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The Legal Nature of Labour Relations and International Regulations in the Digital Economy Era

ABSTRACT

This article explores the transformative impact of the digital economy on the legal nature of labour relations, specifically focusing on the challenges of regulating online work. As digital labour platforms facilitate the internationalisation of business, they challenge traditional concepts of state jurisdiction and obscure the legal status of workers, often blurring the lines between employees and independent contractors. The study analyses the distinct approach of European Union (EU) private international law, which prioritises an autonomous interpretation of the "worker" concept based on factual subordination and control rather than formal contractual labels. This is contrasted with the current legal landscape in Georgia, where judicial practice regarding digital platform workers is absent, and legislation recognises the "information society service" but the it is designated to protect consumer rather than labour rights. Furthermore, the article examines modern forms of labour organisation, including the legal distinctions between remote work, hybrid work, and platform work, while highlighting the lack of regulation for remote work in the Labour Code of Georgia compared to other European jurisdictions. Ultimately, the author argues for the necessity of comprehensive legal reform and international cooperation to align Georgian legislation with emerging forms of employment and ensure the fair protection of labour rights across borders.

Keywords: Labour relations, digital economy, platform work, gig economy, remote work, employment status.

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I. Introduction

The transnational nature of labour relations is multifaceted[1] Digital technologies have fuelled the growth of the digital economy that is rapidly evolving[2] giving rise to new business models in parallel with traditional ones[3] and facilitating internationalisation of business.[4] Work conducted via the internet now links people, businesses, and processes across borders through electronic devices.[5]

In this environment, digital labour platforms play a particularly important role, enabling employers to locate and hire professionals from a wide range of fields.[6] Yet the expansion of online work challenges the traditional concept of state jurisdiction, as digital spaces transcend national boundaries. This makes international cooperation among global actors crucial[7] for defining the term "employee" and promoting the fair and equal protection of labour rights. The need is particularly pressing given that many platforms deny the existence of employment relationships with the workers they rely on, and often wield disproportionate power over them.[8] In Georgia there is no judicial practice regarding the legal status of workers on digital labour platforms, and their legal status remains unclear.[9]

Despite the existence of transnational labour relations, there is still no unified or standardized legal framework governing such relations.[10] Because digital platforms enable access to job opportunities from anywhere in the world,[11] an employee may work under the jurisdiction of one state, while the employer (who may be a respondent in court) falls under the jurisdiction of another. It is important to note that EU private international law, particularly in the context of employment relations, adopts a distinctapproach that serves a supranational interest.[12]

In this context, transnational labour relations require a coordinated legal response that reflects the realities of modern digital work. The rapid growth of platform-based

1 Grušić, 2015, 46.

2 Tapscott, 2014, 54.

3 OECD, 2014, 73.

4 Sobczak, 2012, 139.

5 აბესაძე, 2023, 119 [abesadze, 2023, 119].

6 Berg, Cherry and Rani, 2019, 106.

7 De La Chapelle and Fehlinger, 2016, 13.

8 Dofessez, 2022, 27.

9 ტაკაშვილი, ხვედელიძე და შენგელია, 2021, 5 [t'ak'ashvili, khvedelidze da shengelia, 2021, 5].

10 Grušić, 2015, 2.

11 Berg, 2019, 108.

12 Grušić, 2015, 300-302.

and remote employment underscores the need for international cooperation and legal harmonization to ensure fair and equal protection of labour rights across borders. This article explores the challenges and implications of regulating labour in the digital era, with particular focus on the European and Georgian legal landscapes, and highlights the need for comprehensive legal reform to align Georgian legislation with emerging forms of employment.

II. The Legal Nature of the Employment Contract in the Digital Era

The legal status of an employee in the digital economy is vague, especially when an employer hires an employee as an independent contractor or consultant.[13] To protect employees' rights and preserve the exclusive jurisdiction of courts in EU member states, the Brussels I bis Regulation is applied.[14] In parallel, the Rome I Regulation determines the applicable law to contractual obligations in civil and commercial matters thereby providing the criteria for deterning which member state's law shall apply in the event of a conflict of laws.[15] Accordingly, establishing the existence of an employment relationship – and defining the worker's legal status – is essential for the proper application of EU law. This ensures legal certainty both in determining which national law governs the employment relationship, and which judicial forum is competent to hear the related disputes.[16]

The purpose of an employment contract is to establish a labour relationship based on the free expression of will, in which the employer and the employee are considered equal parties. The existence of certain core elements is essential for identifying an employment relationship which include the organised labour performed by the employee, remuneration for that work, [17] compliance with the instructions of the em-

[13] აბესაძე, 2023, 118-121 [abesadze, 2023, 118-121].

