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KÁSIPODAQTAR
FEDERATSIASY

IMPACT OF DIGITALIZATION ON THE LABOUR MARKET OF THE REPUBLIC OF KAZAKHSTAN

*Defining a strategy for trade unions action in Kazakhstan by
analyzing access to social protection, legal and practical
environment of labour relations in sectors where vulnerable
employment is prominent*

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Abbreviations

COVID-19	– Coronavirus Disease 2019
APDCRK	– Agency for Protection and Development of Competition of the Republic of Kazakhstan
JSC	– joint-stock company
ASPRRK	– Agency for Strategic Planning and Reforms of the Republic of Kazakhstan
STB	– Second-tier banks
ONS	– Office for national statistics
GDP	– gross domestic product
MSL	– Minimum subsistence level
TEA	– Types of economic activity
GAFMC	– Guaranteed amount of free medical care
CL VO	– Civil liability of vehicle owners
CLC	– Civil law contracts
SSIF	– State Social Insurance Fund
UAPF	– Unified Accumulative Pension Fund
SAP	– Single aggregate payment
UIN	– Unique identification number
PI	– Individual entrepreneur
IIT	– Individual income tax
PSF	– Private Subsidiary Farms
MHRK	– Ministry of healthcare of the Republic of Kazakhstan
MHSDRK	– Ministry of healthcare and social development of the Republic of Kazakhstan
MESRK	– Ministry of education and science of the Republic of Kazakhstan
ILO	– International Labour Organization
MW	– Minimal wage
MCI	– Monthly calculation indices
MLSPPRK	– Ministry of Labour and social protection of population of the Republic of Kazakhstan
GCEA	– General classification of economic activities
MPC	– Mandatory pension contributions
ECPC	– Employer compulsory pension contributions
CPPC	– Compulsory professional pension contributions
OSMS	– Compulsory social health insurance
OECD	– Organization for economic cooperation and development
OS	– Computer software
RGRK	– Resolution of the Government of the Republic of Kazakhstan
RK	– Republic of Kazakhstan
CIS	– Commonwealth of independent states
LLP	– Limited liability partnership
GWS	– Goods, works, and services
FTURK	– Federation of trade unions of the Republic of Kazakhstan
FSS	– Social Health Insurance Fund
LE	– Legal entities

Introduction

In Kazakhstan, as well as throughout the world, the influence of modern information technologies on all spheres of human life is growing every year. Digital labour internet platforms play a critical role by facilitating the provision of services and the performance of various types of work for the population and the business. This is undoubtedly seen as a common good.

At the same time, it is clear that a significant boost to the worldwide trend in the development of platform work occurred during the 2020 pandemic, when people were isolated from each other. Online technologies were crucial at that time because they allowed people to “erase the boundaries” and use a remote format of interaction in society.

It is important to note that Internet platforms have not lost their popularity even after the lifting of strict restrictions related to the COVID-19 pandemic; on the contrary, they have become even more in demand among the population, who really appreciated the possibilities of obtaining certain benefits without leaving their home, and the businesses found opportunities to optimize its costs.

However, the flipside of these processes is the increasing problem of protecting the labour and social rights of those employed on Internet platforms as providers of services or works, which is primarily due to the weak legislative regulation of such social relations, which at present in Kazakhstan can hardly be legally called 'labour'.

In fact, the most common and popular types of platform work among the population, which are taxi services and courier activities, as a rule, do not require high qualifications, which affects the “freezing” of the labour force in low-productive sectors of the economy. This circumstance further actualizes the issues of creating quality jobs, advanced training, and lifelong learning (continuous education).

However, although broadband Internet connection is available in almost all of the nation's settlements, platform work, which calls for professional experience and abilities, is also growing but is primarily centered in large cities and focuses on providing personal services to the populace.

In both, the first and second cases, the issues of social security and protection of labour rights and interest of workers fall on their own shoulders. On the other hand, the aggregator relieves itself of any obligations provided in labour legislation, by positioning its activity as an intermediary and not as hiring workers to provide services and perform work under its umbrella brand.

