

Industrial Relations and Social Dialogue in the Age of the Collaborative Economy (IRSDACE)

National Report: Spain

Luis Fernando Medina Sierra

Working paper 200/2018

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ABSTRACT

The present document has three goals: first, present an overview of the main legal and regulatory developments regarding the digital platforms; second, reflect the diversity of view that these technologies have generated among the social actors (unions, workers, government and firms) and third, offer a comparative framework to make sense of this diversity and the challenges it presents for labor relations and social dialogue. The institutional response has been so far mainly reactive, giving rise to ambiguities that may generate conflicts in need of resolution. But the structure of the different industries where these platforms have been introduced is such that the workers' experiences, their opportunities and their incentives to organize are all markedly heterogeneous. Given the way in which digital platforms redefine the labor relation between workers and firms, any possible regulation will entail a serious rethinking of key aspects of the welfare state.

RESUMEN

El presente documento tiene tres objetivos: primero, pasar revista a los principales desarrollos legales y regulatorios en el sector de las plataformas digitales; segundo, presentar las diversas perspectivas que estas tecnologías han generado entre los actores sociales (sindicatos, trabajadores, gobierno y empresas) y tercero, ofrecer un marco comparativo que sirva para entender tanto las fuentes de dicha diversidad como los retos que genera para el diálogo social y las relaciones laborales. La respuesta institucional hasta el momento ha sido netamente reactiva por lo que han ido surgiendo ambigüedades que pueden dar origen a conflictos laborales que será necesario reconducir. Pero la estructura de los diversos sectores donde se han introducido estas plataformas hace que las experiencias de los trabajadores, y sus oportunidades e incentivos de organización sean muy heterogéneas. Dada la forma en que las plataformas digitales redefinen la relación laboral entre trabajadores y empresas, cualquier regulación que se vaya a acometer pasa por replantear aspectos cruciales del Estado del bienestar.

Executive summary

In just a few years, digital platforms that establish point-to-point connections between consumers and providers (e.g., Uber and AirBnB) have gone from being a rarity to becoming one of the most dynamic sectors in many modern economies. This spectacular growth proves that consumers enjoy the convenience such technologies afford while firms see in them a resource with which to improve their operative efficiency. But at the same time, this breakneck pace has caught by surprise the relevant social actors, raising all sorts of questions. Responding to this reality, in a joint effort with other European think tanks and thanks to the funding of the European Commission, the Fundación Alternativas has carried out a study that endeavors to understand the impact of the new digital platforms on labor relations and social dialogue.

The goal of this work has been to chart the challenges and opportunities that this technological change presents, aiming to capture the different voices, perceptions and agendas that have grown around it. Hence, this document highlights some of the main advances in legislation and regulation while at the same time seeking the input of representatives of the different sectors involved. This exercise has produced some conclusions but at the same time has opened new questions on which civil society ought to reflect in the near future.

First, there is a generalized consensus that these technologies are here to stay. There is no doubt that these platforms can benefit consumers by offering them a better experience, more convenient and better tailored to their specific needs. At the same time, they enable a more efficient use of scarce resources in, for instance, lodging and transportation. The challenge, then, is how to best adapt to this technological change.

So far the institutional response has been essentially reactive. The different branches of government, Congress, the regulatory agencies and the courts have made their decisions on this matter by placing the new realities within the pre-existing framework. So, for instance, whenever any doubt has emerged regarding the contractual status of the workers in this sector, the authorities have reached out to the contractual figures already available. This is an understandable and even commendable reaction. The irruption of the digital platforms has been so fast that any

other course of action would have been perhaps foolhardy and irresponsible. But as time goes by, as the implications of these new technologies become clearer, and as the different actors involved have time to react, probably the time has come where new legal and regulatory frameworks could and should be developed specifically for this sector.

The effect of these platforms over the labor relations depends to a large extent on the specific features of the industry where they are introduced. It is hard to generalize and, in fact, the workers' experiences differ substantially depending on the industry where they work. Although those working with these platforms appreciate the flexibility and autonomy they acquire in their tasks, often they come to perceive that this very flexibility turns against them, subjecting them to precarious conditions without a clearly delimited framework of rights.

Hence, by redefining the link between workers and firms, digital platforms may generate, and indeed are already generating, ambiguities that over time translate into conflicts in need of resolution. Many people in this sector consider social dialogue a deeply felt need. The question is how to make it viable.

There is at the moment no unified view on the matter and the dilemmas involved are quite profound. One possible approach is to extend the already existing structures of social dialogue to cover this new sector. But that has proven remarkably difficult. Because of its very nature, it is a sector in which unionization and collective bargaining face very high organizational costs.

Another approach would be to create an entirely new system of guarantees for self-employed workers, reducing, and maybe even eliminating, the registration fees they face. But this would raise the question of how to fund those same rights and guarantees once the revenue meant for that purpose is no longer available. Such a step would entail a profound redefinition of the welfare state.

In sum, having overcome the initial surprise, the time has arrived for civil society to take seriously the task of deciding how to regulate the impact of digital platforms over the world of labor.

Resumen ejecutivo

En solo unos pocos años, las plataformas digitales que ponen en contacto a consumidores y proveedores de forma puntual (por ejemplo, Uber y AirBnB) han pasado de ser una rareza a convertirse en uno de los sectores más dinámicos de la economía moderna. Su crecimiento inusitado muestra que los consumidores han visto con buenos ojos la comodidad que ofrecen estas tecnologías, al mismo tiempo que muchas empresas han visto en ellas la oportunidad de mejorar la eficiencia de sus operaciones. Pero ese mismo ritmo de crecimiento vertiginoso ha tomado por sorpresa a diferentes actores sociales, generando en el camino toda clase de interrogantes. Respondiendo a esta realidad, **la Fundación Alternativas**, en colaboración con centros de investigación de varios países europeos y con financiación de la Comisión Europea, **ha realizado un estudio para entender el impacto que ha tenido el desarrollo de las nuevas plataformas digitales en las relaciones laborales y el diálogo social.**

El objetivo de este trabajo ha sido el de esbozar los retos y oportunidades que este cambio tecnológico presenta, tratando de captar las distintas voces, percepciones y agendas que en torno a él se han generado. Con tal fin, en la preparación de este documento se han puesto de relieve los principales avances en materia de legislación y regulación al mismo tiempo que se ha buscado la opinión de representantes de los distintos sectores. Este ejercicio ha producido algunas conclusiones determinantes, pero también ha abierto varios interrogantes sobre los que la sociedad deberá reflexionar en el futuro.

Ante todo, existe un consenso generalizado sobre el hecho de que estas nuevas tecnologías han llegado para quedarse. No hay duda de que estas plataformas pueden beneficiar a los consumidores al permitirles una mejor experiencia más cómoda y más ajustada a sus necesidades, al mismo tiempo que hacen posible usar más eficientemente recursos limitados en sectores tan diferentes como el transporte y el alojamiento. El reto, por tanto, es buscar la forma de adaptarse a este cambio tecnológico de la mejor manera posible.

Hasta el momento, la respuesta institucional ha sido fundamentalmente reactiva. Las distintas ramas del poder público, el Congreso, el Gobierno, los entes reguladores y

los tribunales han ido tomando decisiones basadas en el criterio de inscribir las nuevas realidades que se van presentando dentro del marco vigente. Así, por ejemplo, ante las dudas que han surgido acerca de la naturaleza contractual de los trabajadores del sector, las autoridades han tratado de buscar el encaje de dichos contratos dentro de las figuras ya existentes. Se trata de una reacción comprensible y hasta encomiable. Ha sido tan rápida la irrupción de las plataformas digitales que tal vez hubiera sido precipitado e irresponsable proceder de otra manera. Pero con el tiempo, a medida que se han podido entender con mayor detalle las implicaciones de estas tecnologías y que los distintos actores implicados han tenido tiempo para reaccionar, tal vez se esté acercando el momento en el que se pueda y se deba crear figuras legales y regulatorias especiales para este sector.

El efecto de estas plataformas sobre las relaciones laborales depende en gran medida de las realidades específicas de la industria en la que se introduzcan. Es difícil generalizar y, de hecho, las experiencias de los trabajadores difieren mucho entre sí dependiendo de la rama de actividad. Si bien quienes se vinculan a estas plataformas valoran la flexibilidad y autonomía que adquieren en su trabajo, en varias ocasiones perciben que esa misma flexibilidad se vuelve en su contra, sometiéndoles a condiciones precarias en las que carecen de un marco de derechos claramente definido.

Por tanto, las plataformas digitales, al redefinir el vínculo entre trabajadores y empresas, pueden generar, y de hecho ya están generando, ambigüedades que a la larga se traducen en conflictos que es necesario reconducir. El diálogo social es una necesidad sentida por muchas personas en este sector. La cuestión está en cómo hacerlo viable.

No existe en este momento unidad de criterio al respecto, y los dilemas son de hondo calado. Un posible enfoque es el de extender a las plataformas las estructuras de diálogo social que ya existen en otros sectores de la economía. Pero hasta ahora ha sido notablemente difícil. Por sus propias condiciones, se trata de un sector en el que la sindicalización y la negociación colectiva se enfrentan a altos costos organizativos. Otro posible enfoque sería el de crear un nuevo sistema de garantías para trabajadores autónomos, posiblemente reduciendo e incluso eliminando las tasas para el alta laboral. Pero esta opción deja abierto el problema de cómo financiar los derechos y

las garantías que hoy en día dichas tasas contribuyen a financiar. Dar un paso de este tipo implicaría una profunda redefinición del Estado del bienestar.

En síntesis, tras haber superado la sorpresa inicial, es hora de que la sociedad se tome en serio la labor de decidir cómo regular el impacto de las plataformas digitales sobre el mundo del trabajo.