[14] Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on Jurisdiction and the Recognition and Enforcement of Judgments in Civil and Commercial Matters (recast), OJ L 351, 20.12.2012, p.1, (Consolidated Version: 26.02.2015), Recital 14.

[15] Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the Law Applicable to Contractual Obligations (Rome I), OJ L177, 4.7.2008, p.6, (Consolidated Version: 24/07/2008), Art 1(1), Recital 6,

[16] Pretelli, 2021, 582.

[17] Labour Code of Georgia, Art. 2(1-2); Decision No. AS-975-2023 of the Civil Chamber of the Supreme Court of Georgia of 10 October 2023, para. 58; Decision No. AS-1203-2022 of the Civil Chamber of the Supreme Court of Georgia of 23 December 2022, para. 53; Ruling No. AS-1691-2019 of the Civil Chamber of the Supreme Court of Georgia 4 November 2021, para. 22.

ployer[18] and the existence of a subordinate relationship between the employer and the employee.[19] It must be noted that "labour relations" is a broad concept which refers to all relations when the employee performs a job for their employer in exchange for remuneration.[20] CJEU defines a worker as any person performing, for remuneration, work, the nature of which is not determined by himself, for and under the control of another, regardless of the legal nature of the employment relationship.[21] The CJEU further clarifies that, for an employment relationship to exist, a person must, over a certain period of time, perform services for and under the direction of another, receive remuneration in return, and engage in effective and genuine activities rather than purely marginal or ancillary tasks.[22] The definition of an employment relationship under national law is irrelevant when determining whether a person qualifies as a worker for the purposes of EU law: if a person meets the conditions specified in the employment contract, then this person is considered a worker.[23]

In turn, the gig economy[24] has raised new issues regarding the definition of the terms *self-employed* and *employee* under both EU law and national law.[25] In accordance with the CJEU, the terms which are defined by the EU law cannot be interpreted by invoking national law unless the Community law makes express reference to the law of the Member States.[26] Otherwise, uniform interpretation of the law cannot be reached.[27] In defining the term "employee", the EU law applies an autonomous interpretation that is similar in concept. The laws of Member States and the European Union are not subject to interpretation based on the internal legal orders of individual Member States,[28] in order to avoid national legal principles imposing constraints on

[18] Decision No. AS-1203-2022 of the Civil Chamber of the Supreme Court of Georgia of 23 December 2022, para. 54.

[19] Yodel Delivery Network Ltd [CJEU], Case C-692/19, EU:C:2020:288, 22 April 2020, para. 37.

[20] აბესაძე, 2023, 124 [Abesadze, 2023, 124].

[21] Deborah Lawrie-Blum v. Land Baden-Württemberg [ECJ], Case 66/85, 22, ECLI:EU:C:1986:284, 3 July 1986, para. 12.

[22] Menegatti, 2019, 29.

[23] Ender Balkaya v Kiesel Abbruch- und Recycling Technik GmbH [CJEU], Case C-229/14, EU:C:2015:455, 9 July 2015, para. 34-36.

[24] The gig economy is the collection of markets that match providers to consumers on a gig (or job) basis in support of on-demand commerce *SEE*., Donovan, Bradley and Shimabukuro, *What Does the Gig Economy Mean for Workers?*, Congressional Research Service, 2016, 1.

[25] Dofessez, 2022, 45.

[26] Commission v Portugal [ECJ], Case C-55/02, 22, EU:C:2004:605, February 2002, para. 45 and para. 49.

[27] Ibid., para. 45.

