁹ File 3482-D-2020 (art.16); NEP project (art.9).

²⁰ File 0821-D-2020 (art.12). This preliminary draft proposes the creation of a tripartite commission whose main function is to establish, through negotiation between representatives of employers and workers, the remuneration and working

conditions (as it happens in the rest of the formal salaried occupations).

²¹ NEP project (art.11).

²² NEP project (art.11).

Seeking to correct a situation widely denounced by the workers, several preliminary projects establish that the payment for delivery will be made even when the shipment is not completed because of a decision from the client or the supplier²³. In order to protect them against all forms of discrimination, the draft bills stipulate that the value of the payment for delivery must be the same for all workers. This means that delivery drivers' scoring system cannot influence payment per shipment, as is currently the case with some platforms.²⁴

Even if the different projects establish mechanisms to maintain the possibility of earning more when accepting a greater number of deliveries, the limit on working hours and the conditions for accessing the time slots with greater demand seems to effectively limit the possibility of increasing the level of income well above the legal minimum wage, as is currently the case.

4.3. Protection in case of accidents at work

When working on public roads, delivery workers are very exposed to accidents which are part of their daily experiences —either personally or as a result of what happens to other fellow workers. That is why protection in case of accidents at work represents the main demand of riders in terms of social protection. As a response to this claim, as soon as the quarantine began, deputies from the ruling party presented a project proposing to incorporate platform distributors to work-risk insurance for the duration of the health emergency.²⁵ However, it did not receive parliamentary treatment.

Within the set of preliminary projects presented, it is noticeable the persistence of differential protections for salaried workers —who are protected by Labour Risk Insurers (LRI)— and independent workers —covered by personal accident insurance. Comparatively, personal insurance has less coverage than LRI since it is limited to a more limited list of eventualities. Likewise, they establish monetary limits for reimbursements for each situation / claim. In cases where coverage is provided through personal accident insurance, the bill projects establish a list of work-related incidents to be covered (accidental death; full or partial or permanent disability; funeral expenses; medical and pharmaceutical assistance) whose monetary limits are not specified (although it is expected that the Occupational Risks Regulation Office —the governmental entity in charge of occupational hazards regulation— may intervene in the definition of the basic characteristics of these insurances)²⁶.

In addition, within the preliminary projects that propose personal accident insurance, there are fundamental differences regarding their cost. In some cases, it is specified that the platform must take care of the cost and contract of this insurance²⁷. On the opposite side, other projects allow the

²³ NEP project (art.10); File 3482-D-2020 (art.17).

²⁴ File 3482-D-2020 (art.15)

²⁵ File 1513-D-2020.

²⁶ For starters, important protections of the LRI are excluded, such as the payment of salaries due to the impossibility of working during medical treatment or

the job requalification due to impediments to perform the usual tasks as a result of a work-related accident.

²⁷ File 6082-D-2020 (art.16).

possibility for workers to assume the cost of the work-risk insurance, as is currently the case, with the financial difficulties this may imply for them.

In short, the preliminary projects do not propose regulatory innovations, but rather access to occupational risk insurance depending on the two pre-existing statutes (salaried/self-employed) in which this work relationship is framed. This implies the segmentation of the quality of coverage according to the type of statute in question (salaried/independent). However, in the case of proposals to keep this job in the self-employed regime, requiring that the cost of personal insurance be borne by the company would mean—even in the framework of a more limited coverage than that of salaried employees—making the possibilities of access to this basic protection a reality.

Final considerations

The consideration of workers' concerns regarding a potential regulation of the activity and the analysis of the existing proposals undoubtedly raises a tension that is difficult to resolve. The need for workers to maintain self-determination of hours –which allows them to continue overworking in order to maximise profits– poses a clear contradiction with the minimum standards of work in terms of balance between work and rest time (unsurprisingly, this is an issue that the vast majority of projects tend to point out). This is the main obstacle in regulating this type of work. What happened recently in Spain as a result of the incorporation of these workers into the general employment regime – called the “*Estatuto de los Trabajadores*” (Workers Statute) – is illustrative in this respect. In effect, the incorporation of Spanish delivery platform workers to the general employment regime – and therefore to social benefits, wages, vacations, unemployment benefits and pensions – had, as an apparently paradoxical counterpart, strong disagreements among the workers themselves regarding the acceptance of the measure. In fact, there were numerous demonstrations against the law in various cities of the country led by the same riders²⁸. In line with what is analysed in this document, the arguments had to do with concerns about the loss of flexibility and the decrease in the profitability of the work²⁹. Although less central and visible, the problem that implies the loss of labour flexibility to articulate paid work with care responsibilities – which particularly affects female delivery workers – was also present in the debate³⁰.