1. General introduction

The following country report presents the main findings that have emerged from our research so far on the ways in which digital platforms have affected labor relations and social dialogue in Spain. It relies both on desk research, interviews with representatives of the different social partners involved and with workers in several platforms that have conveyed to us their first-hand experiences and concerns.

The irruption of digital technologies that make possible platforms linking service providers with customers in a more direct, immediate and customized manner through the Internet is, without a doubt, a significant innovation with great potential in terms of value generation and improvement of the quality and variety of services available to consumers. As such, it is already transforming the way in which many businesses are conducted, reshaping entire sectors of the economy.

That overhaul of previously settled economic practices is bound to have far-reaching social effects. For instance, platforms such as AirBnB have the potential of altering dramatically the urban landscape by expanding city's tourist sectors beyond what planners might have considered at first. The option of sharing consumer durables through digital platforms is likely to affect the behavior of households when it comes to their consumption and savings decisions.

But, of all the possible effects digital platforms may have, there is one that stands out as a significant challenge for policy-making in modern welfare states: the effects on the labor market. Digital platforms are changing the way in which firms are structured and the way in which individuals interact with markets, firms and customers. These structures and these interactions belong to the very core of a society and, in fact, their shape at any given moment is the result of profound political, social and economic processes.

Thus, it stands to reason that the impact of technology will depend on the social makeup of the country where it takes root. Spain is a case in point. As we will see

throughout the text, digital platforms arrived in Spain at a critical juncture of its history, thus compounding a state of turmoil in ways that have generated new uncertainties among the key actors and shaping their perceptions, discourses and, ultimately, responses.

The structure of this document is as follows. In Section 2 we will present a lay of the land as regards to the institutional and legal framework governing the platform economy. This general description of the regulations is useful for reasons that go beyond the merely legal matters: the changing landscape that will be presented there illustrates the ways in which these technical innovations have dovetailed with what was already a complex and dynamic situation in terms of labor relations in Spain. Section 3 will describe the discourse and perceptions of the social partners while Section 4 will do the same for the workers in the platform economy. Section 5 will offer some conceptual keys for understanding the differences found in the previous two sections. Finally, Section 6 will offer some preliminary conclusions.

2. Institutional and legal background

The underlying theme running through any analysis of the impact digital platforms have had on the labor relations and social dialogue in Spain is that, as of now, there is no specific, tailor-made legislation or binding decision of any kind on the matter. The phenomenon is so recent that the Spanish authorities are still at the stage of playing catch-up with events. The issue is clearly in the minds of many government, legal and political actors and certainly in the months to come a set of statements of all kinds are to be expected. But right now everything remains very inchoate.

To the extent to which there are any legal decisions or regulations, they have followed a very understandable pattern: trying to adapt the new forms of labor relations and contracts to the already existing legal frameworks. Among the main stakeholders there is a widespread perception that in the long-run this is not a satisfactory solution but at the same time there is a common understanding that in the short-run there is no other workable alternative.

Such adaptive strategies are normal in any country. But there is one other element that is probably specific to Spain and that has had a profound effect over the landscape of labor relations. When the digital platforms were just making their appearance, at the end of the previous decade, Spain plunged into one of its worst recessions in history. It was one of the countries most affected by the financial crisis of 2008. This is no accident. Spain's economic structure combined several features that were bound to exacerbate the shock of 2008. Its expansion of the previous years had been fueled to a disproportionate extent by the growth of real estate, a sector prone to bubbles and cyclical behavior. Furthermore, these investments in real estate had been highly leveraged so that, once the flows of capital were disrupted by the global financial meltdown, the losses were bound to be massive. To make matters worse, by virtue of belonging to the eurozone, Spain had no recourse to currency devaluation that could make up for the lost demand; it had to absorb the shock of the reversal of capital flows through "internal devaluation".

Even under other circumstances, all these factors combined would have ensured that Spain's unemployment rate during the crisis would skyrocket, as it did. But there were other problems as well. Spain has had for decades a highly dualistic labor market where workers with high seniority enjoy contract stability but the most recent recruits (that made up an important share of the construction sector) are highly vulnerable to firing and dismissal. The result has been historically a labor market that economists often describe with the apt metaphor of "bulimic," that is, one that creates large amounts of jobs during upswings but also destroy large (and frightening) amounts during downturns.

Although already a decade old, and although Spain has slowly returned to the levels of output pre-crisis (clocking in at a "lost decade"), the crisis' effects are still tangible in the labor market with levels of unemployment superior to anything experienced during the boom years. At the onset of the crisis, the total occupied labor force was of 20.4 million people and by 2013 it reached a trough of 17.2 million. Now it stands at 18.8 million which means that, ten years later, still only half of the jobs destroyed during the recession have been restored (Instituto Nacional de Estadística, 2018).

Beyond the purely quantitative impact of the crisis, it left another lasting legacy that pertains directly to our subject matter. The soaring unemployment that reached more than 20% during the recession's trough (with youth unemployment in some regions hovering around a mind-boggling 40%) shattered the politico-economic consensus that existed before expressed in the governance of labor markets.

As a result, in 2012 the then-incoming government of Mariano Rajoy introduced a wide-ranging labor reform whose effects, as we will see, dovetail with the issue at hand and that still remains a source of contention, adaptation and change. Being one of the farthest-reaching reforms launched in Spain in decades, it would be impossible within the current report to come to a full assessment of its effects. But some remarks are in order.

The main watchword of the reform was an emphasis on "internal flexibility," that is, offering the firms more tools to adapt to economic fluctuations as they see fit. This meant shifting the terms of industrial relations in favor of individual employers at the expense of both the regulatory state and collective actors, especially unions. For

example, before the reform, Spain had had a layered structure of collective bargaining where industry-wide agreements occupied a higher place in the hierarchy than firm-specific agreements. The reform changed this order so that now firm-specific agreements have primacy.

For the purposes of the current work, this focus of the reform on firm flexibility has two implications. First, whatever else one may say about the reform, it has made it easier for firms to offer jobs that are more unstable than it used to be possible. In general, jobs have become more precarious in Spain after the reform. Reasonable people might disagree on whether this is a good outcome or not, but it is already a discernible result of the reform. Second, since the irruption of digital platforms is a technological change that, to take effect, must be implemented by specific firms and, moreover, has relatively small capital requirements, it stands to reason that the new, more flexible environment will in the future make it easier to incorporate this kind of innovations and the resulting effects are likely to be more unpredictable, less governed by the heretofore prevailing structures of industrial regulation and social dialogue.

All these circumstances combine to create an atmosphere of flux and uncertainty. By their very nature, technological changes are unexpected and hence usually tend to blindside the main economic agents. In the Spanish case, this inevitable trepidation is compounded by the specific political and economic conditions that made it so that those same economic agents were already struggling to find a way to adjust to new conditions.

This is the social and economic background against which the digital platforms have entered the scene. We now turn to the institutional makeup of labor markets to put into sharper focus how this background affects the ways in which Spain has reacted to these technical innovations.

2.1. Legal, regulatory and policy framework

2.1.1. Background

At the apex of Spain's legal framework sit the Constitution and the international treaties, among which the one binding Spain to the International Labor Organization is the most relevant for our purposes. Jointly, these documents express clearly the right to private contracts of labor services but subject to regulations deemed in the general interest.

A rung below such level, and giving said principles a concrete expression, are the Statutory Laws, passed by Congress. The most important ones are the “Statute of Labor, Social Security and Prevention of Labor Risks” and the “Statute of Autonomous Labor”.

In 2012, labor law in Spain was subject to the reform introduced by the then-Prime Minister, Mariano Rajoy, at the beginning of his first legislature. This reform relaxed many of the regulations on contracts and introduced changes to the framework of social dialogue.

The key actors in this area are the national government, the employers and the workers, although, as we will soon see, regional and local governments also have a say on some consequential matters. The government lays down the legal and regulatory framework but beyond that, it also brokers the negotiations between employers and employees and can also issue important statements that provide signals to the other actors even if those statements are not necessarily legally binding. Its major regulatory and enforcement arm is the Ministry of Employment which acts through several commissioners and the array of labor inspectors.

The actors from the private sector, both employers and employees, are of course the ones who in their daily practice implement or flout the norms but, beyond that, they also engage in negotiations that determine the actual terms and practices of labor relations. These negotiations connect employers and employees in a rather complex structure. The simplest unit of this structure is the “Firm's Committee” (*Comité de Empresa*, in Spanish) which is a firm-level mechanism of negotiation and dialogue

between workers and employers where the decisions about working conditions and pay are made. At the firm level, and operating somewhat in parallel, there are also the “Trade Union Organizations” (*Organización Sindical*, in Spanish) which gather the unionized workers. Both the Firm Committee and the Trade Union Organization are elective; in some firms they may not exist at all but, on the other hand, there are relatively low barriers to forming them.

The firm-level Trade Union Organizations operate as elective bodies. This gives rise to a peculiar feature of Spain’s system of labor relations: the nation-wide trade union organizations exist somewhat hovering over the firm-level cells much as political parties do with respect to regional governments in most democracies. That is, within each firm-level organization it is possible that the elected members belong to several of the national trade unions. Although, just as with elections for local and regional governments, the electoral formulae allow a “multi-party system,” in practice, there are two major national trade union organizations that jointly win the vast majority of the seats, with more than 70% of the nation’s total: UGT (*Unión General de Trabajadores*) and CCOO (*Comisiones Obreras*) (Gómez, 2015).

Adding another layer of complexity is the fact that these nation-wide union organizations operate as a federal structure formed by units that operate not only along territorial lines, but also sectorial ones. Each of them is led by a central body in charge of steering the organization, but the federated units retain a large degree of autonomy.

Traditionally, the key outcome of the interactions between all these organizational layers has been also layered. In particular, the negotiations between employers and workers in Spain issue in a set of pacts that follow a sectorial hierarchy. The peak organizations of each sector (trade unions and business associations) reached a pact regulating the labor relations and working conditions for each firm within the sector and then individual firms were allowed to reach specific agreements within the margins prescribed by the sectorial pact. This meant that, as regards conditions for workers, the firm-level pacts could improve upon, but never worsen, whatever had been agreed in the sectorial pact.

