



What is happening with platform workers' rights? Lessons from Belgium

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The partnership between delivery platform Deliveroo and workers' cooperative SMart has been terminated, sparking new debate over workers' rights in the platform economy.

Platform work, one of the new forms of employment to have recently emerged in the EU, has already become the subject of heated debate. Beyond its effects on traditional occupations and the labour market more generally, many have raised concerns about the working and employment conditions of platform work. On the one hand, the platform economy promises workers many opportunities. For example, on platforms such as Upwork, Foodora and Uber, the barriers to enter the labour market and start earning money are relatively easy to overcome for most people – including groups that face marginalisation in the formal labour market. Beyond offering cheaper goods and services, platforms posit that their model adds value by providing opportunities for flexible work.

At the same time, platform work has suffered a barrage of criticism from many fronts – established industries, trade unions, governments and academia. Unions, in particular, have criticised platform work as an especially precarious form of employment. Without a doubt, several questions have yet to be satisfactorily answered. Are workers adequately compensated for their time, and do they have sufficient work to make a decent living from their platform activities? Are workers insured for on-the-job injury, sickness and unemployment, and do their activities contribute to their pensions? And broadly speaking, are platforms benefiting from flexibility at the expense of worker security? The uncertainties are numerous, yet governments are hesitant to impose regulations and potentially stymie growth and innovation in a new branch of the economy. Europe has already created its first billion-euro unicorn of the platform economy, BlaBlaCar, and member states are eager to cash in on the next one.

With the proliferation of the platform economy throughout the EU over the last decade, platforms inevitably found their way into Belgium. Large foreign-owned platforms, such as Uber

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and Airbnb, quickly gained ground, and diverse new platform models appeared, evolved and grew. Although a 2016 Eurobarometer survey¹ on citizens' activities in the platform economy suggests that Belgium is not among the frontrunners in the EU, its government has taken a proactive approach. The country was one of the first in Europe to introduce dedicated legislation on platforms, hoping to encourage platform development as well as citizens' participation as users, workers and entrepreneurs.

With these aims in mind, Belgium has sought to clarify platform regulation, particularly in the domain of personal taxation.² In 2016, the government introduced a regime for platform workers in which Belgians earning up to €5,000 annually (indexed) through platform work could report "miscellaneous income" and pay a 10% income tax instead of 33%.³ This system, often called the *Loi-De Croo* for Alexander De Croo (the Federal Minister for Development Cooperation, Digital Agenda, Telecom and Postal Services), applies only to activities carried out on officially approved platforms and it does not include access to social protection. The government is reviewing options to ensure access to social protection of platform workers, but the results of this review are not yet available.

In this context, the collaboration between Deliveroo and SMart in Belgium represents a special case, one that has been cited as a promising approach to secure platform workers' rights.⁴ Deliveroo, a British-owned food-delivery platform that was founded in 2013 by two Americans, is now active in many EU member states. The platform entered Belgium in 2015, quickly pushing the competing food delivery platform Take-Eat-Easy out of the market. At present, Deliveroo has around 4,000 Belgian couriers.⁵ As Deliveroo couriers rapidly grew in numbers, cycling through Belgian cities wearing their distinctive cubic backpacks, an organisation called SMart took note.

Traditionally, SMart – a Belgian collective – provided services to artists. In exchange for a share of earnings, those who are self-employed can choose to become employees of SMart, gaining access to benefits such as shared workspaces, training and insurance. SMart expanded its services to Deliveroo and Take-Eat-Easy, and entered into negotiations with these two

¹ European Commission (2016), [Flash Eurobarometer 438: The use of collaborative platforms](#), Directorate-General for Communication, Brussels, July.

² K. Lenaerts, M. Beblavý and Z. Kilhoffer (2017) "[Government Responses to the Platform Economy: Where do we stand?](#)", CEPS Policy Insights, No. 2017-30, CEPS, Brussels.

³ The limit will be €6,000 annually or €500 monthly as of January 2018. See "[Le gouvernement fédéral bichonne l'économie collaborative](#)" [Federal Government Boosts Collaborative Economy], *Le Soir*, 24 October 2017.

⁴ See e.g. J. Drahokoupil and B. Fabo (2017), "[Outsourcing, offshoring and the deconstruction of employment: New and old challenges in the digital economy](#)", SSRN and forthcoming in Amparo Serrano and Maria Jepsen (eds) (2018), *The Deconstruction of Employment As a Political Question*, Basingstoke: Palgrave; and De Groen et al. (2017), "[Impact of digitalisation and the on-demand economy on labour markets and the consequences for employment and industrial relations](#)", study commissioned by the European Parliament.

⁵ Authors' best estimate based on 3,828 couriers being employed by SMart ([reported by SMart](#)) – a figure representing approximately 90% of total Deliveroo couriers in Belgium. The 90% figure comes from De Groen et al. (2017), *ibid.*

platforms. By May 2016, individuals who wanted to work as Deliveroo couriers had two options: opt for self-employment, or sign an employment contract with SMart. As SMart employees working via the Deliveroo app, couriers paid SMart 6.5% of their income and received safety training, accident insurance, liability insurance, reimbursement for biking gear and cellular usage and a minimum shift duration, among other benefits. Couriers employed by SMart were paid €9.31 hourly (student rate) or €11 (independent rate), versus self-employed Deliveroo couriers, who were paid €11 hourly, plus €2 per delivery, and a €25 bonus for every 25 deliveries, and €1.5 for three deliveries within an hour. As of February 2017, around 90% of Deliveroo's couriers were employed through SMart.⁶

Yet, in mid-October 2017, Deliveroo announced that it intended to change its remuneration system and the algorithms it uses to allocate work. Deliveroo's also announced that it had decided to terminate its partnership with SMart. What caused the change of heart, and what does it mean for workers and platforms more generally?