This is confirmed by the statement issued by the Minister of Labour and Social Protection of the Population of the Republic of Kazakhstan, who noted that in case of job loss, pregnancy and childbirth, and other social risks, such workers "will not be able to receive social payments from the State Social Insurance Fund." ¹

At the same time, it should be noted that the use of any new technologies in society, including Internet digital labour platforms, is usually aimed at improving people's

¹ <https://www.gov.kz/memleket/entities/enbek/press/news/details/384547?lang=ru>

lives, simplifying access to various benefits, improving traditional processes of social relations, accelerating and facilitating interaction, as well as to reduce transaction costs.

In order to maintain a balance between the interests of all stakeholders, it is crucial to focus efforts on the harmonious development of social relations under the influence of new technologies, in this case, new kinds of employment, particularly platform work. And this is possible only with the effective use of social dialogue mechanisms and mutually beneficial cooperation in the labour sphere.

However, under the current legislation, the self-employed, including those using Internet digital labour platforms, are actually deprived of the opportunity to join trade unions in order to represent and protect their rights and legitimate interests. It is also very difficult to identify social partners on the part of employers, since aggregators of digital labour platforms do not position themselves as such.

Another important factor that makes it difficult to work out measures for the balanced development of platform work is the lack of official statistical data on the current state in this area.

For instance, during a meeting of the nation's government on June 7, 2022, the Minister of Labour and Social Protection of the Population of the Republic of Kazakhstan stated, "According to expert data in Kazakhstan, platform work reaches up to 500 thousand people".²

However, the Ministry did not indicate neither the sources nor the criteria for the formation of the voiced data, which indicates their approximate nature and that the real figures may turn out to be somewhat different. In addition, there is no clear picture of the share distribution by categories of network (online services) and local (for example, taxis or couriers) employment, as defined in the International Labour Organization report "World Employment and Social Outlook 2021: The role of digital labour platforms in transforming the world work".³

According to the ILO, "the number of digital work platforms concentrated in a few countries has increased five-fold over the past decade."⁴ Their development simultaneously opens up new opportunities for workers and enterprises and creates challenges for them, which indicates the need for their effective regulation.

In addition, digital platforms open up new employment opportunities, including for women, people with disabilities, youth and those who are disadvantaged in traditional labour markets. In turn, digital platforms provide businesses with access to a vast workforce with flexibility and diversity of skills, as well as the opportunity to expand their customer base.

At the same time, platform work, combining the features of wage labour and characteristics of self-employment, requires, first of all, the classification and identification of the status of this category of workers, as well as the digital labour platforms themselves.

In this context, ensuring their social protection is hampered by the following factors:

² <https://primeminister.kz/ru/news/platformennaya-zanyatost-v-kazahstane-dostigaet-500-tysyach-chelovek-t-duysenova-751315>

³ <https://www.ilo.org/infostories/ru-RU/Campaigns/WESO/World-Employment-Social-Outlook-2021>

⁴ World Employment and Social Outlook 2021: The role of digital labour platforms in transforming the world work. ILO, 2021

1) the employee is not in an employment relationship with a specific employer, who, in the event of an employment contract, would be responsible for providing social benefits and guarantees;

2) the individual entrepreneurs (IE) can at any time become an employer themselves if they hire another employee, which makes it difficult to build a system of social dialogue in this sector;

3) the activities of freelancers (under CLC, individual entrepreneurs or independent workers), as a rule, are of a short-term nature, and only when performing long-term projects does it become necessary to establish contractual labour relations;

4) ensuring safe work for the self-employed falls on them (or at their expense), and in the event of an accident, its classification is carried out outside the limits of labour legislation;

5) self-employed workers in most cases do not seek to burden themselves with insurance obligations, with the exception of those common to all compulsory types of insurance (for example, CL VO).