This is one area where the Labor Reform of 2012 has had a profound, and still contested, impact. One of its key tenets is to upset the hierarchical structure of pacts so that now the firm-specific pacts are allowed to override the sectorial ones, even in cases where they imply worse conditions for the workers. As we will see later, this is a very significant change as regards the digital platforms because of the regulatory and legal uncertainties that surround them.

From the point of view of territorial jurisdictions, sectorial agreements on working conditions constitute a veritable patchwork where nation-wide agreements coexist with regional, provincial and even municipal ones. The hierarchy between these agreements remains to this day a fraught legal question.

2.2. Sector-by-sector legal status

2.2.1. Transportation

When it comes to transportation, there is an important distinction to be made between two types of platforms: those for intercity travel and those for urban transportation. Behind this seemingly innocuous geographic distinction is a significant difference in terms of labor relations.

The prime example of intercity travel through collaborative platforms is BlaBlaCar which has been deemed legal inasmuch as it corresponds to the strict definition of “collaborative economy.” Drivers in BlaBlaCar are not offering a service customized for the passenger but are rather private car owners that agree to share costs with someone else on a ride that they were anyway planning to make. There is a potential for abuse, distortion and illegality, especially given that the Spanish law regulates the amount of non-related passengers a car owner can carry but, by and large, BlaBlaCar has not generated the attention and legal challenges that Uber has. Firms in the intercity travel sector so far seem unconcerned with BlaBlaCar. As long as BlaBlaCar is considered to be operating as it intends to do, its drivers cannot be considered workers in need of any legal status.

The situation is entirely different with Uber. From the very beginning Uber has been met with legal challenges. In the first round, the courts outright decided to put a stay

on Uber (Juzgado de lo Mercantil No. 2 de Madrid, 2014). Later, the courts decided that Uber was allowed to operate but under certain restrictions. The most important one is that Uber Pop, that is, the modality most similar (on paper) to a purely collaborative model, whereby any car can be pressed into service to transport passengers, is clearly outlawed (Juzgado de lo Mercantil No. 2 de Madrid, 2015).

The standing decision states that Uber is allowed to operate only by hiring cars and drivers through the legal figure known as “Transportation Vehicle with Driver” (henceforth called by its Spanish-language acronym, VTC). This legal figure has long existed in Spain and regulates instances such as limo services or the car fleets owned by some large companies for their own transportation needs. There is, however, a complicating factor. Originally, the regulation of VTCs allowed for self-employed owners of licenses. A regulatory change of 2015 (Royal Decree 1057/2015, Nov. 20.; see *infra*) that resulted largely from the tug-of-war around Uber, however, determined that VTC firms should have a minimum of seven cars. In practice this means that drivers of VTC are either employed by the owner of the license or have to associate with other drivers into a cooperative, much like taxi drivers in other countries. To compound matters, drivers who owned licenses from before the 2015 regulation have been grandfathered into the new system so that now there is no uniform status for all drivers: some are self-employed, some are employees.

None of this, however, can be considered the last word on the matter. The formalities described in detail below can be misleading. Although the law considers individual license owners of VTCs as self-employed, Uber has introduced changes to the delivery of transportation services that, according to many legal scholars, may respect the letter of self-employment while violating its spirit. A substantial body of legal precedents in Spain can be marshaled in favor of this argument. Court decisions, sometimes from the highest court in the land, indicate that, should a case arise, Uber drivers could be deemed as employees. But so far this remains a matter of scholarly opinion as no explicit, Uber-related case has come in front of the courts to adjudicate this issue.

2.2.2. Accommodation

In Spain, AirBnB has proven to be as contentious for the hospitality industry as Uber for transportation. Understandably, because of the size of its inflow of tourists, Barcelona has been “ground zero”. But the legal jousting has not touched the labor aspects of AirBnB but rather its behavior as a service provider (especially regarding taxes and surcharges). Moreover, the problem appears thus far to be restricted specifically to AirBnB as the city authorities claim not to have issues with similar digital platforms. As a result, people working in AirBnB can be divided into three types.

The first type comprises those who fit the “collaborative economy” model, that is, people who own a house and share it with others (either empty rooms or the entire house during periods of vacancy). From the legal point of view they are not employees at all; they are merely private citizens supplementing their income through a secondary activity.

A second type of workers is made up by those who inhabit the legal grey areas left by AirBnB’s model. Nominally, people are not expected to use AirBnB to set up an informal hotel chain through multiple listings. But cases abound¹. People working in that way belong to a clearly illegal and informal setup, outside of any specified status.

The third type of workers corresponds to the services that AirBnB itself makes available to people who list their homes (decoration, maintenance, cleaning). In Spain, and this is an issue to which we will come back, these services can be offered either through specialized firms or through “multi-service firms,” that is, firms that hire workers to provide a wide variety of services. Either way, these workers are considered employees, with contracts subject to specific regulations. There are important details to take into account when it comes to labor relations and social dialogue. They will be dealt with later.

¹ See, for instance, the several instances described in the journalistic account of Otto (2016) El Confidencial: “Así vive una ‘pirata’ del AirBnB”. (June 19, 2016. Updated: Sept. 23, 2016). Available at: https://www.elconfidencial.com/tecnologia/2016-06-19/airbnb-barcelona-economiacolaborativa-turismo_1216411/

2.2.3. Microwork

Microwork is such a broad category that it cannot be shoehorned into one single set of regulations. In theory, the law is very explicit in stating that, as one of our interviewees (a labor inspector) put it, the description the two parties in a labor contract agree upon is entirely immaterial from the legal point of view. That is, supposedly the legal status of a worker depends solely on objective considerations stipulated in the labor code, not on the labels and legal figures (which may be bad-faith workarounds) that the employer and the worker decide on.

But in practice things are not that simple. Ascertaining the objective conditions of a labor relationship is hard work and requires abundant resources of labor inspection and law enforcement. On occasions, this process leads to legal cases brought by the government against employers who are found in violation of the law. But, absent such a proactive role from the government, the contracting parties are largely on their own.

Thus, the default legal form that has emerged for the case of microwork is that of self-employment. Digital platforms dedicated to this kind of tasks require the workers to register as self-employed. In later sections we will describe at more length the legal debates this has created; determining the exact nature of self-employment is, indeed, a fraught question, especially in a system such as Spain's where the self-employed worker is expected to contribute to her own social security, unemployment and disability benefits.

2.3. Sector-by-sector legal status

2.3.1. Transportation

As explained above, transportation services carried out by means of digital platforms (e.g. Uber) are allowed in Spain only through VTCs. Thus, working conditions are regulated by the following:

1. Royal Decree 1211/1990, Sept. 28 (*Ley de Ordenamiento de los Transportes Terrestres*). This nation-wide law establishes the general guidelines for the operation of VTCs.

2. Royal Decree 1125/2006, Oct. 27. Modified some aspects of the previous law, bringing it more in line with European regulations of transportation.
3. Ministerial Order FOM/36/2008, Jan. 9. Aimed at modernizing the sector of VTC and streamlining the licensing procedures. It regulates the age and size of the vehicles, something that has a direct bearing on working conditions. It states that drivers must either file as self-employed or be employed by the owner of the license, in which case, the owner is responsible for adding the driver to the Social Security rolls (important for purposes of pensions and health care). It also determines the maximum of drivers allowed per group of vehicles: every two drivers can operate, at most, three vehicles.
4. Royal Decree 1057/2015, Nov. 20. This decree modifies the organizational structure of the VTCs, establishing a minimum of seven vehicles per firm so that, in practice, it determines that all drivers are either employees or members of a cooperative (although the latter is likely to be a rare occurrence). But, in a transitory article it grandfathered previous license holders into the new system, exempting them from the seven-vehicle cap, thus allowing them to remain as self-employed. This latter transitory article has profound implications for the current regulatory status. If Royal Decree 1057/2015 is left standing, it might in the future usher in a model in which all of Uber's drivers are either employed by a VTC company or members of a co-op. But right now a large share of Uber drivers operate as single-vehicle VTCs, which is to say, they are self-employed.

In Spain, the cornerstone regulating self-employed work is:

5. Law 20/2007, Dec. 7 (Statutory Law of Self-Employment). This law specifies the conditions for self-employment, especially the terms under which self-employed persons must enroll in the Social Security system (especially for purposes of pensions and health care). Its Article 11 introduces the figure of "Economically Dependent Self-Employment" (TRADE, in its Spanish acronym). This legal figure covers self-employed individuals who obtain at least 75% of their income from a single source.

6. Royal Decree 197/2009, Feb. 23. This decree represents an important addition to the regulatory framework as it develops the TRADE figure. There are several regional-level collective employers-workers agreements on working conditions for the transportation sector. Some of them even cover the case of VTCs. But given that Uber drivers tend to operate as single. vehicle VTCs, it is far from clear whether these agreements play a significant role on the ground. A recent example of one such agreement, one that covers the crucial market of Madrid, is:
 7. Collective Agreement for Transportation in the Regional Government of Madrid, Sept. 2014.
 8. In September 2015, the Labor Inspectorate of Catalonia issued an important Report concerning Uber and the legal status of its workers, with the corresponding implications for work conditions. The Report cannot yet be found in public records but it has been amply discussed. Although its findings have potentially far-reaching consequences, its real impact so far has been limited. This needs some background explanation.

First, the Labor Inspectorates have been hesitant to step in fully in the cases of Uber drivers because of what they perceive as the legally ambiguous status of these drivers' work (Labor Inspectorates do not examine illegal activities). Second, their report consisted on two parts: one, a legal action, covering the workers of Uber that unequivocally can be regarded as its employees, viz. those working the infrastructure. There, the Inspectorate found certain irregularities regarding their affiliation to the Social Security rolls. The second part pertained the drivers but here, because of the legal void already mentioned, the Inspectorate could only express its finding to the effect that it deemed Uber drivers as employees of Uber. This finding, though, cannot yet be translated into legally binding actions.