[28] Van Hoek, 2009, 8.

the interpretation of EU concepts.[29] The importance of the autonomous interpretation of the EU law is emphasised by the CJEU.[30] Consequently, the two terms mentioned above are interpreted according to their general meaning and significance, notwithstanding the wording of the contract. In particular, an employee performs work under the direction of the employer in terms of working time, workplace and job description; does not assume the commercial or business risks of the employer; and becomes an integral part of the production process, thereby establishing economic unity with the business.[31]

Regarding self-employment, courts have clarified that employment cannot be classified as self-employment if a person performing services under a contract carries out the same tasks as other employees under standard employment contracts.[32]

In the gig economy, therefore, a person may be classified as an employee or a worker depending on the nature of the job and the contractual requirements imposed by digital platforms.[33] For example, France's Cour de Cassation has ruled that delivery company staff and Uber drivers are employees under employment contracts.[34] Similarly, Belgium's Administrative Commission has recognised employment relations between Deliveroo and its drivers.[35]

It should be taken into consideration that Georgian legislation recognizes the digital economy and does regulate it, with the law defining it as an "information society service", and following EU regulations regarding such. [36] According to the law, an

[29] Ender Balkaya v Kiesel Abbruch- und Recycling Technik GmbH [CJEU], Case C-229/14, EU:C:2015:455, 9 July 2015, para. 33.

[30] Syndicale Solidaires Isère v. Premier ministre and others [CJEU], Case C428/09, ECLI:EU:C:2010:612, 14 October 2010, para. 28. Ruhrlandklinik gGmbH v. Ruhrlandklinik gGmbH [CJEU], C-216/15, ECLI:EU:C:2016:883, 17 November 2016, para. 36.

[31] FNV Kunsten Informatie en Media v Staat der Nederlanden [CJEU], Case C413/13, EU:C:2014:2411, 4 December 2014, para. 36.

[32] Ibid., para. 42.

[33] ტაკაშვილი, ხვედელიძე და შენგელია, 2021, 4 [t'ak'ashvili, khvedelidze da shengelia, 2021, 4].

[34] Dofessez, 2022, 28-29.

[35] Ibid., 32.

[36] Comp., Information Society Service provided for remuneration, at a distance – that is, the without the parties being simultaneously present, by electronic means and at the individual request of a recipient of services. "At a distance" means that the service is provided without the parties being simultaneously present; "by electronic means that the service is sent initially and received at its destination by means of electronic equipment for the processing (including digital compression) and storage of data, and entirely transmitted, conveyed and received by wire, by radio, by optical means or by other electromagnetic means; "at the individual request of a recipient of services" means that the service is provided through the transmission of data on individual request. *SEE,* Directive (EU) 2015/1535 of the Europe-

Information Society Service is considered a form of e-commerce[37] when the following characteristics are met: individual demand for a service, the service is reimbursed, the service is performed by electronic means, or the service is performed online- in particular, when the parties' physical presence is not required. To clarify, electronic means are electronic devices used to store and process data, as well as to deliver a service to the destination and to receive a service through wires, radio-waves and electromagnetic tools.[38] Consequently, the gig economy satisfies the criteria of being an information society service, as recognized by Georgian legislation; however, the purpose of the law is to protect customers' rights, and the responsible authority is the Competition Agency of Georgia.[39]

III. Modern Forms of Labour Organisation

1. Legal Aspects of Remote and Hybrid Work

As digital technologies evolve, the place where work is carried out and the employee's traditional workplace no longer have to coincide.[40] Remote work and hybrid work have become important features of modern-day labour relationships.[41] The principal criteria of remote work is the following: 1) a job is performed remotely from the workplace; 2) in order to realize the remote work, telecommunication and information technologies are employed.[42] It is important to note that remote work has weakened the territorial and physical connection to a traditional workplace. Companies can now hire employees from anywhere in the world, a shift that has significantly reshaped the concept of the "habitual place of work" in international private law.[43] The habitual place of work can be defined as the place where, or from which, the employee principally performs their obligations towards their employer,

an Parliament and of the Council of 9 September 2015, *Laying Down a Procedure for the Provision of Information in the Field of Technical Regulations and of Rules on Information Society Services* (codification) (Text with EEA relevance), OJ L 241, 17.9.2015, Art. 1(1b).