Ultimately, we are talking about the development and adoption of effective legal and practical measures aimed at creating decent working conditions for workers in non-standard employment relationships, mainly through Internet platforms, as well as helping to reduce the level of the informal economy.

Based on the foregoing, the objectives of this study are:

1) studying the impact of digital and Internet platforms on the economy and labour market

2) studying the legal and practical aspects of working conditions and employment of workers with non-standard labour contracts, who work on digital and Internet platforms

3) assessing the coverage of these categories of workers by the social protection system, taking into account the requirements of the ILO Convention No. 102 "Social Security (Minimum Standards)".

4) Assisting in the formation of a trade union position on issues of platform work and the development of trade union recommendations for consideration by the Republican tripartite commission on social partnership and regulation of social and labour relations.

1. The current state of platform work in Kazakhstan

The report "Platform Employment: Definition and Regulation" ⁵ states that, to date, there is no universal definition of platform work in the international field.

For example, the **European Foundation for the Improvement of Living and Working Conditions**⁶ (Eurofund) has defined platform work as a form of employment in which organizations or individuals use an online platform to access other organizations or individuals to solve specific problems or provide certain services in exchange for payment.

In turn, the **OECD**⁷ considers those employed in the platform economy to be individuals who use an app or website to find customers and provide a service for money.

In the work "The platform economy and precarious work" of the Policy Department for Economic, Scientific and Quality of Life Policies of the **European Parliament**⁸, platform work is defined as non-standard work facilitated by online platforms which use digital technologies to 'intermediate' between individual suppliers (platform workers) and buyers of labour.

On the other hand, the **ILO**⁹ identifies digital labour platforms as the predominant form of platforms that connect businesses and clients and have a major impact on the world of work.

The ILO report notes that there are currently two main types of digital work platforms: **Online web-based platforms**, where workers perform tasks virtually and remotely (freelance platforms, as well as platforms for micro-tasking, competitive programming and medical consultations); and **location-based platforms**, where workers perform tasks in a specified physical location (taxi services, delivery services, domestic and home-based services, and care services).

According to Crunchbase, there were at least 777 active digital work platforms globally as of early 2021, of which almost half (383) are delivery services, more than a third (283) are online web-based platforms, including 181 freelance platforms, and 14% (106) are taxi services. However, the exact number of platform workers is quite difficult to estimate due to the lack of data, since most platforms do not disclose information about the number of active workers performing labour activities with their help.

In Kazakhstan, digital labour platforms are also developing quite rapidly, with foreign and international companies being the main players in the market of online platforms. The significant level of involvement of the able-bodied population in the field of platform work naturally leads to the need to introduce state regulation of such activity. At the same time, as in other countries, it is difficult to calculate the real scale of labour force involvement in platform work.

⁵ Platform employment: definition and regulation / National Research University Higher School of Economics, Institute for Social Policy. – M.: NRU HSE, 2021

⁶ <https://www.eurofound.europa.eu/observatories/eurwork/industrial-relations-dictionary/platform-work>

⁷ Measuring the Digital Transformation: A Roadmap for the Future. OECD, 2019

⁸ [https://www.europarl.europa.eu/RegData/etudes/STUD/2020/652734/IPOL_STU\(2020\)652734_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2020/652734/IPOL_STU(2020)652734_EN.pdf)

⁹ World Employment and Social Outlook 2021: The role of digital labour platforms in transforming the world work. ILO, 2021

Thus, for the first time at a high state level, the President of the country K.K. Tokayev, who, in his Address to the people of Kazakhstan dated **September 1, 2021**¹⁰, noted that "total digitalization has led to new forms of employment based on Internet platforms", stating the need for state assistance in this area in terms of social and medical insurance, pensions and taxation.