2.3.2. Accommodation and microwork

To the extent that work through digital platforms in the hospitality industry is regulated, it falls under the rules governing multi-service firms or temp work firms. There is a key distinction between the two types of firms for the purposes of work

conditions. Temp workers are paid according to the salary structure of the firm where they carry on their task, not the temp work firm that nominally hires them. Instead, workers in a multi-service firm are subject to this firm's salary structure regardless of where they work.

1. Law 35/2010, Sept. 17. Determines that working conditions for employees in temp work must be equivalent to the working conditions prevailing in the firm where they carry out their task. Also specifies the responsibilities of prevention of occupational risks in the hands of the hiring company.
2. Royal Legislative Decree 2/2015. Oct. 23. Art. 43. Part of a very broad labor law, this article describes the conditions of temp work and the conditions under which a worker can be sent to a different workplace as long as the original company is legally registered as a temp work firm. From the point of view of working conditions, multi-service companies are not subject to specific regulations. For these purposes, they are governed by the same laws as any other firm. The crucial difference between temp work firms and multi-service firms arises in matters of social dialogue (see *infra*).
3. In the sector of microwork, the Labor Inspectorate of the region of Valencia took on a landmark case against a firm that purported to link customers with housecleaning services (Eslife.com). In this case, the Labor Inspectorate found the firm in non-compliance of labor law as it determined that the house cleaners met all the requirements of employees of Eslife and yet were not correctly affiliated to the Social Security rolls. As a result of this litigation, Eslife had to shut down. Once again, the Report of the Labor Inspectorate is not yet available in public records but has been widely discussed.

2.4. Industrial relations and social dialogue

2.4.1. Transportation

Unlike what happens in other countries where large car fleets are a key component of the transportation industry, in Spain the system operates through small firms. This is true both of the regular taxi services and the VTCs. As said before, only recently has there been a floor placed on the size of a VTCs fleet, a floor from which previous license-owners are exempted. Ostensibly, the goal of this floor is to ensure that only bona fide transportation companies acquire VTC licenses, thus limiting the odds of having individual drivers being recruited as self-employed when in fact they are genuine employees. But, as already noticed, individual owners of licenses have already been grandfathered into the new system so it remains unknown the extent to which this floor will be an effective instrument for its intended purpose. Typically a license-owner, be it of a taxi or a VTC, operates a vehicle with at most another driver and rarely someone owns more than a small handful of licenses. Thus, there is no complex framework of industrial relations and social dialogue. Just as happens with any other firms, VTCs can enter into employer-worker collective agreements. But given the fragmentary nature of the industry, the reach of these agreements is rather limited.

2.4.2. Accommodation and microwork

This is one of the most hotly debated issues in Spain's labor law, mainly as a result of the 2012 Labor Reform as embodied in the Royal Decree-Law 3/2012, Feb. 10. This fundamental piece of legislation introduced vast changes in the flexibility of labor contracts, an issue that commanded a lot of attention at the time. Less noticed by the general public, but very consequential for industrial relations, and very contentious to this day, are the changes it introduced to the structure of collective bargaining.

These changes have potentially far-reaching consequences for the ways in which digital platforms can affect the complexion of labor relations in the country. So far, such potential has not yet materialized fully but it is clearly in the minds of social

actors, especially trade unions, as they are prompt to express in conversation². To understand these concerns, some context is needed.

Before the reform, firm-level bargaining was subordinated to sectorial-level bargaining. A firm-level agreement could only override the corresponding sectorial one if it offered better working conditions for the employees. This was a key component of the architecture of social dialogue in Spain meant to empower peak-level trade unions who could claim to be able to reach industry-wide agreements with employers on behalf of all their members. If a firm-level agreement cannot supersede the one presiding over the entire sector, it makes sense for all the actors involved, especially workers, to invest the bulk of their organizational resources in the sector-wide unions. That hierarchy has been upended by the reform so that now firm-level agreements take precedence over sectorial-level ones, regardless of the conditions. In practice, this means that firms can opt-out of a sectorial agreement if they set up a firm-specific structure of bargaining (a “Comité de Empresa”) with which to generate an agreement.

The firms known as “multi-service firms” are a conspicuous example. These are firms that provide an array of services so vast that, even if they were to be bound by a sectorial agreement, it would not be clear what the relevant sector is. For example, building-management firms offer security, maintenance, cleaning and bookkeeping all rolled into one. Under the current reform, these firms exist outside of any industry-wide structure for collective bargaining; they reach their own agreements with their workers.

Over time, this issue has gained public notoriety because of labor disputes surrounding the sector of housekeeping services, especially in hotels. This is a highly feminized job where workers often feel quite disempowered. Over the past two years, a movement of cleaning ladies (known to the Spanish public as “las *kellys*”) has brought attention to the issues of working conditions and labor rights through self-organization.

² Interview with a senior member of CCOO (Comisiones Obreras).

At this point this highly visible labor conflict has flowed somewhat parallel to the platform economy because, as of yet, the market for these housekeeping services is made up almost entirely by large hotels that run their own operations. But the underlying regulatory changes can interact with the emergence of digital platforms in ways that many social actors find disquieting.

In a nutshell, union members and officials in regulatory agencies believe that, given the size of Spain's tourist sector, and given the trajectory of AirBnB and similar platforms, multi-service companies can easily be used to carry out the housekeeping of residential units listed in AirBnB. This would have several implications.

First, AirBnB could be scaled up dramatically, especially in a highly touristic city such as Barcelona. One of the bottlenecks for AirBnB's growth is housekeeping. In fact, there are reports of attempted workarounds. A member of Barcelona's City Hall in charge of regulating the hospitality industry reported to us that there were instances of AirBnB units that were being used solely as "laundry rooms" for other rentals, installing more washing machines than is permissible by the regulations³. While hotels benefit from the scale economies of housekeeping services provided by large companies, those same scale economies are not available to owners of AirBnB units. The entry of multi-service companies into this market would break that bottleneck allowing for much faster growth of AirBnB.

AirBnB has proven highly contentious in Barcelona even in its current state. The city's administration, and in this it seems to be following a widely shared sentiment of the populace, wants to curb down and limit its growth because transforming the entire city into a lodging place for tourists could create serious disruptions in the life of the long-term residents. For instance, rents could spiral out of control, stores for tourists that provide little if any necessities for daily life could crowd out the traditional retail trade, traditionally quiet neighborhoods could become noisy hubs and so on. This is a complex policy debate and, of course, it will take time and judicious analysis for Barcelona to decide what is the optimal footprint of AirBnB. But this is precisely what a full partnership of AirBnB with multi-service companies would preclude. It

³ Personal interview.

could create some kind of “AirBnB on steroids” able to overrun the city’s capacity to regulate it.

The second issue pertains labor relations directly. The combination of the multi-service model and digital platforms such as AirBnB has the potential of placing the bulk of the hospitality sector outside of the realm of centralized collective bargaining. Whereas hotels are traditional employers that can be brought under the umbrella of the established institutions of social dialogue, platform-based rentals can simply hive off their responsibility for workers’ rights, shifting them to multi-service firms that are, in turn, able to put their own agreement above any sector-wide negotiation. The result would be a highly atomized labor force that has little if any protection for its rights.

That said, it should be noted that this may well cut both ways. At the risk of stating the obvious, there already is a labor force dedicated to housekeeping in AirBnB units. Given the lack of regulation and data, it is reasonable to surmise that a large share of that labor force is already atomized and has absolutely no mechanism of collective bargaining (not to mention that many may well be working illegally with all the risks and lack of rights this entails). This is, after all, the typical situation of housekeepers working for individual homes and it stands to reason that owners of AirBnB units have been operating under this model. Compared to that situation, multi-service firms could well be a stabilizing force, one that brings a modicum of order and transparency.

This is part of a broader pattern. Spain’s labor market dualism operates in such a way that its formal institutions afford significant protections and rights to workers that can secure a job within them. But at the same time, Spain has a large “shadow economy” by the standards of wealthy countries. In fact, a recent study (Medina and Schneider, 2018) estimates that Spain is second only to Italy as the Western European country with the largest shadow economy. Thus, from the point of view of policy and normative debates, changes that lead to a more decentralized and liberalized labor market are always susceptible of being read from two opposing perspectives. They can be either decried as rolling back the guarantees obtained by the formal sector or, alternatively, they can be lauded as a significant progress for workers in the informal one. This is not the place to address the complex issues behind this debate but it needs

to be brought out as a source of contention in the years ahead as the platform economy makes more inroads into the traditional sectors.

2.5. Debates and open questions

As the preceding pages show, the legal framework of digital platforms in Spain is still a work in progress. There are no explicit regulations. The few court cases that have emerged regarding Uber and AirBnB cover only their commercial practices but not their employment practices. Labor inspectorates have not fully stepped in. Much remains, then, in the terrain of debates and opinions. The months ahead are likely to see significant actions.

Several key actors of the government and the judiciary have indicated that they will act shortly. The following are some of the most important:

1. On March 2016, the National Commission for Markets and Competition, the country's top regulatory agency issued a draft report about the collaborative economy. The report, a non-binding set of recommendations, was considerably sanguine about this novel sector and argued in favor of sweeping deregulation of both transportation and accommodation. For instance, with respect to Uber it even recommended allowing Uber cars to be hailed by passengers, just like regular taxis, a step that would have amounted to eliminating the last remnants of differentiation between the two services. However, after being released, it soon emerged that the report did not speak for the totality of the commissioners, some of whom publicly dissented. A definitive, official report has been announced for this year but so far has not been released.
2. The National Advisory Committee on Collective Bargaining, an organ of the Ministry of Employment and key actor in the country's social dialogue, issued a non-binding statement where it considered that it would regard Uber as subject to the collective bargain agreements of the transportation sector. Although non-binding, this statement serves as a signal for private actors.