Probably, the demand shown regarding access to protection against accidents at work is the most permeable to finding solutions. On the one hand, it is clear that the assignment of an LRI in the case of salaried statutes solves the problem. However, in the case of proposals aimed at prolonging the independent nature of the activity, a careful analysis by the Occupational Risks Regulation Office appears to be necessary on the benefits and amounts that personal insurance must include for this activity. Likewise, it also seems essential to stipulate that the costs of these insurances be absorbed by the companies since the data analysed make clear the limited capacity of the workers themselves to

²⁸ Although a heated debate arose as to whether the companies themselves incited these claims, the number and size of the protests indicates that any incitation made by platforms found echo among a good part of this workforce.

²⁹ 20 Minutos, *Riders a un lado y al otro de la nueva ley* (21/01/2021) <https://www.20minutos.es/noticia/4540006/0/riders-a-un-lado-y-al-otro-de-la-nueva-ley/> ; El País, *Centenares de repartidores proautónomos se manifiestan contra la 'ley rider' alentados por las plataformas* (16/03/2021) <https://elpais.com/economia/2021-03-03/centenares-de-repartidores-proautonomos-se-manifiestan-contrala-ley-rider-alentados-por-las-plataformas.html> ; La Vanguardia, *¿Quiénes son los 'riders' y cómo les afecta la nueva regulación?* (18/05/2021) [https://www.lavanguardia.com/vida/junior-](https://www.lavanguardia.com/vida/junior-report/20210518/7460305/quienes-son-riders-como-les-afecta-nueva-regulacion.html)

[report/20210518/7460305/quienes-son-riders-como-les-afecta-nueva-regulacion.html](https://www.lavanguardia.com/vida/junior-report/20210518/7460305/quienes-son-riders-como-les-afecta-nueva-regulacion.html) ; ABC, *El Congreso da luz verde a la 'ley rider' entre gritos de '¡Yolanda, dimisión!'* (10/06/2021) https://www.abc.es/economia/abc-congreso-verde-ley-rider-entre-gritos-yolanda-dimision-202106101511_noticia.html

³⁰ La Razón, *Ley Rider: Glovo, Uber Eats y Deliveroo tienen tres meses para convertir a los autónomos en asalariados* (11/05/2021) <https://www.larazon.es/economia/20210511/dncvcd7qxcvb2lexyo4slrl57f4.html> ; El Confidencial, *La 'ley rider' no explica qué se debe saber del algoritmo que decide las rutas de reparto* (15/05/2021) https://www.elconfidencial.com/juridico/2021-05-15/informar-sobre-los-algoritmos-la-novedad-legal-de-la-ley-rider-plagada-de-lagunas_3081719/

assume this expense –who, despite the perceived risks, mostly continue working without any coverage.

Undoubtedly, access to social protection constitutes a much larger issue than the one addressed here, circumscribed to the issue of labour accidents' insurance. In this sense, most of the draft projects provide for various measures to expand access to these general benefits and equal them with those accessed by the rest of private salaried employees covered by the Labour Contract Law. However, the (necessary) assumption of responsibilities by companies implies an increase in their operating costs, so the question arises as to what extent they would be willing to maintain all the existing riders into their workforce (or, to allow them to continue using the platform in the case of proposals that aim to maintain the independent nature of the activity, but recognizing certain rights in charge of the companies). In a labour market such as the Argentinian, the problem is particularly relevant given the worsening of the economic crisis caused by the Covid-19 pandemic. The increased participation of local workers in these platforms during the last year and the strong presence of recent migrants in the activity make it clear that platform delivery work constitutes a refuge activity in front of unemployment.

Ultimately, the dilemmas that arise when establishing a regulatory framework for this occupation and the grievances of workers are inseparable from structural economic and social problems –the solution of which is difficult to foresee in the short term. In the particular case of women's difficulties to participate in the activity without flexible hours, for example, it is clear the need for public policies aiming to socialise care responsibilities through the provision of good quality and accessible public services. The absence of such services implies a confinement of women to flexible activities, often at the expense of the precariousness that these imply (Micha and Pereyra, 2019). Likewise, with regard to the central tension marked by a majority of workers who demand the flexibility in order to continue overworking, it is evident that the underlying problem has to do with the configuration of the local labour market. Therefore, at the crossroads between a severely diminished minimum wage – which operates as a threat to riders in front of the possibility of turning the occupation into a salaried one – and the lack of other employment alternatives (both issues related to the deepening of the economic crisis) reluctance and mistrust arise among workers when considering a legal reconfiguration of the activity.

That is probably the reason why the bills presented are waiting to be included in the Congress agenda – some of them even have lost their parliamentary status –, while the draft bill proposed by the very Executive Power is in “temporary custody” – that is, inactive. The definition of a regulatory regime capable of framing platform delivery workers is pending, probably until the different actors involved can find a point of articulation between the preservation of both levels of income and job positions, which also includes an effective access to labour and social protection.

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