As a result, the Government, together with the ASPRRK, was instructed to develop a mechanism for regulating new forms of employment, including those based on Internet platforms, by **February 2022**. This mechanism should oversee issues regarding social and medical insurance, pensions and taxation.¹¹

In March of this year, the Ministry of Labour and Social Protection of the Republic of Kazakhstan reported that a job search service for freelancers, **freelance.enbek.kz**, is under development, which will allow the transfer of the activities of Kazakh freelancers to a digital format, thereby providing them with official employment.¹² It was also noted that "almost **900 thousand people** are employed in this area, some of whom provide one-time services outside the law and are not protected from the customer in any way."

According to MLSPPRK (Ministry of Labour and Social Protection of the Population of the Republic of Kazakhstan), the electronic service "platform work" will make it easy to register the activities of workers, quickly find professionals and formalize relationships with customers, which will lead people to a normal level of entrepreneurial environment.

Meanwhile, in the Comprehensive Plan "Program for increasing the income of the population until 2025"¹³ approved by the Decree of the Government of the Republic of Kazakhstan on **April 14, 2022** provides for such measures as promoting employment and formalizing the activities of persons providing services (freelancing) through digital services (platform employment), considering the possibility of introducing a simplified system for paying taxes and social payments (December 2023) and developing approaches to legislative strengthening the regulation of new forms of employment based on Internet platforms (Q2 2022).

On June 3, 2022, a meeting with the heads of online platforms operating in Kazakhstan was held in the MLSPPRK, during which approaches to the regulation of new forms of employment on the basis of online platforms were considered.¹⁴ In particular, representatives of **10 online platforms** were invited: **naimi.kz, quickwork.kz, market.kz** (Kolesa group), **Yandex.Taxi, Yandex.kz / Uber, Wolt Technologies Kazakhstan, Glovo.kz, Chocofood, Chocotravel and Aviata**.

The Minister noted that the lack of a formalized status of freelancers and mechanisms to regulate the provision of social guarantees to citizens employed through online platforms carries certain risks for the population involved in platform work, especially when it is their main and only source of income.

¹⁰ <https://www.akorda.kz/ru/poslanie-glavy-gosudarstva-kasym-zhomarta-tokaeva-narodu-kazahstana-183048>

¹¹ National **Action Plan** for the **implementation** of the **Address** of the **Head** of **State** to the **people** of **Kazakhstan**. URL: <https://adilet.zan.kz/rus/docs/U2100000659>

¹² <https://informburo.kz/novosti/v-mintruda-razrabatyvayut-prilozhenie-kotoroe-pozvolit-vyvesti-iz-teni-frilanserov>

¹³ <https://adilet.zan.kz/rus/docs/P2200000218>

¹⁴ <https://www.gov.kz/memleket/entities/enbek/press/news/details/383048?lang=ru>

According to the Minister, the risks lie primarily in the absence of social contributions made by the customer, which entitle employees to social payments, for example, in case of temporary disability or loss of work and income.

Discussing approaches to legislative consolidation of new types of flexible forms of employment, the meeting participants expressed the opinion that the procedure for registering independent workers should be made as accessible and convenient as possible, ensure the transparency of social payments under a simplified scheme, and also took the initiative to pilot the project.

Already next week, June 7, 2022, at a meeting of the Government of Kazakhstan, the Minister of Labor and Social Protection said that according to expert data, platform employment in Kazakhstan - the number of people employed through various kinds of online platforms such as Yandex, Uber, Wolt and Glove, reaches up to 500 thousand people. It was also noted that, recognizing and legalizing platform employment, the MLSP of Kazakhstan aims at maximum simplification of all procedures related to the implementation of activities through online platforms, protection of labor and social rights of the employed.¹⁵

On the other hand, in the modern world of globalization, freelancers using foreign online platforms can provide their services to clients from any country, located anywhere. In such cases, attempts to regulate the activities of online platforms outside of Kazakhstan's jurisdiction may prove futile. In this context, the educational process plays a crucial role, which allows you to master the "profession" of a freelancer in order to provide your services in the most efficient, safe and profitable way.

