

Platform Reps

SPAIN: Country report 2022



1. Context: Social dialogue and work in platforms

According to Eurofound, the overall quality of social dialogue in Spain was slightly below the EU average until 2018 (see **Figure 1** below).¹

Figure 1: Industrial Relations Index (2013-2017)²



Source: [Eurofound Industrial Relations Index](#)

According to 2021 estimates, over 11% of adults in Spain worked in digital labour platforms (hereafter referred to as “platforms”) –

almost three percentage points higher than the EU average (**Figure 2**).

Figure 2: The share of workers in platforms in the adult population (2021)³



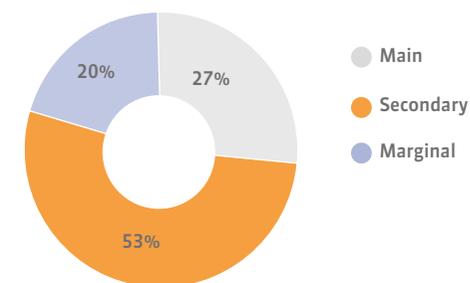
Source: EC (2021); Eurostat.

This amounts to an estimated total platform workforce of up to approx. four million who worked in platforms more than sporadically,

i.e., at least 10 hours a week or contributing to more than 25% of their income (**Figure 3**).

Figure 3: Number and categories of workers in platforms (2021)⁴

Number of workers in platforms: 4.02m



Source: EC (2021)

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1. However, the coronavirus pandemic has activated social dialogue in Spain, where many measures to support the economy and workers have been agreed via tripartite collective bargaining (interview results).

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

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

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

2. Current legal framework

2.1. LABOUR LAW

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First and foremost, **the key labour law act – the Workers’ Statute (*Estatuto de los Trabajadores*)**, **does not provide a detailed definition of an employee.** It states that (Article 1.1):

This Act shall apply to workers who voluntarily provide their paid services for hire or reward within the organisation and management of another person, whether natural or legal, called employer or entrepreneur.

Nevertheless, **the Statute stipulates the presumption of employment** in worker-employer relations (Article 8.3):

An employment contract may be concluded in writing or orally. It shall be presumed to exist between anyone who provides a service on behalf of and within the scope of the organisation and management of the employer and one who receives [this service] in return for remuneration.

There is no “third status” in Spain, and workers who are not employees are self-employed. However, there exists a sub-category of self-employment, namely the “economically dependent

self-employed” (or “TRADE”). TRADEs are defined in the [Self-Employed Statute \(*Estatuto del Trabajo Autónomo*\)](#) as follows:

The [TRADE workers] are those who carry out an economic or professional activity for profit and on a habitual, personal, direct and predominant basis for a natural or legal person, known as a client, on whom they are economically dependent because they receive from them at least 75% of their income from work and from economic or professional activities.⁵

2.2. PLATFORM-SPECIFIC LEGISLATION

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Spain passed the iconic “Riders’ Law” in 2021.

Riders’ Law

The [Riders’ Law](#) added two main provisions to the Workers’ Statute:

- It confirmed the employee status of workers in delivery platforms (and all the labour rights that come with it) and reassured the application of employment presumption. It also confirmed that, according to established Supreme Court jurisprudence, “the

nature of contracts is not determined by the denomination given to them by the parties, but by the reality of the functions that take place under them”.

- It forced employers to disclose algorithmic management practices. This provision applies to all companies using algorithmic management and not only delivery platforms, following the amendment to Article 64.4.d of the Workers’ Statute. It requires employers to provide relevant information to workers’ representatives concerning the use of algorithms or artificial intelligence systems regarding decisions that may affect working conditions, access to employment or maintenance of employment, including profiling.

The government has also declared that an expert committee would also be established to study and assess “the good use of artificial intelligence and algorithms in employment relations”. In this regard, in May 2021, the Ministry of Labour and Social Economy presented a [Practical guide and tool](#) on the business obligation to report on the use of algorithms in the workplace (although social partners were not involved in its preparation).

Source: Visionary Analytics, based on interview results, sources in the hyperlinks, and Eurofound (2021). [Riders’ Law](#).

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On the one hand, **Riders’ Law is a pioneering regulation in Europe**, confirming the status and the adjacent rights of workers in delivery platforms. On the other hand, the regulation could improve in some aspects, these being:

- Although the presumption of employment, already existing in the Workers’ Statute, is reaffirmed, it applies only to delivery platforms, despite the initial demands by UGT and CCOO to include all platforms.

- It did not result in creating a register of digital platforms, including information on their algorithms. There is also no mechanism to verify that the information provided is accurate or to help workers interpret the algorithm.⁶

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6. Interview results; CCOO (2021). [Derechos laborales para los repartidores de plataformas digitales](#).

