

# FAIR PLATFORM WORK



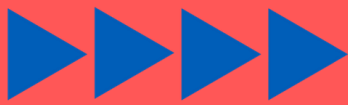
A MANIFESTO BY  
THE EUROPEAN  
TRANSPORT  
**WORKERS'**  
FEDERATION







European Transport Workers' Federation (ETF) represents transport workers. This is why our manifesto is focused on workers providing on-location transport services, e.g. on-demand transport and deliveries. However, we believe that all platform workers should have access to fair pay, decent working conditions and social protection.



# ETF MANIFESTO



Platform work, also called gig work, is a relatively new phenomenon regarding the technological solutions it uses, but it is in fact, part of a general increase in non-standard forms of employment<sup>1</sup>. All of these forms share similar issues: casualisation of work, externalisation of social costs and a general rise of precariousness.

The standard operating model of platform companies is based on the assumption that their workers are mere 'independent contractors'. This allows the platforms to externalise social costs: they avoid paying for social contributions, other employee-related fees and certain taxes. At the same time, it means that such workers do not benefit from any rights such as sick leave or unemployment benefits while bearing the financial risk associated with the job (e.g. car maintenance costs).

## IMPACT ON OUR SOCIETY

Platform work is not a distinct sector of economy. The workers usually perform tasks that have existed for decades, such as on-demand transport and deliveries, where the only real difference between platform and 'traditional' workers is how they are hired and controlled through positive and negative incentives based on data.

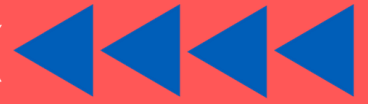
On the one hand it means that platform workers should not be treated differently from the rest of the workforce in their sector (e.g. logistics).

On the other hand, it also implies that the platform work model can spread to many more sectors – with other transport sub-sectors being prime candidates. The platform model already impacts 'traditional' companies through unfair competition, as platform companies avoid paying due taxes and social contributions.

Low access barriers make working for platform companies, such as on-demand transport and food delivery, an attractive option for certain groups, e.g., young people and immigrants (also undocumented). However, these companies abuse their vulnerability and lack of other opportunities.

<sup>1</sup> i.a. temporary employment; part-time and on-call work; temporary agency work and other multiparty employment relationships; as well as disguised employment and dependent self-employment





## NO TO VICTORIAN AGE MODEL

Practices used by platform companies undermine the European social model. They deny workers their fundamental social rights, social protection and access to social dialogue. Platform companies' business model is closer to the Victorian era rather than to a technological disruptor.

Claims made by platforms that they need to circumvent the laws to stay competitive is absurd – how are their practices different, for example, from breaching environmental regulations to increase profits?

Certain regulations are in place because they improve society's wellbeing as a whole – while platform companies' unwillingness to play by the rules benefits only themselves.

Multiple reports have exposed the precariousness of the platform work.

The following issues have been identified in relation to platform companies; that's why the ETF has produced a vision for fair platform work.

## PLATFORM WORK = SOCIAL DUMPING

- Bogus self-employment
- Lack of social protection including sick leave
- Arbitrary deactivations and lack of grievance mechanisms
- Non-transparent organisation of work based on algorithms and monitoring
- Algorithmic biases leading to discrimination
- Competitive pressure among workers
- Low earnings
- Denying workers their rights to organise
- Occupational Health and Safety breaches
- Avoidance of liability by the platforms
- Fiscal breaches
- Lack of access to sanitary facilities



# ETF VISION FOR

## FAIR PLATFORM WORK



**Platform workers are entitled to correct employment classification**



**There is no third worker status**



**Platform companies assume their responsibilities towards society and their workers**



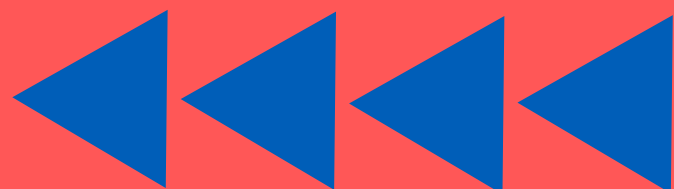
**Platform workers have the right to fair pay and decent working conditions**

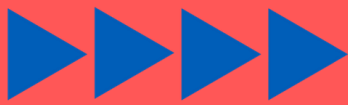


**Platform workers benefit from robust social dialogue**



**Rules are established for a fair digital workplace**





# ETF MANIFESTO

## MAKING THE ETF VISION REALITY

### STEP 1:

#### CORRECT CLASSIFICATION OF PLATFORM WORKERS

Multiple court cases in Europe and beyond have proven that the model used by platform companies has nothing to do with 'independence' and 'flexibility' for the workers:

- ➔ Platform companies exercise power over workers regarding work allocation and pay.
- ➔ Workers are under constant evaluation.
- ➔ The terms and conditions are set and changed unilaterally by the platforms.
- ➔ Platforms can deactivate workers unilaterally.