For example, the **Freelance school**¹⁶ operates on the basis of the Astana Hub, whose courses are designed to help both beginners and experienced professionals to find their own niche on the international platform **Upwork**, create a "sellable" profile, develop strategies for selecting projects and working with customers, and form a conscious approach to freelancing income.

(As for the Internet platforms themselves, they usually provide their platform to both customers (employers) and performers (employees) on the basis of a public offer, without concluding contracts with each individual person. As an example we analyzed the Agreement on the use of the Internet resource **naimi.kz**¹⁷, one of Kazakhstan's first digital labour platforms (since February 2015).)

Thus, **to register as a specialist (employee)**, the user must provide the platform with their **personal data**: given name, surname, email, date of birth, personal photo, cell phone, UIN, contact phone number of a trusted person and photo portrait with identity card in hand. If necessary to pass the registration of a specialist, the platform reserves the right to **verify the knowledge** of the rules for the use of the platform by testing, as well as to confirm the identity with the passport data of the user **by conducting an interview** (in person or by phone) with an authorized employee of the platform.

At the same time, the platform has the right to refuse to register a user as a specialist (employee) without explaining the reasons for the refusal. In addition, the status

¹⁵ <https://www.gov.kz/memleket/entities/enbek/press/news/details/384547?lang=ru>

¹⁶ <https://astanahub.com/l/Freelance?locale=ru>

¹⁷ <https://naimi.kz/legal/terms-of-use#/>

of a specialist (employee) can be removed from the user at any time at the discretion of the platform without explanation.

It is worth noting that on the platform specialists (workers) have different **levels of qualification**, which reflect the stages of the specialist's career, and as new levels are reached, the specialist moves up the career ladder, which increases the likelihood of receiving new orders.

At the same time, among the **violations** that can result in a severe warning or deprivation of specialist status are the following: failure to complete an application, receiving three or more negative feedbacks, indicating your contact information in correspondence with the customer, indicating contact information in your profile, and others. The platform is not responsible for the customer's choice of a specialist (worker).

The platform provides its services to the user on **the terms of advance payment**, the cost of which is determined depending on the type of work order and professionalism of the specialist, and if the specialist violates the terms of payment for services provided, the platform has the right to charge him a penalty of 0.1% of the amount not paid on time for each day of delay. In this case, the user has the right to terminate the contract with the platform and get the money placed on his current account within a calendar month from the date of application for refund.

The website of the platform also states that naimi.kz provides a free period for using the service for all new specialists, specialists pay only for access to the required categories in the amount ranging from **700 tenge**, and that professional specialists earn from **300 thousand tenge** per month.

In turn, **in case of disputes** between the customer and the specialist (employee) in the execution of the requests, they are resolved by the administration of the platform, whose decision is final and not subject to appeal.

The platform website notes that specialists are **self-employed workers** and are directly responsible for the performance of work. When responding to an order, the specialist may indicate that he or she provides a guarantee for the order, and if the order is executed poorly, the specialist is obliged to correct the work at his or her own expense, otherwise his or her profile on the platform will be blocked.

In addition, the platform reserves the right **to make changes in the terms of the Agreement** and (or) withdraw the Agreement at any time at its discretion, and the parties shall be liable for violation of the terms of the Agreement, as established by the Agreement and (or) the current legislation of the Republic of Kazakhstan.

It is worth noting that the company naimi.kz, like all digital platforms, operates in the organizational-legal LLP, which, unlike organizations of public interest¹⁸ (such as JSC), is quite flexible and is not burdened by the need to perform a large number of control measures, mandatory publication of financial statements, and has less complicated aspects of registration and corporate matters.

Thus, the website of the platform does not contain generalized information about the number of specialists (employees), their remuneration and types of activities, including in the regional context. However, some information about the work of the

¹⁸ <https://adilet.zan.kz/rus/docs/Z070000234>

platform was shared by its head Yerlan Yessimseitov in an interview with Forbes Kazakhstan.¹⁹

According to him, more than **800 thousand** specialists are registered on the platform, and the number of active employees is about **35 thousand** people per month. In 2021 **134 thousand** people were employed through the platform, with **50%** of the specialists working in Almaty, **45%** - in the capital, and the remaining specialists - in other regions of the country. By type of work performed, the platform primarily provides household services: cleaning, plumbing, electrical, turnkey and handyman repairs.