3. State-of-play of workers’ rights

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

Table 1: Worker statuses and corresponding labour rights

Worker status	Legal basis	Social security	Union representation	Collective bargaining
Employee	Labour law	✓	✓	✓
Self-employed	Civil law	✓ (minimum level, self-paid)	✓	✗
TRADE			✓*	✓*

Source: Visionary Analytics.
Note: *In practice, representation and collective bargaining of TRADE workers is very limited.

Besides the changes stemming from the Riders’ Law, the Spanish government has recently emphasised the need and plan to tackle bogus self-employment and abuses in temporary and part-time work.⁷ Furthermore, efforts have been made to improve job security and employment conditions for the self-employed. A 2018 reform aligned the self-employed social security scheme

more closely to that of employees.⁸ It gave access to “a true right to unemployment”, coverage for occupational risks, enhanced benefits for temporary disability due to sickness, improved work-life balance and maternity protection, and a right to lifelong learning. Nevertheless, it also increased the social contributions for the self-employed, i.e., **the improvements in work-**

ing conditions are being entirely financed by the workers. A 2019 UGT study (pre-Riders’ Law) estimated that the misuse of self-employment contracts allowed delivery platforms to save up to €168 million per year, including up to €92 million a year in salaries and up to €76 million a year in social security contributions.⁹

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7. See MITES (2018). [National Plan for Decent Work 2018-2020](#).
8. OECD (2019). [Policy Responses to New Forms of Work](#).
9. UGT (2019). [Work in Delivery Digital Platforms](#).

Supreme Court's landmark ruling on Glovo employees

On 25 September 2020, the Spanish Supreme Court (Judgement N. 805/2020) ruled that Glovo riders are employees and not self-employed or TRADE workers. The Court provided the following rationale:

- Riders worked under the platform's brand.
- The digital platform, belonging to the company, was the essential means of production (and not the rider's mobile phone and motorcycle).
- The digital rating was a form of surveillance,

control, and work organisation over workers.

- Glovo was not a mere intermediary but in fact a delivery company.
- Glovo made all the commercial decisions.
- The price of the services, the method of payment and the worker remuneration were set exclusively by the company.
- The workers did not receive payment directly from the customers – instead, the cost of the service was received by Glovo, which then paid the workers their remuneration.
- The company offered the work of the delivery rider to its own customers.
- The workers were in no way involved in the

agreements between Glovo and the businesses whose products were distributed or in the relationship between Glovo and the customers that place orders.

This ruling is supposed to guide other courts in cases deciding whether delivery riders should be considered employees. It also extends some immediate practical implications – Glovo has been ordered to pay €20.8m to the Social Security for the unpaid contributions of the false self-employed workers.

Source: Visionary Analytics, based on Signes, T. (2020). [Notes on the Spanish Supreme Court ruling that considers riders to be employees](#); PA+ (2021). [Glovo paga gairebé 21 milions d'euros a la Seguretat Social per les cotitzacions impagades dels riders](#).

Furthermore, the platforms initially actively resisted the enforcement of the Riders' Law.¹⁰ For example:

- Glovo incorporated changes to its algorithm formula to (superficially) reinforce the element of autonomy, in accord with the distinction between workers and self-employed. Workers can log in “freely” (without selecting timeslots), adjust the delivery price slightly (which is done through auctions, in practice only leading to a downward competition in prices), refuse deliveries, and subcontract to other workers. However, this is just a way for the company to try to avoid the judicial criteria

and is still an illegal practice that is being sanctioned.¹¹

- Uber Eats reached agreements to subcontract its workers via third-party intermediary companies to shield itself from hiring its workers and disclosing the algorithm details. This practice is also illegal as platforms maintain control of the workers (over the intermediaries).¹²
- Deliveroo ceased operations in Spain, resulting in 3,000 workers losing their jobs, although in the collective dismissal it was not the Riders' Law that the company claimed as the cause, but rather the loss of competition.

According to the most recent data, many plat-

forms (except for Glovo) have since aligned their practices to respect Riders' Law. As a result, the total number of workers in the delivery sector with an employment contract has doubled, from just over 5,000 in May 2021 to almost 11,000 in August 2022.¹³ At the same time, **hiring riders has not had a negative impact on the turnover of companies in the sector, while it increased the stability of employment and increased the income of social security funds** through increased corporate contributions. Some platforms (e.g., Gorillas) even entered the market after the passing of the Law. However, these moderately optimistic numbers coexist with the fact that many workers still work under precarious employment

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10. Interview results; Social Europe (2021). [Platforms put a spoke in the wheels of Spain's 'riders' law](#)'.