3. On March 13, 2017 (ATS 2125/2017), the country's highest court (Tribunal Supremo - Sala de lo Contencioso-Administrativo) agreed to hear a case regarding Uber with the aim of establishing the jurisprudence about the relevant regulatory framework under which Uber and similar platforms will be allowed to operate. A decision is still pending.

Apart from the government and the courts, debate is certainly growing among civil society. The major trade unions have not yet stated a clear position but they have expressed their concern about the potential effects of a purely unregulated platform economy for labor rights. There has been a copious output among the academic community as well. Although hard to quantify, there seems to be an emerging consensus among the legal profession that new legislation and regulation is needed.

Several legal scholars have concluded that the relationship between Uber and its drivers cannot be adequately construed as merely self-employment as Uber has claimed. Concurring with the findings of courts in California and the United Kingdom, the opinion that seems to be gathering momentum holds that Uber is, indeed, a transportation company, not a supplier of a software application, and as such it is the employer of its drivers. In this regard, the legal figure of TRADE discussed above is seen by scholars as the basis on which it might be possible to regulate work in digital platforms since it seems adequate for the realities of this sector. However, this still remains simply on the books, pending legal developments, court cases and actual implementation. There is, furthermore, a caveat expressed by some legal scholars. As one of our interviewees (a law school professor) put it:

The TRADE figure is meant to represent the situation of a worker linked with a commercial firm. The problem is that normally workers do not derive their income from the platform itself but rather from the clients, the final consumers. This poses a juridical problem, albeit a rather intricate one that dwells on legal purisms. Possibly it will be necessary to supplement the definition of TRADE to take this fact into account. (Interview with a law professor, Universidad Carlos III de Madrid; our translation)

3. Discourse, perceptions and experiences among established industrial relations actors

Quite predictably, the group that shows the most unified stance is unionized labor and, just as predictably, the government is, instead, the one where more heterogeneity can be found with employers somewhere in between these two. The reasons are not hard to understand. Unions are organized around a clearly defined constituency and with clearly defined purposes. In this particular case, the irruption of digital platforms raises some concerns that are common to any labor union, especially if, as is the case in Spain, the different labor confederations are very similar as regards their geographic, occupational and social makeup. Instead, the government comprises different agencies, each of them with a specific remit. Political fluctuations notwithstanding, these agencies are manned by civil servants whose mission (and even views) do not change simply because of a new electoral result. In turn, the effect of the digital platforms on the employers is heterogenous depending on the order of adoption of the technology.

Spanish unions have been uniformly wary of digital platforms. As is the case with any technological innovation, they acknowledge that this one is here to stay and that adaptation is the only option. Although in many other countries digital platforms raise lots of questions that unions were not expecting, in Spain their wariness is compounded by the context in which they have been operating of late. Even before the 2012 reform, unions were already embattled due to the significant losses of membership that have been common in many other countries. Now, with the reform in full swing, there is a serious potential for digital platforms to erode even more the institutions of organized labor. After all, digital platforms raise the prospect of blurring the definition of labor relations by creating a grey area of workers that are somewhere between employees and contractors, precisely the kind of situation where unions have a harder time operating.

So far, the response of unions, just like that of the other actors, has been, as is only logical, mainly adaptive, trying to bring the new realities within the scope of their

previous repertoires. They have launched outreach efforts that try to inform workers in the platform economy of the resources a union can offer. Through the use of websites, they have also tried to create a clearinghouse of workers' grievances, a place where workers can voice their concerns in such an uncertain sector.

The results have been far from massive but, given the lack of precedents, it is hard to know against what benchmark they should be judged. On the other hand, the obstacles are well-known. Workers in the platform economy are geographically dispersed so any organization effort meets serious challenges of lack of scale economies. Sending information and propaganda to such a set of workers is already very difficult, not to mention the problems in setting up meetings, and getting any lasting organization off ground. In a way, the platform economy presents to unionized labor the same kind of challenges the "putting-out" system of the early Industrial Revolution used to present. It was only after the demise of such system and the emergence of the large-scale shop-floor that unions as we know them came into their own.

There is no institutional mechanism in Spain that may simply steer the digital platform economy toward a structured social dialogue in the way it already exists in other sectors. Any such move would have to start from the workers themselves (or, less likely, the firms). So, unions now face the daunting task of starting from scratch. In the interviews with the different unions they all, predictably, voiced support for the creation of institutions of social dialogue for the platform economy. But at the same time, they were not hopeful that such a thing would happen soon, or at least not without a significant investment of effort from their part in terms of mobilizing workers and informing them about such possibility.

Given the inchoate nature of the platform economy, it is difficult to offer a full description of the unions' stance and experiences without taking into account the workers' themselves. At this point, since unions have not been able to make significant inroads in the sector, and given there are no established organizations of social dialogue, their outlook is dictated by the contact with the few workers they have been able to reach out to. But, as will soon become clear, there are significant differences across industries as regards the attitudes of workers. In particular, while the Deliveroo platform (and others in the courier sector) have been remarkably contentious, with workers much more willing to listen to the unions' outreach and

even to organize themselves without unions, workers in Uber and Cabify have been much more quiescent and, although they would in theory welcome some kind of social dialogue, have so far shown little interest in taking specific steps to make it happen.

These differences between workers translate into an interesting difference within the unions. For example, in Spain, the sector of taxis has traditionally operated as something of a world of its own. Taxis have their own drivers' association, their own collective bargaining agreements and so on. But that does not mean that the traditional union confederations have no presence at all. They do. For example, UGT, one of Spain's largest union confederations, has an entire branch dedicated to transportation issues, including cab services. As such, they are quite wary about the potential impact of Uber inasmuch as it can turn drivers into fake self-employed workers with no guarantees or protections.

But, while this part of the union is already well-developed, the one in charge of bike deliveries is still in its infancy, fighting the uphill battle of overcoming the riders' geographical dispersion and overall sense of disempowerment. In short, the union has better infrastructure and institutional development in the sector where its need is comparatively less felt while the sector where there is a clear demand for union activity has yet to fully take off.

By the unions' own reckoning, difficult as the task may be with riders, it is even harder for microwork:

We know several workers in platforms such as Wayook [a platform that offers cleaning, housekeeping and elderly care services] and others. Workers in cleaning services and microwork are the hardest to contact since they do not have a fixed work center. We have spoken to our fellow organizers in the Service Federation but with little results. Sometimes we are contacted by the workers through our website. They ask all sorts of questions, tell us about their specific problems, but do not address any specific firm. (Interview with organizer from UGT; our translation)

For the reasons already explained, the government's discourse in this matter is quite multilayered. From the very outset, the platform economy has generated different positions within the government. The National Commission for Markets and Competition is a case in point. This organism was created in 2013 by merging several governmental commissions that exerted oversight in sectors as disparate as telecommunications and railways. Such a merger of organizations with widely different scopes and expertise was bound to result in a shift toward a more permissive attitude with regard to regulations. This has been confirmed in the case of the platform economy, where the CNMC has been a vocal supporter of the new technologies. For instance, in a document that proved to be highly contentious it defended the right of Uber to be hailed in just the same way as taxi cabs, a move that would have erased one of the few remaining distinctions between the two types of transportation. Ultimately, this document was not officially released as it did not garner the support of all the Commission's members. Later, partly as a result of some dissent among its members, it has softened its stance, making gestures in some public appearances in favor of the coexistence between different types of firms. This softening proved to be rather short-lived. By late 2017 and early 2018, the Commission was once again pushing for the deregulation of the transportation sector in favor of platforms such as Uber and Cabify. If anything, this later shift has been more forceful than the original stance; with the old reticences gone, the Commission has been able this time around to issue official statements urging the government to dismantle several regulations of the VTCs (Comisión Nacional de los Mercados y la Competencia, 2018).

But a different outlook prevails in other governmental institutions. An interview with a senior officer at the Ministry of Labor in charge of its social security branch reveals a concern about the disruptions the platform economy can generate in the realm of labor rights and stability:

Our main interest is twofold. First, to protect workers within an adequate framework of labor relations and, second, from the point of view of social security, to ensure that they are protected against different life events such as illness, disability and retirement. But to that end, you need to have the required income because the Spanish system is based on contributions as opposed to the British system

which is universal. (...) These digital platforms appear mainly in the service economy generating a drift both as regards labor relations and social security. I would see them as a challenge, a challenge that in the meantime, while the solutions emerge, represent a danger because they undermine what has been the system's pillars since the last century. (...) This may represent a shift in power between workers and employers and it may also jeopardize the financial soundness of the contributive system.

This concern has even given rise to legal cases. The Ministry of Labor has challenged in court a digital platform called Factoo that aims to allow people to become quickly incorporated as self-employed. The interviewee stated clearly that part of the agency's mission is to crack down on "pop-up" forms of labor contract ("intrusismo laboral" in Spanish) that can be made possible by the digital platforms: "Legally, part-time self-employment does not exist. And it does not exist for a reason: it is beyond any possible control. These platforms are, in essence a way to evade the payment of registration fees for self-employed workers. But those workers will later find that they do not have the necessary social security protections because they did not contribute enough to it".

In other words, the Spanish legislation has historically established a dichotomy: it is possible to work part-time, but only as part of an employment relationship with an employer, whereas self-employment is a permanent condition. From this point of view, a self-employed worker is akin to a small business owner. Just because a business may be temporarily idle it does not stop owing taxes. Likewise, a self-employed worker is always under obligation to contribute to the social security system, even temporarily out of work. This dichotomy between part-time employment and full-time self-employment is being eroded by the emergence of digital platforms, constituting a major source of concern for government officials.

This discrepancy in outlook is to be expected. The Ministry of Labor has to deal with a set of problems and challenges different from those of the CNMC. Furthermore, as said above, the fact that the government is committed to a pro-flexibility labor reform does not change the institutional imperatives already built into the system.