Mr. Yessimseitov also shared some information about the income of specialists using the platform, giving the example of the top specialist, who has been working in the system almost since the foundation of the service and can earn up to **700 thousand tenge** per month. At the same time, the average income of part-time specialists is **100-200 thousand tenge**, mid-level specialists - **300-500 thousand tenge**, and advanced specialists, for whom the platform is the main source of income, earn **500-700 thousand tenge** per month.

In addition, he commented negatively on the initiatives of the Ministry of Labour and Social Security of the RK, suggesting that the platforms should be responsible for paying for specialists, and on the creation of a job search service for freelancers - **freelance.enbek.kz**, noting that from the state the portal **enbek.kz** is a direct competitor of the platform, which violates the rules of Yellow Pages.

It should be noted that the main activity of Naimi.kz LLP is software maintenance (OKED 62.01.2), i.e. without any link to platform employment. For example, the main activity of JSC "Labour Development Center", which accompanies the enbek.kz portal, is information and methodological support with the maintenance of information systems and databases (OKED 63.11.2), which also includes the collection and systematization information on employment issues, processing of a data bank on persons registered in the labor market, and generalization of data on the professional structure of the labor market.²⁰

It is noteworthy that tax revenues from Naimi.kz LLP look quite modest: while in 2019-2020 they were only about 3 million tenge per year, in 2021 they are a little over 5 million tenge.²¹

The model of another Kazakh digital labour platform quickwork.kz (Q Work LLP), which was created in January 2022 and has not yet shown itself widely, seems interesting. There is no information on current open orders on the platform website, and when registering as a freelancer in your personal account, there are also no job options offered.

Nevertheless, this freelance search platform provides services such as remote accounting in terms of hiring employees (with integration with 1C), paying taxes for freelancers on behalf of the customer company, issuing tasks for freelancers and making payments for their services (by bank transfer to accounts in the STB) with uploading of relevant documents

The mechanism of the platform is built in such a way that all interaction between the customer and the contractor is exclusively in the legal field: from the conclusion of a

¹⁹ <https://www.youtube.com/watch?v=OZXWYXK5DCQ>

²⁰ Here and on: <https://stat.gov.kz/important/classifier>

²¹ Here and on: https://kgd.gov.kz/ru/services/taxpayer_search/legal_entity

GPC agreement to the signing of an act of work performed and the payment of individual income tax, OPV, contributions to compulsory health insurance for a freelancer.

In this case, according to the Agreement on the use of electronic service "QUICK WORK",²² which is an adhesion contract, the platform charges the customer for its services in the amount of 3.5% of the cost of work (the first month - free of charge). Also in the case of concluding a CLC agreement on the initiative of the employee (by sending an invitation to the potential customer) a fee of 1% is charged, but not more than 5 thousand tenge.

The platform also distances itself from the contractual legal relationship between the customer and the contractor; in particular, it does not deal with the customer's claims concerning the non-performance (improper performance) of contractual obligations by the employee and it does not intervene in their possible disputes and claims.

The main activity of "Q Work" LLP is software development (OKED 62.01.1), including system and application software, databases and websites, as well as modification of software by the client's order. At the same time, since the beginning of 2022, the company has paid a symbolic amount of 314 thousand tenge in taxes, which indicates low activity of the platform.