Platform companies are forcing their workers into bogus self-employment, which is illegal in many European countries.

ETF is, therefore calling for a **presumption of employment status** for platform workers in the transport sector. Correct classification will give the workers social protection, a fair hourly wage and other labour rights while still allowing for flexibility concerning working hours. The workers should be treated as their colleagues in similar jobs that work for a 'traditional' employer.

The reversal of burden of proof must accompany the presumption of

employment status, i.e., it will be up to the platform company to prove that the worker is not an employee. Such an approach strengthens the position of the weaker party, i.e. the worker.



## NOTABLE COURT CASES

Spanish Supreme Court ruled in September 2020 that riders of **Glovo platform are employees, and not independent workers**. Additionally, in January 2021 the court in Barcelona ruled that **Deliveroo** is to pay **1.3 million euros in social contributions** for its **748 riders that were found to be falsely self-employed**.

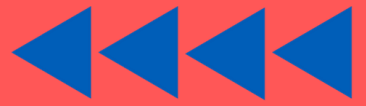
In the Netherlands, the ETF affiliate FNV brought a claim in 2018 against **Deliveroo** after it their riders into self-employment in 2018. In February 2021 Court of Appeal in Amsterdam confirmed the decision of the lower court that the **riders must be recognised as employees**.

In June 2020 the tribunal in Geneva, Switzerland, ruled in a case brought in by the public administration that **Uber Eats is an employer and has the obligation to hire its riders**.

In February 2021 the UK Supreme Court ruled that **Uber drivers are workers, not self-employed contractors**. Following the judgement Uber will provide its drivers with minimum earnings guarantee, a pension plan and holiday pay. The platform company refuses however to apply the court order to count waiting time as working time.







## ...AND ONE LAW

As a follow-up of the Supreme Court decision, in March 2021 the **Spanish social partners** (the trade unions UGT and CCOO, the employers' organisation and the government) **signed an agreement that reclassifies delivery workers as employees**. It will also give workers access to algorithms used by platform companies.

## STEP 2:

### NO TO THIRD WORKER STATUS

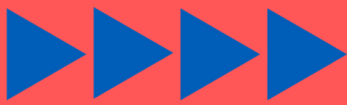
In discussions on regulating platform work, the European Union and national governments must avoid creating third employment status categories in-between 'worker' and 'self-employed'.

*“Introducing an in-between status or creating a de facto third category (by granting platform workers some, but not all rights) has no justification from workers' perspectives – it will maintain their precarious situation, while performing the same tasks as 'traditionally' employed workers in equivalent jobs.”*

It will also impact existing employment contracts. Companies from other sectors will be tempted, or pressured, due to the competition from platform companies, to turn their employees into third status workers as well.

As a result of this spill-over, a vast number of workers will risk losing their statutory rights, which will further increase the inequalities in European society and will have a direct impact on national budgets.





## STEP 3:

### PLATFORM COMPANIES MUST TAKE RESPONSIBILITY

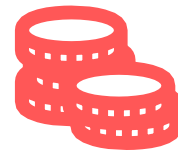
Some platform companies advocate extending social protection to all workers. However, what they mean is that they want to have their cake and eat it too. Such an approach, where companies do not cover their share of social contributions, would allow them to continue to avoid taking responsibility and have society cover the risks.



*Platform companies cannot be treated as a sacred cow or – to put it in a more mundane way – providers of information society services.*



Like any other employer, they must **respect labour regulations and contribute to national social security systems** and medical insurance schemes. They also have to comply with applicable fiscal laws, e.g., concerning VAT. Otherwise, they benefit from an unfair competitive advantage in comparison with employers that are in line with existing regulations, which, in the long run, is undermining the social democracy model.



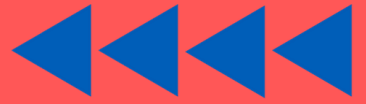
### WINNER TAKES ALL

The ETF affiliate FNV calculated the financial advantage that Deliveroo and Uber Eats enjoy in the Netherlands 'thanks' to avoiding paying employer's contributions: it amounts to **EUR 54 million per year**.

In turn, the costs to society, due to less income tax and premiums and no pension contributions, total **EUR 32 million per year**.

Source: [Concerns about meal deliverers. Income too low, rushed, and no security](#), FNV, 2020





## STEP 4:

### FAIR PAY AND DECENT WORKING CONDITIONS

Platform workers must be paid in line with the **minimum wage** regulations/bargaining agreements, including holiday pay and extra pay for unsocial hours. The calculation of wages for on-location workers must be based on an hourly rate, not by task. Workers spent a substantial share of their working time waiting for orders, and they cannot use this time for any other activity.