37 Georgian Law "On Electronic Commerce", Art. 1(2).

38 Ibid., Art. 2(a).

39 Response No. 02/3470 of the National Competition Agency of Georgia, dated November 28, 2023.

40 Ahlers, 2016, 89, 92.

41 Grušić, 2022, 2.

42 Athanasiadou, 2021, 2.

43 Grušić, 2022, 4-5.

but a key factor remains the determination of the state to which the professional activity is most closely related.[44]

The concept of "remote work" appears in the labour laws of various European countries. According to Ukrainian law, remote work is defined as a form of labour organisation where an employee performs a job outside of the employer's buildings, at their place of residence, or in another place of their choosing, and the job includes the use of information and communication technologies.[45]

Slovakian law differentiates between "working from home" – when remote work is performed from the employee's household instead of being performed from the employer's workplace, and "telework" – when work is performed from the employee's household and the work is carried out using information technology in which electronic data transmission by distance takes place on a regular basis.[46]

Since the COVID19 pandemic, Poland has regulated the issue of remote work in the labour code,[47] defining it as "remotely performed permanent or part-time work at the workplace indicated by the employee (including at the employee's home address), in each case with prior agreement from the employer."[48]

Unlike Slovakia and Ukraine, the Labour Code of Georgia does not recognize the concept of remote work. However, there was a Government Resolution of Georgia, according to which remote work implied working from home, or, in critical cases, from another location, provided that the number of workers at the site did not exceed 10 people.[49] This Resolution referred to the rules of conduct in a specific emergency situation and could not be applied to general conduct rules; therefore, Georgian legislation does not protect the rights of remote workers.

Employment through posted work differs from remote work. A person is considered a posted worker if they temporarily perform work in another EU Member State that is not their usual place of employment.[50] A posted worker always returns to

[44] Nogueira and Others v Crewlink Ltd, Moreno Osacarpar v Ryanair, formerly Ryanair Ltd [CJEU], Joined Cases C-168/16 and C-169/16, EU:C:2017:688, 14 September 2017, para. 29.

[45] Gusarov and Melnyk, 2021, 171.

[46] Bulla, 2021, 12.

[47] Kobroń-Gąsiorowska, 2022, 173.

[48] Remote work – Ministry of Family and Social Policy, *SEE*, <https://www.gov.pl/web/family/remote-work#:~:text=occasional%20remote%20work%20will%20be,provide%20materials%20and%20work%20tools).> [22.11.2023]

[49] Resolution No. 322 of the Government of Georgia of 23 May 2020 "On the Approval of the Rules of Isolation and Quarantine", Art. 6(4) (version of May 23, 2020, repealed as of July 4, 2023).

[50] Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the Posting of Workers in the Framework of the Provision of Services, OJ L 018 21.1.1997, p. 1, (Consolidated Text: 30.07.2020), Art. 2(1).

their usual place of employment after the posting or business trip is completed.[51] In this case, the legal status of the employee is defined in accordance with the legislation of the Member State to whose territory the worker is posted.[52] It is of note that in the context of individual employment contracts, work performed in a foreign country is considered temporary if the employee is anticipated to return to their home country to continue their duties after completing the assignment abroad.[53] Moreover, the conclusion of a new employment contract with either the original employer, or an employer belonging to the same group of companies as the original employer, does not, in itself, preclude the classification of the employee's assignment abroad as temporary.[54]

2. Legal Framework Platform Work (Gig Economy)

Alongside from remote work, the number of workers employed on digital labour platforms is also growing within the development of the "platform economy."[55] The work of a digital platform is organised online and involves three parties: the online platform, the worker, and the client. The work is carried out on a contractual basis, with individual tasks or projects, and the service is provided on demand.[56]

It is particularly important to note that European countries interpret the legal status of platform workers differently,[57] and they assess each case based on its specific factual circumstances.[58]

The European Commission has put forward a legislative initiative aimed at regulating the status of workers employed on digital platforms. A "digital labour platform" is a natural or legal person that provides a service remotely by electronic means – such as through a website or mobile application – at the request of a recipient of the service.

[51] Mulox IBC v Geels [ECJ], Case C-125/92, EU:C:1993:306, 13 July 1993, para. 25.

[52] Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the Posting of Workers in the Framework of the Provision of Services, OJ L 018 21.1.1997, 1, (Consolidated Text: 30.07.2020), Art. 2(2).

[53] Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (Rome I), OJ L 177, 4.7.2008, p.6, (Consolidated Version: 24/07/2008), Recital 36.

[54] Ibid.

[55] EU Rules on Platform Work, *SEE,* <https://www.consilium.europa.eu/en/policies/platform-work-eu/> [22.04.2025]

[56] Eurofond, EurWork, Platform Work, 2018, *SEE,* <https://www.eurofound.europa.eu/en/topic/platform-work> [01.05.2025].