As for **taxi and courier aggregators** like Yandex Go, such international digital labour platforms, while establishing a representative company in Kazakhstan (Yandex.Taxi Corp LLP), provide access to their service through various local partners - taxi fleets (such as Yapartner LLP), which already interact directly with platform workers (taxi drivers and couriers). At the same time, the Yandex platform currently employs around **150,000 people**, and the service itself cooperates with 63 Kazakh taxi fleets.²³

It should be noted that the main activity of **Yandex.Taxi Corp LLP** is "other activities in the field of information technology and information systems not included in other groups" (OKED 62.09.9). It should be noted that tax revenues from the company are growing every year: while in 2017 9.2 million tenge was paid, in 2021 it is already 1.3 billion tenge, and since the beginning of this year - 3.7 billion tenge

Meanwhile, the main activity of **Yapartner LLP** is the provision of other individual services not included in other groups (OKED 96.09.0), which, as in the first case, does not imply the organization of platform work, in particular, for taxi services and delivery. Tax revenues from this company in 2020 amounted to only 254 thousand tenge, and in the past - almost 7.5 million tenge.

The Terms of Use of the Yandex.Taxi (Yandex Go)²⁴ service states that the service offers the user a free opportunity to post information about the potential demand for passenger and baggage transportation services and other services, including courier delivery services, as well as the opportunity to get acquainted with information about offers organizations providing services in the specified area (partners), and search for such proposals according to the specified parameters, while noting that Yandex.Taxi Corp

²² https://www.inform.kz/ru/proveryat-voditeley-taksi-v-populyarnom-prilozhenii-budut-cherez-biometriyu_a3968151

²³ https://www.inform.kz/ru/proveryat-voditeley-taksi-v-populyarnom-prilozhenii-budut-cherez-biometriyu_a3968151

²⁴ https://yandex.com/legal/yandexgo_termsfuse/

LLP **does not provide** passenger and baggage transportation services, information and dispatch services and other services, including courier services.

In turn, under Yapartner LLP's Public Offer Agreement ²⁵, the Company provides **information services**, which consist of the Company ("contractor") transmitting information on taxi service requests to digital labour platform employees ("customers") for which the "contractor" is paid (commission), i.e. taxi drivers thereby "buy" information on passenger demand.)

In doing so, the employee ("customer") undertakes to carry out all orders accepted by him/her, to carry out maintenance of the vehicle and to comply with the passenger transport regulations as defined by law, with all necessary permits being issued.

In addition, the employee is obliged to pay for the information services of the company in a timely manner and in full and provide it with free use of all **personal data** requested from him/her, including for the subsequent provision of data to third parties without notifying the employee.

Meanwhile, the **employee's rights** include only the right to use the information provided by the company and the right to receive necessary explanations from the company related to the fulfillment of their obligations.

In turn, **the company has the right** to check the employee's compliance with the terms of the public offer and, in case of non-fulfillment or improper fulfillment, demand the elimination of violations, and is only obliged to provide the employee with the appropriate technical capabilities to access the electronic resource to obtain information about orders and the opportunity to register a personal account on the electronic resource.

If the employee fails to fulfill his or her obligations properly, resulting in complaints from the consumer or third parties, the employee is **obliged to independently address such complaints** and remedy the said deficiencies in the work.

Also on the website of Yapartner LLP there is a Public Accession Agreement (on instructions for organizing the provision of transportation services to individuals) of **Partner Premium LLP**, ²⁶ the main activity of which is "other forwarding activities" (OKED 52.29.9). Since the beginning of this year, the company has paid taxes in the amount of 1.3 million tenge.

Thus, according to the said Public Agreement, Partner Premium LLP is an aggregator that transfers money from clients of the Yandex.Taxi service to the driver, charging a commission for the services provided. Partner Premium LLP is not a taxi company and (or) a taxi dispatch service.

In return, the driver ensures that he or she pays his or her own taxes and other mandatory payments, complies with all applicable laws of Kazakhstan governing the provision of services and, in the case of services provided as a individual entrepreneurs or as a legal entity, is legally able to act in his or her own right.

At the same time, the company undertakes, on behalf and at the expense of the driver, to **organize his connection to Yandex services** ("Yandex. Taxi", "Yandex Go", "Service for Carriers" "Service for Drivers (Yandex Pro)" owned by Yandex. Taxi Corp LLP), thereafter charging from 4.5% to 6% of each fact of use of these services.