Similarly, platform companies must be responsible for the **occupational health and safety** of their workers. On-location platform workers in the transport sector must be given proper safety instructions when they take the job and have access to adequate protective gear, free of charge. The platform companies must cover the maintenance costs of their vehicles (bikes, mopeds, cars).

The workers must have access to **sanitary facilities**. Unfortunately, we still come across cases where they are not allowed to use restaurant toilets. At the same time, the platform companies do not provide any alternative option, which clearly violates workers' right to dignity. The companies must also ensure that appropriate sanitary measures are in place – it includes e.g., cleaning delivery bags.

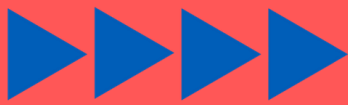
A safe workplace also means that the **algorithms** used by platform companies **do not force workers to engage in risky behaviour** to keep their ranking and receive new orders.



### MULTIMILLION FINE FOR OCCUPATIONAL HEALTH & SAFETY BREACHES

In February 2021 the public prosecutor's office in Milan announced a record fine imposed on platform companies operating in Italy: **EUR 733 million**. The sanctions for violating health and safety regulations are the result of investigation into several road accidents involving riders in Milan in 2019.





# ETF MANIFESTO

## STEP 5:



### ESTABLISHED AND ROBUST SOCIAL DIALOGUE



“ *Social dialogue should be the basis of industrial relations in platform companies* ”

Internal fora, surveys, etc. that some platform companies have launched, lack accountability and do not give any right to negotiate working conditions.

The right to organise and negotiate collective agreements is one of the fundamental workers' rights (e.g. via ILO Convention No. 98, ratified by all EU Member States). Platform companies that refuse to enter into a formal dialogue with their workers, therefore breach this right.

Regarding the sectoral coverage, platform workers cannot be treated as a separate, homogeneous group. Collective bargaining for platform workers should be linked to their area of activity. For instance, in case there is a national sectoral agreement for logistics or delivery services, workers employed by delivery platforms would fall into its scope.

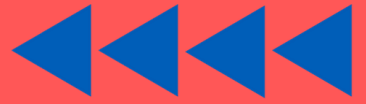
### WHERE THERE'S A WILL....

**...there's a way.** Despite the claims made by some companies, **it is feasible to treat platform workers as employees and negotiate a collective bargaining agreement.**

- ➔ Delivery platform Foodora signed agreements with the ETF affiliates in Norway (Fagforbundet) and Sweden (Svenska transportarbetareförbundet).
- ➔ In Denmark, the ETF affiliate 3F and the employers' organisation concluded a sectoral agreement on delivery workers in January 2021. So far, JustEats platform has signed the agreement.







## STEP 6:

### FAIR DIGITAL WORKPLACE

Due to the use of an algorithmic 'black box', platform workers are often unaware of how their shifts and tasks are allocated, how their earnings are calculated, or why their accounts are deactivated. There is no flexibility for workers once their shift or task has started. In addition, algorithmic management can impact the health and safety of workers and finally, workers have no access to their data.

Although currently used mostly by platform companies, the algorithmic management has the potential of spreading to other sectors. It is therefore important to create minimum rules for its use across the economy.

This is why we demand that:

- ➔ The algorithms must be under human control, with the liability for its functioning falling at the feet of platform companies (and developers, if separate).
- ➔ Changes to algorithms should be communicated, consulted and negotiated with the workers and workers' representatives.
- ➔ The workers should know what data is gathered, why it is collected, where it is stored and how it is used to control their labour. The algorithms on which decisions concerning task allocation, earnings and deactivations are based, should be bias-free, transparent and understandably communicated to workers.

- ➔ Individual workers should have access to their data at any time and be able to transfer the data to other platforms, which should accept it.
- ➔ The workers should have access to a grievance mechanism with human control (no automated decision-making concerning grievances) and a human point of contact.



### THE ALGORITHM DOESN'T CARE

... In January 2021, an Italian court in Bologna **ruled against Deliveroo's rider-ranking algorithm, citing violation of labour laws**. The court established that if a rider failed to cancel a pre-scheduled shift at least 24 hours in advance, the algorithm would begin to downgrade the rider, which would directly impact the ability to gain future shifts. The court found that the algorithm did not distinguish between legally protected reasons for withholding labour (such as sickness, emergency, or exercising their protected right to strike) and unprotected reasons for failing to be available.



## ©European Transport Workers' Federation March 2021

The European Transport Workers' Federation (ETF) embraces transport trade unions from the European Union, the European Economic Area, and Central and Eastern Europe. The ETF represents more than 5 million transport workers from more than 200 transport unions and 41 European countries. Our vision is fair transport.



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