Another important sector of the government whose stance is dictated by structural conditions beyond the electoral vagaries is that of labor inspectors. Labor inspectors are not elected officials, they embody the logic of labor market regulation as it has solidified over years, if not decades. Hence, it is not surprising that among them it is possible to find positions of concern similar to those expressed by labor unions. One of our interviewees, a labor inspector, constitutes an example. From her position she sees the possible ways in which the platform economy can undermine the structure of labor rights. Interestingly, and this once again indicates how far the government is from being a monolith, she expressed a rather skeptic view about the need of more regulations tailor-made for the digital platforms. Instead, she considers that the existing legal regime already offers the system of labor inspection the tools to act and remedy the possible abuses.

I have conducted a very informal survey among my fellow labor inspectors and we have reached the conclusion that there is no need for new regulations or that the new situations represent a peculiar legal case, but rather that what is needed is more control and oversight over how these platforms operate. The current labor code already has the appropriate tools to determine the kind of employment relationship that prevails in these platforms, different as they might be among each other. We have a labor law that is flexible enough to encompass all the cases. (Interview with a labor inspector; our translation)

From this perspective, what is needed is, instead of a new legal framework, to extend the arrangements of social dialogue already in place to the platform economy, recognizing that the digital platforms have created some bona fide self-employed workers, but maintaining, at the same time, that many of the services offered through platforms are, indeed, akin to the more traditional employment relationships.

In sum, within the government we can find a spectrum of views that ranges from the staunch *laissez-faire* approach of the CNMC to the ones of the Ministry of Labor (below the cabinet-level) that assign pride of place to the enforcement ability of the government's institutions, and to those of some labor inspectors that, while embracing such enforcement ability, consider that it needs to go in lockstep with a resurgence of

unions as partners in dialogue. In retrospect, such plurality of views is not surprising but it constitutes an interesting result that emanates from the field research, one that paints a highly nuanced picture.

As regards the employers, their position has been, predictably, much more sanguine about the prospects of digital platforms. Despite repeated attempts at contacting them directly, at the moment of writing this report it has not been possible to interview their spokespeople. However, there is enough material in the public record to gauge their attitudes.

Adigital is a nascent employers' organization for the platform economy in Spain. Recently it has put out materials regarding both Cabify and Deliveroo which differ in interesting ways. On April 2018, the organization published a brief blog entry in its website praising the French court rulings that it interpreted as finding no employment relationship between Deliveroo and its riders, thus considering the latter as purely self-employed workers. The piece was prompt to draw the implication:

Even though these firms can adapt their business models to each specific country and to the demand and needs of their users (both providers and consumers), the truth is that the operations of Deliveroo and Uber EATS (Take Eat Easy closed in 2016) is the same in France as it is in Spain. Thus, why would the conclusions of these court rulings not be applicable in Spain? Apparently we will have to wait. Time will tell. (Rodríguez and Benítez, 2018; translation from the original)

Two months later, on June 2018, the association conducted an interview with Cabify's country manager in Spain, Mariano Sylveira where he states that:

The scenario established by the Ministerio de Fomento implies keeping in place the current ratio of one VTC license for every 30 taxi licenses. We in Cabify understand and sympathize with the situation, which endeavors to generate opportunities for the more traditional sectors so that they can adapt their services to the new

mobility needs of the users. (Adigital, 2018; translation from the original)

Such conciliatory statement is not an outlier. During the months surrounding this interview, Cabify launched a highly visible campaign with ads and billboards around Madrid where it invited the taxi drivers to engage in a dialogue aimed at sorting out how the two models could coexist. It would take a much more detailed and lengthy report to assess the real contents and effects of such invitation. At any rate, the problem is still unresolved and as of this writing, there have been renewed protests by taxi drivers in both Madrid and Barcelona.

But what is noteworthy for our purposes is the contrast between the two sectors. When addressing the issue of meal deliveries, Adigital adopts a rather impetuous discourse that exalts the path of outright flexibilization of the labor market. Instead, when it comes to limo and taxi services, the approach is much more guarded. There is little doubt that this has to do with the structural conditions of both sectors. As we have already seen, in marked contrast with the delivery riders, taxi drivers are a very well-organized constituency, with a long tradition of collective action in defense of its interests and with significant political clout. As its country manager makes clear, Cabify understands that a purely confrontational approach could easily backfire. The situation of the bike riders could not be more different, something that surely contributes to explaining the strategy pursued and the discourse adopted by the firms in this instance.

4. Discourse, perceptions and experiences among platform owners and workers

The research conducted so far brings out an interesting heterogeneity among workers even though they share some common concerns. In fact, it is interesting that, for some of them the concerns are already quite present while for others the issues emerge gradually upon reflection.

From the point of view of labor relations, there is little doubt that the flashpoint is centered around the platforms dedicated to bike delivery, Deliveroo being the most prominent among them. The most visible stories of contention center around this sector. As the research for this project was being conducted and the interviews were being scheduled, a group of Deliveroo *riders* (they call themselves like that, using the original English word) went to Madrid's regional assembly to present what they regarded as an unbearable situation of lack of labor rights. Of all our interviews with workers, clearly the ones that reflect a deeper concern, even indignation, are those that involve riders (not with all of them, as we will see soon).

There are several common denominators. Every worker agrees that digital platforms have actually made possible for some people (sometimes even themselves) to make a living with acceptable pay while enjoying flexibility in terms of time management. Even the most vehement critics of Deliveroo could point to examples of riders for which the end result has been quite favorable.

It cannot be denied that this [Deliveroo] has worked well for several people. There are people who have found a good livelihood in this job. (Interview with Giovanni)

Also, workers agree that a major draw that led them to become involved in the platform economy was, precisely, the promise of flexibility and autonomy. But, and this is another point where there tends to be a consensus, they feel that such flexibility and autonomy were, at the end of the day, quite illusory.

The schedule is very flexible. You can make it compatible with whatever you want. There are many people that work 40 hours, I know some, and then also work with Glovo when possible. We, here, for instance, study and work. It is very easy to do whatever. (Gonzalo, Glovo rider)

Same for me. What I like most is the schedule, especially now that I have switched because I began to study. Before I was beginning to work at 5, now I start at 7. I do not have a boss so I spread out the hours as I want. (Dago, Uber driver)

If you want to go on holiday a week, you just say “this week” and that’s it. Now, of course, that will go into your file. They’ll say “Aha! You didn’t work this week”. It’s all under control. When I am working in Deliveroo I am in constant stress because I am thinking that if I am not going fast enough they will give me a low score, or that I won’t get delivery orders if I have to be away for a week, or whatever. (Diego, Deliveroo rider)

Here is where the heterogeneity starts. The workers’ experiences are colored by their different sectors. Riders, for example, can see very quickly how their sense of control evaporates and suddenly find themselves subjected to harsh working conditions. The bike delivery sector is very prone to this for several reasons.

First, the platform itself can, and in fact does, adopt a relaxed policy in terms of admitting new riders, something that increases the competition between them. Individual riders may have a modicum of control over their own work but no control at all over the broader context that shapes that work.

Second, although in most other sectors the platform can in principle adjust the flow of service suppliers, bike deliveries are very responsive to this because the “capital endowment” (in this case the bike) does not constitute a serious barrier to entry. No matter how much AirBnB wants to increase the supply of apartments in a city, there

are quite strict limits to how much that supply can grow. Instead, it is very easy for people to obtain a bike and sign up for Deliveroo.

Workers in other platforms, subject to different structural conditions, report a different experience. For example, one of our interviewees (David), who works with Cabify, spoke in glowing terms about the whole experience. Clearly he is in a better position vis-a-vis the platform than the average rider. He owns his car and is able to make his work for Cabify compatible with other rides he can find on his own:

If I did not have Cabify, I would have to look for clients on my own. With respect to the hours of work, if I were to make my own marketing campaign, probably in the medium run I could get better results. But Cabify gives me the chance to simply disconnect at certain hours of the day and not having any more duties. (David, Cabify driver)

A luxury sedan, fully equipped for high-end tourists' transfers (David's niche) is an expensive piece of capital. Cabify cannot simply multiply the amount of such vehicles. Instead, David benefits from the flexibility Cabify affords and from the way in which the platform's network puts more customers at his disposal. That said, the sector is not completely immune to the changes in supply engineered by the platforms, although to a smaller extent than meal deliveries:

The average quality of the service has gone down a bit although the statistics show that customer satisfaction with Cabify remains high. But Cabify has brought into the market more vehicles. (David, Cabify driver)

Likewise, Mari Carmen, a worker for the platform Familia Fácil which offers different domestic services (such as qualified childcare) benefits from the network's customer base. Qualified childcare, on a more or less permanent basis, is a service that requires an investment in trust between the customer and the provider. Unlike a meal delivery, it is not something that can be quickly replaced. The provider, then, has significant advantages in the implicit bargain with the platform.

The thing I like the most about working in this platform is that, since I trained to work with kids, it is not the same to be working in a day care center, as I have done in the past, with 25 or 28 children, what with wiping noses, changing diapers and so on, than now being in one house with one or two children, three at most, because families no longer have as many children as they used to. Then, for example, the child of my morning shift, I began caring for him when he was 4 months old and now he is 3 years old. There is no contest, one versus twenty five. In the website when the ad pops up it may say 850 euros but then I can, indeed, negotiate with the client. I can tell her, “Sorry 850 is not enough” and then if she raises it to 900, we’re fine. (Mari Carmen, child care provider with Familia Fácil)

A distinctive feature of the platform economy is its reliance on constant evaluations of service providers. This is, without a doubt, a new experience for which little precedents exist and something the workers are still grappling with, even those who are too young to have worked in another setting.

But here, again, there are differences across sectors. To go back to David’s case, his perception is that just by sticking to the standards of quality he routinely keeps, he can earn good reviews and stay out of trouble.