The 3,828 Deliveroo couriers registered with SMart (with an average of 1,000 couriers working for Deliveroo over a 15-day period) will henceforth be regarded as self-employed and lose out on the benefits that SMart provided them. This transition began October 25th and will conclude in January 2018. Couriers will be paid per-delivery rather than hourly – with students receiving €5 per delivery and independents, €7.25. Deliveroo claims that at the average rate of 2.2 deliveries per hour, a student will earn €11 per hour, and an independent, €16. Deliveroo further maintains two positions: 1) the change benefits riders by offering them more flexibility, and 2) couriers will maintain their liability insurance, and meanwhile the company is exploring options to offer couriers accident insurance.⁷

SMart has been quite vocal in expressing the view that Deliveroo's decision to end the collaboration had nothing to do with concern for workers. Its Managing Director, Sandrino Graceffa, claims that Deliveroo abruptly called off the partnership when social dialogue with the unions BTB (ABVV), HORVAL (ABVV) and CNE (ACV) seemed close to reaching a collective agreement for platform workers at the company level. Yet, SMart does not place the blame solely on Deliveroo. Graceffa additionally blames the Belgian government for succumbing to lobbying from companies that offer scant social protection.⁸

While it remains unclear what triggered the end of the SMart-Deliveroo partnership, concern about the development has quickly spread among policymakers and the public. Already on October 26th, the Belgian Federal Parliament debated the issue. Moreover, the Minister of Economy and Employment Kris Peeters has now instructed the National Social Security Office

⁶ Derived from interview with SMart representative; see De Groen et al. (2017), "[Impact of digitalisation and the on-demand economy on labour markets and the consequences for employment and industrial relations](#)".

⁷ "[Deliveroo past verloningssysteem aan maar ontkent dat fietskoeriers verzekering verliezen](#)" [Deliveroo applies compensation system but denies that cyclists lose insurance], *De Standaard*, 25 October 2017.

⁸ See "[De overheid dereguleert, Deliveroo weigert de koeriers met arbeidscontracten!](#)" [The government deregulates, Deliveroo denies couriers employment contracts], *SMart*, 25 October 2017, and "[Bijlage Deliveroo](#)" [Appendix Deliveroo].

(RSZ) and Supervision of Social Laws (Toezicht op de Sociale Wetten) to investigate Deliveroo's new working regime and decision to terminate the partnership. This decision followed a statement by Member of Parliament Meryem Kitir, who argued that Deliveroo had unilaterally changed the employment relationship with its staff, which is illegal under Belgian law.⁹

Like many other member states, Belgium is struggling to determine precisely how the platform economy fits into its labour market and system of industrial relations.¹⁰ With the now defunct SMart-Deliveroo partnership as a backdrop, the Loi-De Croo and the broader legal context for platforms in Belgium are entering a period of transition.

SMart's partnership with Deliveroo was no panacea for protecting the platform delivery workers, and Managing Director Graceffa concedes that the measures provided did not go far enough. SMart has itself been the subject of criticism from social partners and academia.¹¹ Nevertheless, the partnership had the benefit of increasing social protection to workers who previously had none, and it represented an interesting approach to reconciling social protection with platform work. For that reason, the SMart-Deliveroo partnership has frequently been the subject of case studies of novel strategies to provide social protection to platform workers.¹² Now, the SMart-Deliveroo collaboration may be the subject of attention for the opposite reason. Deliveroo's decision to revert to a self-employment model has attracted significant media coverage and government debate concerning platform workers' rights in Belgium, which may not bode well for the platform.

If there is a lesson to draw from the ongoing fallout of the rupture between SMart and Deliveroo and changes to the Loi-De Croo, it is that social partners and governments are increasingly attentive to developments in the platform economy, which in turn obliges platforms to pay increasing attention to labour market norms and the expectations of stakeholders. Whatever the results of the investigation into Deliveroo's decision and the renegotiation of the Loi-De Croo, other member states and platforms operating in Europe are sure to take careful note.

⁹ "[Inspectie onderzoekt nieuwe arbeidsregeling Deliveroo](#)" [Inspector investigates a new labour agreement Deliveroo], *De Standaard*, 26 October 2017.

¹⁰ For a more extensive discussion of the phenomenon of the platform economy and the issues at stake, see Z. Kilhoffer, K. Lenaerts, and M. Beblavý (2017) "[The Platform Economy and Industrial Relations: Applying the old framework to the new reality](#)", CEPS Research Report, No. 2017-12, CEPS, Brussels.

¹¹ See e.g. criticism of SMart's organisational structure in D. Demoustier (2009), "[SmART: un intermédiaire au service de la consolidation ou de la normalisation des pratiques culturelles?](#)" [SMart: an intermediary in the service of consolidation or standardization of cultural practices?]", *L'Observatoire*, as well as a broader assessment of collectives in G. Valenduc (2017), "[Les travailleurs indépendants économiquement dépendants](#)" [The economically dependent independent workers]", *Chaire Travail-Université*.

¹² See De Groen et al. (2017) and Drahokoupil & Fabo (2017) op. cit.