[57] Aloisi, 2022, 13-14.

[58] Pretelli, 2021, 583.

It also organises work performed by individuals in return for payment, regardless of whether the work is carried out online or at a specific location. Moreover, a digital labour platform uses automated monitoring systems or automated decision-making systems.[59] "Digital platform work" means work that is organised by a digital labour platform and carried out by an individual based on a contractual relationship between the digital labour platform or intermediary and that individual, regardless of whether a contractual relationship exists between the individual or the intermediary and the recipient of the service. [60]

There is a distinction between a person who "performs platform work" and "a platform worker." A person performing platform work is an individual who carries out such work, regardless of the nature of the contractual relationship or how that relationship is designated by the parties involved. In contrast, a platform worker refers to any person performing platform work who has, or is deemed to have, an employment contract or employment relationship as defined by the law, collective agreements, or established practice in force in the EU Member States, taking into account the case-law of the CJEU.[61] According to the EU standard, a platform is considered an employer if it owns the key assets, sets the price of the service, and establishes mandatory instructions regarding the provision of the service through contractual terms, including the obligation to provide the service.[62]

IV. Conclusion

The digital transformation of the economy has significantly reshaped traditional notions of employment, posing new legal challenges in defining and regulating employment relationships. Business is becoming more internationalised with the development of digital technologies. The adoption of the new technologies complicates both the determination of labour relations and the definition of the status of the parties involved in those relations. In particular, the ambiguous status of workers in the gig economy and digital labour platforms has brought the need for a clear legal framework that balances flexibility with the protection of workers' rights.

[59] Directive (EU) 2024/2831 of the European Parliament and of the Council of 23 October 2024 on improving working conditions in platform work (Text with EEA relevance) OJ L, 2024/2831, 11.11.2024, Art. 2(a).

[60] Ibid., Art. 2(b).

[61] Ibid., Art. 2(c-d).

[62] Pretelli, 2021, 583; Aloisi, 2022, 13-14.

Under EU law, the classification of individuals as "employees" or "self-employed" is based not on contractual labels, but on the factual nature of the working relationship – especially regarding such characteristics as subordination, remuneration, and the degree of control exercised by the employer. The autonomous interpretation of employment under EU law ensures uniformity across Member States, and prevents circumvention through national legal variations, as long as the EU law is superior to the Member States' national laws.

Modern labour organisation encompasses both remote work and employment relationships established through digital labour platforms. In remote work, the traditional territorial link between the employee and the employer's physical workplace is weakened, as work is increasingly carried out in virtual spaces. Similarly, platform work shifts the entire work process online, with individuals performing tasks remotely through the use of modern information and communication technologies. The emergence of remote and hybrid work has further complicated the application of private international law principles, particularly concerning the determination of habitual place of work and applicable jurisdiction. While some European countries have introduced and adapted their labour codes to accommodate these new realities, others, including Georgia, have only partially addressed the legal status of remote workers, often through temporary or emergency measures.

Unlike Georgian legislation, the concept of a labour relationship under European law is broader, and encompasses all forms of employment in which an individual performs work for an employer in exchange for remuneration. A key characteristic of such a relationship is that the employee does not bear the employer's commercial risks; instead, their working hours, place of work, and tasks are determined by the employer. The employee thus becomes an integral part of the enterprise, forming an economic unit with the business.

In determining employment status, EU law prioritises the actual nature of the working relationship over formal contractual terms, applying its own autonomous interpretation to define who qualifies as a worker. This approach is particularly important when assessing the status of remote workers, individuals performing platform work, and platform workers. Moreover, platform work necessitates careful legal scrutiny, as platform workers may be subject to employer-like control despite being formally classified as independent contractors.

While Georgian law does recognise the digital economy, and includes gig economy services under the framework of information society services, its primary focus is

on consumer protection. As a result, it does not address the legal status of remote or platform workers, leaving their employment rights and protections undefined within the current legal framework.

To ensure legal certainty, consistency, and fairness, it is critical to recognise the evolving nature of labour in the digital era. Legal systems must respond by adopting definitions and standards that reflect actual working conditions rather than formal contractual terms. Continued harmonisation at the EU level is necessary to ensure that all workers, regardless of the form or platform through which they work, enjoy adequate protection under labour law.

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