[The evaluation system] is not implacable because just with being courteous and keep the car in good shape, people will always give you at least a 4-star rating. You must maintain an average of 4.5 stars. My own rating is very high. If it goes down, they will nudge you a bit as a warning. (David, Cabify driver)

Uber drivers, on the other hand, feel more imperiled. There is a subtle distinction that explains this. David’s customers are basically foreign tourists that want airport transfers or other similar tourist-oriented rides, a very well-defined product that he already knows how to offer with excellent quality. Uber drivers, in contrast, have to deal with locals that may need different rides, in different traffic conditions that are beyond the driver’s control. For instance, if a customer asks for an unrealistic ride,

say, needing to be across town in 20 minutes during rush hour, this makes for some friction that will show up in the evaluations.

I find it hard to recover when somebody gives you a negative evaluation. If you have five stars and somebody gives you one, you need to make maybe twenty great services to recover. That is complicated. (Dago, Uber driver)

For their part, AirBnB workers have ways to address this issue because they can take pictures reflecting the condition of the apartment and any type of damages customers cause.

Instead, once again, Deliveroo riders are the ones who face the most adverse conditions. Deliveries are subject to delays over which the rider has little control, often because the restaurant itself takes longer than expected to fix the meal. Given the abundance of potential riders, any such glitch can translate into an adverse evaluation which, in turn, can be a cause for termination.

All these differences notwithstanding, workers in the different platforms feel apprehensive about the issue of evaluations, an apprehension compounded by a different, very salient fact in this type of economy: the fact that the firm has only a virtual existence leaving them with little or no access to processes of, for example, complaints, appeals and adjudication.

People that come in in the morning, for instance, can check-in at noon but then they come at, say, 6 pm and are supposed to leave at 10 am. If they come in late, it's your problem. (Sandra, AirBnB)

You stipulate a range for check-in and check-out but sometimes, for some reason they arrive late and you have to deal with that. If the new guest arrives, it's your problem; you cannot tell him to wait for two hours or you cannot simply kick out the other guest. You have to figure out what to do on your own. (Pablo, AirBnB)

Until a couple months ago we were like you guys (at Deliveroo and Glovo) and had no physical space to deal with the company. You had to send a mail and then they would, eventually, respond. Lately they've opened some kind of coffee shop, an office where you can go and speak to them. (Dago, Uber driver)

Of course, and this is crucial for our current purposes, the causes of this go beyond the mere fact that the firms operate in the digital world. The deeper issue is the contractual relation between the workers and the platform. The platform economy is predicated on the premise that workers are self-employed so that the platform itself is not supposed to offer the guarantees and procedures to which workers are usually entitled. But the service providers are not mere contractors because there are many ways in which the platform can control their working conditions. As we have already discussed, this is the key conceptual problem, the one that creates tension between the different economic actors.

This is one instance in which the realities on the ground matter a lot. For a long time there has been a significant interest among policy makers and academics about the possibility of new types of contracts that better reflect the conditions of the platform economy. As already discussed, among the developments that have been widely considered as promising are the TRADE contracts. The idea of such contracts, at least as intended on the books, is to acknowledge that some workers may not be, strictly speaking, employees of a firm but they may nevertheless be so beholden to it (if, for instance, more than 75% of their income comes from that single firm) that they are “economically dependent” on it. In theory, this could create legal room for contracts that offer some protection for workers' rights without going all the way into a regular employment relationship.

As it turns out, things look very different in practice. The introduction of TRADE contracts was, in fact, a source of bitter contention in Deliveroo. For starters, the rollout of the contracts was such that the riders, although given a notional choice to remain in the previous contract, were faced with a combination of incentives and potential harms (such as being placed lower in the priority list of deliveries) that there was little question about whether to do the shift to TRADE. Apart from the process that led to new contracts, the contracts themselves turned out not to imply a

significant improvement in working conditions. In fact, the most visible consequence was that now riders were put on a piecework system where they were paid by delivery, as opposed to being paid by hour of availability.

When I started working here, I worked 20 to 25 hours a week and we were getting paid 8.25 euros an hour, which was a good deal although much of that money went into paying the self-employment registration fees. Later, unilaterally, the firm offers us two different types of contract: one, the TRADE contract, and a second, nameless one, which was the same as before. What was the issue? That those who opted for the TRADE would be given priority in the rides but then they say that it is entirely your choice. But what is the rational decision for anyone? Of course to work by delivery, which is what the TRADE meant, because we actually need to work. They said that more than 90% of the workers happily accepted the TRADE. That's a lie. We had to sign up because otherwise we would lose hours of work or would otherwise be fired. People were fired.
(Felipe, Deliveroo rider)

Because of the structure of the business, bike deliveries represent an extreme case. But similar concerns about lack of control over working conditions can be found in other platforms. Tellingly, workers come to this conclusion over time. In fact, they go into the platform expecting more, not less, autonomy. And, indeed, their individual working conditions may offer more autonomy, but this comes at the cost of losing the type of interlocution that employees can in principle have with a regular firm to address collectively the different issues that come out.

This is why, when asked about social dialogue, workers express a positive attitude. Even workers who have no complaint whatsoever about the platform and who are thriving in this environment believe that some institutions of social dialogue between employers and employees could have a beneficial effect. David is again an example. Although he is clearly satisfied with Cabify, he says:

There is an association of VTC drivers. I have not joined it. They work for all of us but I have not yet become a member. I am in no

position to evaluate their work but there is no doubt that communication always creates bridges and good options. Without struggle, everything becomes a jungle, whereas if there is pressure, politicians try to curry favor with the citizenry and accept negotiations. I am convinced that something positive must have come up from these efforts. (David, Cabify driver)

But here, again, a sense of frustration becomes visible, similar to the one expressed by unions. Apart from the most mobilized Deliveroo workers, who have already been contacted by union confederations, workers are by and large unaware of any efforts by unions while at the same time acknowledging that they themselves could, but do not, take a more proactive approach.

The workers can identify as well as the unions the barriers that exist to the emergence of any kind of institutionalized social dialogue. Deliveroo riders, for instance, have tried at some point to organize and even stage strikes, but they run up against the fact that the workers are geographically isolated and, even when they meet, they are too dependent on the job. In Deliveroo's case, such is their sense of dependence on the firm, such is their concern for retaliations, that many of our interviewees stated that they were only willing to speak because they had already severed their relationships with the firm.

When prompted, workers regard favorably other alternatives such as, for instance, the organization of worker-run cooperatives. In theory, this could be a promising avenue through which digital platforms could in fact deliver on their promise of greater autonomy, control and flexibility for workers. Setting up a digital platform does not in principle require huge capital investments so that such a thing could be available to a set of workers that could find the scale that makes more sense for them given their geographic and financial constraints.

But, in practice, things are more complicated. First, it is hard for workers themselves to envision this possibility. Even if they did, they tend to operate in isolation. Quite often they are simply unaware of each other's existence. Whenever they interact, as is the case, with riders that do coincide in some places with high density of restaurants,

they are too absorbed by their immediate concerns to entertain seriously such possibilities.

The major problem with forming cooperatives is that you tell yourself: “Since I won’t be here for long, then I don’t make an effort to improve things, and the one coming after you will not be here for long either. (Diego, Deliveroo rider)

Second, setting up a cooperative requires some time commitments and some, albeit modest, start-up costs. Facing such obstacles, it is indeed remarkable that some of those ideas have, in fact, come up. Some riders have tried to set up their own network and there are delivery services that try to link different firms that operate under solidaristic conditions, thus offering the riders better working conditions, at least in terms of interlocation and control over their environment if not in terms of pay. But these attempts are so far very small and their success far from assured.

There is a common pattern here: sectors that generate a higher potential benefit for workers from their own collective action (be it by setting up co-ops or unionizing) are also those sectors whose workers are too vulnerable and disempowered to even try such avenues. So, just as the riders’ co-ops are still mostly a project, the riders’ union is almost defunct.

Apart from the workers’ specific circumstances, there is another issue that makes social dialogue difficult to get off ground: the platform economy is perceived by many as a temporary endeavor. At the risk of being repetitive, structural conditions play a role here. AirBnB workers can turn their work in the platform into a highly lucrative use of a very valuable asset. Furthermore, this does not impose excessive demands on their own time, so that they can even pursue some complementary activity; they can pretty much remain within AirBnB indefinitely and stop anytime they want. A Cabify driver that is already employed in some other firm, so that Cabify is simply a technological help to get more clients, can also continue in his job and see this as his established position. A child care provider, for example, can acquire qualifications and a reputation enough to carry him or herself over years. But other occupations are more transitory. Some Uber drivers, especially Deliveroo riders, see their jobs as a stopgap measure while they get ready for something else.

There is, however, another structural issue that reinforces the pattern of short-term employment in some of these platforms. The Spanish legislation requires self-employed workers to register as such. But, crucially, the registration fee increases gradually over time. This means that for some jobs, if the revenue does not keep abreast of the registration fees, at some point the net income becomes insufficient. In the limit, the worker may not break even. Thus, for low-end jobs, the platform economy, coupled with the system of registration fees, acts as something of a self-cleaning oven that periodically expels workers while taking others in, keeping constantly a workforce with little to no seniority that will, therefore, have no reason to organize into the type of social dialogue institutions of the traditional labor markets.

5. Comparative analysis of discourse

Putting together the pieces gathered so far we can see that the actors' discourses differ in several ways. These differences are, as is to be expected, shaped by the location of the actors within the general structure. In this regard, we can propose two dimensions in which to fit the actors, dimensions that are consequential in accounting for their discourse: their specific economic sector and their institutional setting.

We have seen that the economic sector matters. In sectors with very low capital requirements, where workers are easily interchangeable, those workers feel gravely disempowered.