11. Mercader, A. (2021). [CCOO denuncia que Glovo lleva tres meses sin cumplir la ley 'rider'](#).

12. In December 2022, the National Court ruled that this move was a de facto collective dismissal, and Uber settled to pay compensation to each of the disconnected workers in the amount of 45 days' worth of salary. See: UGT (2022). [Portier Eats Spain, la división de reparto de Uber, reconoce el despido colectivo de más de 4.000 personas repartidoras en agosto de 2021](#).

13. ESADE (2022). [Ley Rider: Un año después](#).

conditions (there are an estimated 40,000 delivery workers in Spain).¹⁴

Looking beyond Riders’ Law, it has been emphasised that, although some groups of workers in platforms have received relatively a lot of at-

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14. Interview results

15. Based on the database available in: EC (2021). [Digital labour platforms in the EU: Mapping and business models](#).

16. Interview results

tention in the policy and public discourse, most work in platforms remains “in the dark”. For example, out of the 209 platforms active in Spain in 2021, 129 offered online work, 64 offered on-location work, and 16 offered both, covering a wide spectrum of sectors from ICT to creative

work to domestic services.¹⁵ This shows that narrowly focused activities (e.g., on the delivery sector) are only the tip of the iceberg and broader national and European legislation is necessary that would apply to all types of work carried out through platforms.¹⁶

4. State-of-play of union action

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

Table 2: Action taken on behalf of workers in platforms

Level	Actions
Established trade unions	The trade unions start building trade union structures among workers in platforms, and union elections are underway. They negotiate with platforms, employer organisations, and/or the government to better the working conditions of workers in platforms via overarching agreements. At the time of writing, one agreement has been negotiated with Just Eat.
Emerging movements	Workers organise themselves to address the precarious working conditions, including discussions with platforms and strikes.
Anti-union actions	Platforms have encouraged the creation of self-employed associations and facilitated membership in these organisations to defend their labour model. They have also engaged in union-busting practices and spread misinformation about the role and impact of union action.

Source: Visionary Analytics, based on interview results.

Generally, **union action for workers in Spanish platforms is relatively advanced and improving**, both in terms of country-level social dialogue and

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17. Interview results

18. CCOO (2022). [CCOO gana las primeras elecciones sindicales en Glovo Groceries, empresa de plataforma digital](#).

19. At the time of writing, a total of 140 delegates have been elected, including 55 from UGT, 40 from CCOO, and 45 from other unions (interview results).

on-the-ground action. At the national level, the Riders’ Law itself resulted from an agreement between trade unions CCOO and UGT, employer

organisations CEOE (Spanish Confederation of Business Organisations) and CEPYME (Spanish Confederation of Small and Medium Enterprises), and the Spanish government.

In terms of on-the-ground unionisation efforts, **the established trade unions’ structures are taking root in platforms** – the first worker representatives are being elected, who will have the right to information (including on the algorithms) and will be able to negotiate better conditions with the companies.¹⁷ For example, in May 2022, employees of Glovo Groceries in Barcelona elected their first representatives – CCOO obtained the majority (10 out of 13 delegates) with a 56% turnout.¹⁸ Trade union elections in delivery platforms across Spain are ongoing throughout the second half of 2022 and early 2023.¹⁹

Collective agreement between Just Eat, CCOO, and UGT

A company-level collective agreement that came into effect in January 2022 is another example of effective social dialogue in Spain. The agreement ensures a range of rights for workers, including:

- A maximum working day of nine hours, two uninterrupted days of rest a week including

one Sunday per quarter, and a minimum of 30 days of holiday per year

- A minimum annual wage of €15,232, or €1,270 per month
- The right to disconnect and protection from digital surveillance (A joint “algorithm committee” must be created, which will ensure that the platform complies with the duties of transparency and human judgement in algorithmic decision-making.)

- All equipment (including a mobile phone, a vehicle, and a food box) provided by the platform
- An open-ended contract as the standard contract, with a fixed employment quota of 80% (Temporary workers cannot exceed 20% of platform’s employees.)

Source: Visionary Analytics, based on Eurofound (2022). Collective agreement for platform workers between Just Eat, CCOO and UGT in Spain.

Additionally, in the early stages of platforms’ growth, emerging movements sprung up, including [Riders x Derechos](#) (a spontaneous association of bogus freelancers) or [La Pájara](#) (a cooperative movement). Nevertheless, most of the pending court cases are led by the unions.