Economic theory offers the categories to make sense of this pattern. A firm, as pointed out by industrial organization models, is a network of contracts, many of them implicit, aimed at minimizing transaction costs. Digital platforms can in themselves offer a technological way to reduce some of those transaction costs so that, according to the insight first formulated by Ronald Coase, firms can now shift to the market resource-allocation processes they used to house within (Coase, 1937; Williamson, 1985; Holmström and Roberts, 1998).

This process of eroding the underlying network of contracts has distributional consequences. To the extent that contracts bind highly heterogeneous agents, they tend to equalize (though not suppress) differences in bargaining power. Rights to collective bargaining, agreements on working conditions and things of the like offer outcomes that the weakest elements of the system would not have been able to secure on their own.

Thus, it is not surprising that, for instance, Deliveroo riders are facing a situation worse than what their counterparts used to face when restaurants were running their own delivery service. In a similar vein, as a labor inspector interviewed for this report pointed out, the impact of digital platforms may interact with issues of gender inasmuch as it may exacerbate the same power asymmetries that already place women

at a disadvantage in the labor market. It may seem that this is not happening right now to the extent that riders, by far the weakest segment among those surveyed, are predominantly male (and, by some accounts, foreigners, not all of them legal). But the digital platforms are still growing. In all likelihood, they will expand into highly feminized sectors with serious distributive consequences.

On the other hand, workers that offer services for which no near substitutes exist (e.g. reliable, trustworthy childcare) or that own key assets needed for that service (e.g. high-end limos or centrally located apartments) retain much of their bargaining power while at the same time benefitting from the flexibility of working as self-employed agents with only a tenuous contractual obligation.

The institutional setting within which different actors operate also shapes their discourse. Because of the paltry situation of social dialogue in the platform economy, workers here articulate their views and perceptions through the lens of their own individual experiences. They do not belong to any organized collective. Even the Deliveroo riders that have actively tried to unionize and agitate, which actually are only a small fraction of all the riders, acknowledge that they have been unable to build any lasting organization. Thus, the workers' discourse is expressed from the standpoint of how digital platforms have affected their lives compared to what they themselves had experienced before. To be sure, even among those who feel positively about the experience, there is some degree of disillusionment when they compare it to what they expected going in.

In contrast, as institutional sociology would teach us to expect, organized actors articulate their discourse around the imperatives of the organization they serve. For all their differences, unions, public sector institutions and legal scholars have one thing in common: their discourse endeavors to find ways in which the technological disruption brought about by the digital platforms can be tamed so as to restore the continuities with the preceding ways of managing labor affairs.

Thus, unions want to extend the scope of unionization into the digital platforms by organizing and recruiting; the government is trying to enforce the existing regulations, many of which were put in place before the advent of the platforms, precisely with the aim of preserving the structure of firms and contracts of the “old” economy; the legal

community is groping for the contractual forms that can best fit the platform economy within the array of legal dispositions that already existed. This is built into the very nature of institutions: they exist to bring continuity and order into social life.

What each of these actors understands by continuity or, more accurately, which aspects of that continuity they emphasize depend also on their standpoint. As in any other modern state, labor relations in Spain are the result of the interplay between several institutions, especially the partners of social dialogue, each of them with their own internal logic. The changes brought about by digital technologies mean that, among other things, the center of gravity of the new system of labor relations is at play. Thus, every institution will try to assert its influence in the new landscape according to the repertoires it is accustomed to.

The discourse of government officials emphasizes the role of enforcement while the discourse of unions assigns pride of place to workers' organizations. In turn, the legal community focuses on the scope for legal changes. This is hardly remarkable. But what is interesting is that, because of the novelty of the phenomenon, every actor is stepping into something of a vacuum such that nobody knows how the end result will look like. This creates a risk: the pieces of this mechanism must fit together for each of them to work. The government cannot set the table of social dialogue if the unions are not present. Labor inspectors cannot enforce laws and protections that are systematically rolled back by the government. Unions cannot expand into new sectors if they are fighting for survival in the traditional ones. At the same time, workers cannot create spontaneously social dialogue organizations.

As the system of labor relations enters into uncharted territory, whatever emerges will depend on the relative strength of the different actors and, ultimately, on the broader political complexion of the country. Spain's recent past indicates that the previous consensus is eroding. The 2012 labor reform was the most visible manifestation of this process. But it is premature to call that reform the new consensus. The Spanish political system is in flux as a result of many issues, some of which are well beyond the scope of the present work (e.g. the issue of regional autonomy) but that, nevertheless, have an effect over any possible negotiation around labor and economic policy.

6. Conclusions and policy recommendations

There is one point on which everyone agrees: digital platforms are here to stay and everybody is at this point playing catch up, trying to figure out what to do about them. This leads to another consensus, although one that seems at once wide and shallow: some kind of institutional framework should be built to bring some order to labor relations in what so far remains an unruly sector. But there are many options to choose from, depending on how to assess the changes taking place.

One option is to try to replicate within the platform economy the set of social dialogue institutions that already exist in other sectors. According to this position, it should be possible to unionize the workforce of these firms and, once this is done, get the process started along the well-known lines of collective bargaining over working conditions. A second option would be to generate new settings, both legal and economic. In this view, the way forward would be, say, a combination of new contractual agreements (some version of the TRADE), a reform of the statute for self-employed workers, possibly with lower registration fees that remain constant over time, and, more hypothetically, the organization of workers along cooperatives or similar arrangements whereby they could have more control over their working conditions. A third option is to embrace fully the commodification brought about by platforms and simply let the chips fall where they may, with firms externalizing many of their services to self-employed contractors that compete among themselves and are the only guarantors of their own working conditions.

Each of these options has profound ramifications for the future of labor relations and the welfare state and each represents a view of who is, ultimately, responsible for steering society's response to technical change. The first option places such responsibility on the polity as represented by the institutions it has built over the past decades to adjudicate labor conflict. The second, in contrast, considers that workers should be empowered through different mechanisms to respond to these changes the way they see fit. There would still be a need for some public action to level the

playing field between the platform owners and their workers, but such action would take place through channels such that, ultimately, they could only function if the workers themselves become proactive. As the interviews with workers attest, even though they can readily see the benefits they could obtain from setting up worker-run platforms, they have little access to the necessary seed capital or administrative expertise. It could be possible to envision a scenario where governments, both national and local, step in to fill this void. As a matter of fact, in Spain both Madrid and Barcelona have lately launched policies aimed at encouraging the formation of cooperatives. They have not made digital platforms their main focus but nothing stands in the way of doing so. In contrast, in the third option, the firms themselves are the ones who must take the process wherever it may lead. It is them who are accountable to the consumers, who own the technology and who should be in charge of deciding how best to organize the production process in ways that maximize its potential gains.

The issues at stake go beyond labor regulation and touch upon the core of the social pact. Consider, for instance, the issue of self-employment. One possibility would be to keep workers in the platform economy within the institutional setting of unions so as to facilitate the social dialogue. This is, in fact, the preferred option of unions themselves. The difficulties are quite visible: unions are already embattled and these sectors are particularly difficult to organize. Another possibility would be to shift to a legal and institutional framework where self-employment becomes the cornerstone of the platform economy. But then again, this amplifies the concerns around self-employment registration fees. In the interviews with workers, these fees always rise to the top as one of the most important issues. Understandably, they would rather see those fees be lowered or even eliminated. The way they are structured, they can even threaten the viability of sustained work in the platform economy, as the quick rotation of Deliveroo riders shows. Registration fees, however, are not a mere administrative decision that can be taken lightly. Registration fees give self-employed workers access to several programs of income support that kick in during spells of unemployment or retirement. Getting rid of them would imply changing the financial structure of those programs. Either they would have to be curtailed, putting self-employed workers at higher risk, or they would have to be financed out of other sources, say, general tax revenue. In this case, income support would be decoupled from the individual's actual work, bringing it ever closer to some kind of basic

income program. If that change ever happens, it would mean a significant transformation in the architecture of the welfare state. It is easy to foresee a heated debate around such an issue.

In a way, this situation indicates that before social dialogue becomes a possibility, there needs to be some kind of “meta dialogue”, a dialogue about the conditions for the dialogue, the place of regulation and so on. The problem is that such dialogue already requires the existence of collective actors while such existence is right now thrown into question. This suggests one way in which the European Union could play a constructive role. For the most part, our interviewees were quite skeptical that the EU could contribute to the process in any way. But the EU is not just a source of regulation, it can also provide the impetus for member states to start playing a more active role.

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A. Interviews conducted with social partners

1. María Mercedes Martínez-Aso: Labor inspector, member of the UPIT (Progressive Union of Labor Inspectors).
2. Rubén Ranz: Labor organizer in charge of outreach among young workers at UGT
3. Marieta García: Member of UGT's technical cabinet
4. Martín Hermoso: Member of UGT's technical cabinet
5. Emilio Cardero: UGT, Division of Transportation.
6. Bruno Estrada: Advisor, CCOO
7. Miguel García Díaz: Ministry of Labor, Director of Organization and Planning of Social Security
8. Eva Mur: Barcelona's City Hall, Supervisor of Housing and Hospitality Services.
9. Francisco José López Carmona: Madrid's City Hall, Supervisor of Transportation.
10. Ana Belén Muñoz: University Carlos III de Madrid.
11. Gemma Quintero: University Carlos III de Madrid.

B. Interviews conducted with workers

1. José Luis: Former Deliveroo rider. 25 years old.
2. Felipe: Former Deliveroo rider. 28 years old.
3. Giovanni: Former Deliveroo rider. 30 years old.
4. David: Cabify driver. 36 years old.
5. Diego: Deliveroo rider. 21 years old.
6. Laura: Deliveroo rider. 20 years old.
7. Sandra: AirBnB. 40 years old.
8. Dago: Uber driver. 27 years old.
9. Pablo: AirBnB. 26 years old.
10. Mari Carmen: Familia Fácil. 39 years old.
11. Gonzalo: Glovo rider. 25 years old.