In this context, **the platforms have acted against the worker organisation efforts**, setting up several bogus worker representation bodies that

the companies in fact control. Examples include *Asociación Española de Riders Mensajeros* (Asoriders), *Asociación Profesional de Riders Autónomos* (APRA), or *Asociación Autónoma de Riders* (AAR).^{20 21} According to the trade unions, these effectively unilateral statements and fake representation bodies undermine social dialogue and collective bargaining and infringe on the basic rights to freedom of association.²² Recent-

ly, the largest platforms (Uber, Deliveroo, Cabify and Glovo) have decided to re-join the Spanish Confederation of Business Organisations (CEOE), which could mean a change in collective bargaining strategy.²³

Several key obstacles to more effective unionisation of workers in platforms are presented in **Table 3** below.

Table 3: Obstacles to unionisation for workers in platforms

Legal	Social and cultural	Related to platforms’ business model
<ul style="list-style-type: none"> - An enhanced legal framework is needed to facilitate sectoral social dialogue. knowledge related to AI and algorithms or new outreach strategies). 	<ul style="list-style-type: none"> - The jobs are very precarious – vulnerability prevents people from organising out of fear of retaliation. 	<ul style="list-style-type: none"> - Workers are dispersed due to the nature of tasks performed. - The high turnover of workers means it is necessary to explore stable forms of trade union organisation. - Platforms actively repress trade unions and undermine collective bargaining, including via bogus representation bodies.

Source: Visionary Analytics, based on interview results.

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20. UGT (n.d.). [Análisis de la presión política y social de las plataformas de reparto](#).

21. For example, in 2020, Deliveroo, Stuart, Glovo, and Uber Eats, united in the Spanish Association of the Digital Economy (Adigital), signed a “good practice agreement” with Asoriders, APRA, and AAR. See: El Español (2020). [Glovo, Deliveroo, Uber Eats y Stuart firman un acuerdo de buenas prácticas con asociaciones](#).

22. Interview results

23. Interview results

5. Action checklist

For a Directive of the EC and/or the ETUC policy proposal

The EC proposal for a Directive presents a potential infringement of the Workers' Statute and the Riders' Law provisions at least in two areas:

- The current Spanish legal framework dictates an unconditional presumption of employment (no criteria).
- It stipulates that the presumption can be rebutted by the platform, as opposed to the

EC's proposal where the rebuttal can also be initiated by a worker.

- It enacts that the point of departure should be an employment contract, where the EC proposal suggest that the presumption must be demonstrated by the worker.

On the other hand, the ETUC proposal is more aligned with the Spanish legal framework and could facilitate expanding the Riders' Law provisions into all digital labour platforms. One potential sticking point is the Workers' Statute's vague definition of employee and

the lack of clear criteria to assess the potential platforms' rebuttals against. This is supported by the Spanish Supreme Court, which emphasised in the landmark 2020 ruling (see section 3 below) the need for "new criteria to classify an employment contract", given the evolution of the dependency-subordination mechanisms deriving (inter alia) from new technological innovations.

Source: Visionary Analytics, based on an interview results; Signes, T. (2020). [Notes on the Spanish Supreme Court ruling that considers riders to be employees.](#)

Preliminary suggestions for actions are summarised in **Table 4** below.²⁴

Table 3: Action checklist in two main areas

Policy	On-the-ground action
<ul style="list-style-type: none"> - Push for (the confirmation of) a clear collective bargaining framework: The 2021 Supreme Court ruling "opened the door" for sectoral social dialogue, confirming the platform in question was not an intermediary but a delivery company and an employer. - Put pressure for an ambitious expansion of the Riders' Law: Forthcoming legislative proposals should cover all platforms under the current provisions of the Workers' Statute (unconditional presumption of employment rebuttable by companies). - Fight bogus representation: Given the platforms' advanced efforts at repressing and substituting union actions, legal guarantees are necessary to give voice to only legitimate organisations (the definitions of worker representation bodies provided in the proposal for a Directive of the EC being unacceptable). 	<ul style="list-style-type: none"> - Expand the coverage: The strong and long-lasting focus on the delivery platforms has likely created an imbalance between working conditions and trade union density in delivery platforms and other platforms. Achievements in the delivery sector can serve as a model for other sectors. - Continue establishing structures in platforms: The Supreme Court decision and the passing of the Riders' Law have shifted the bargaining power in favour of the workers. Higher union density would further empower unions to negotiate new sectoral and company-level agreements. - Support emerging initiatives: Spontaneous movements, including non-profits and co-ops, are emerging in platforms, but have little capacity to scale up. Yet support from established trade unions could be improved. - Build capacity to investigate algorithmic management practices: The new legislation gives unions powers to scrutinise employers who use AI, but it requires a high level of know-how and clearly defined priorities to better the situation of workers.

Source: Visionary Analytics, based on interview results.

24. See also CCOO's action plan for a fair transition to digitalisation: CCOO (2019). [Reinforcing trade union participation for a fair transition to digitalisation.](#)