²⁵ <https://yapartner.kz/offerta/>

²⁶ [https://yapartner.kz/ Agreement of accession /](https://yapartner.kz/Agreement_of_accession/)

It is also specifically stated that **none of the provisions of the Public Contract can be regarded as employing a driver** (temporary, permanent, or part-time) by the aggregator, and the driver does not perform work (labour function) according to a certain qualification, profession, specialty, or position, is not subject to a work order while performing his obligations and does not receive wages for the services provided.

It is worth noting that on 18 January 2022, the APDCRK in Almaty launched an investigation into violations in the field of competition protection in relation to Yandex Corp LLP on the grounds of **coordination of economic activities** and on 25 July this year - on the grounds of **monopoly high price**.²⁷ Also in February it became known that the company was **fined for refusing to provide documents** as part of the ongoing investigation.²⁸

A slightly different model of digital labour platform is used by the aggregator **InDriver**, which allows taxi customers to set their own desired fare, after which a driver (employee) responds to their request and then receives the agreed amount from the customer (in cash or card-to-card transfer).

For using the platform, the driver tops up his personal account in the system (to go on a route) and also agrees to transfer a fixed percentage of the order value (7%) to the platform. The employee must also be attached to one of the available InDriver partner taxi fleets in the city.

InDriver also provides services for long-distance transportation, trucking, food delivery, domestic and other services, as well as searching for jobs or employees by posting CVs and vacancies. However, as in the case of Yandex Go, the main activity of Inservice LLP (platform representative in Kazakhstan) is "other activities in the field of information technology and information systems, not included in other groups" (OKED 62.09.9). The company paid KZT 344m in taxes 2019, KZT 1.7bn in 2020, KZT 3.3b in 2021, and KZT 2.4bn since the beginning of this year. It should be noted that in 2022 InDriver created an operational hub in Almaty to manage the CIS region with the relocation of some personnel from Russia.

In this context, it is worth noting that unlike Yandex Go and InDriver, the **Wolt** platform, which is represented in Kazakhstan through Wolt Technologies Kazakhstan LLP (Wolt Technologies Kazakhstan), has actually indicated its core business as **delivery of prepared food to order** (OKED 56.21.0), which includes activities to deliver food based on contractual agreements with the consumer to locations designated by the consumer for a specific event. The company's tax receipts in 2020 were almost KZT 234 million, rising to KZT 636 million last year, and it has paid more than KZT 641 million since the beginning of 2022.

Another distinguishing feature of the **Wolt** platform is the fact that a Courier Partner Agreement is signed with each courier partner (employee), which, however, is not posted on the company website, but is sent to the candidate during the registration process on the platform.

The agreement is effectively **concluded for an indefinite period of time**: it takes effect as soon as it is signed by both parties and remains in force until both parties receive 30 days' notice of termination.

²⁷ <https://www.zakon.kz/6025308-v-otnoshenii-iandekstaksi-idet-rassledovanie-iz-za-vysokikh-tsen.html>

²⁸ <https://vlast.kz/novosti/48828-andeks-taksi-ostrofovali-za-otkaz-predostavlat-dokumenty-zumangarin.html>

In order to become a courier, it is necessary to set up a individual entrepreneurs, or, as an individual, to sign an **agreement on a sole trader** (the above-mentioned agreement). In the first case, the individual entrepreneur is responsible for the payment of personal income tax and social security contributions, while in the case of a sole trader contract, the platform pays the taxes and payments for the courier (the employee) by transferring the salary to his card account minus the deductions (twice a month: on the 25th and 10th of the month).

To receive payment for their work, the courier (employee) undertakes to provide the platform with signed **statements of completed work**, which in the case of this system is implemented through the electronic document management service **edo.uchet.kz** by using a digital signature, or can sign the statements in person in Wolt office.

In doing so, the courier agrees that the platform is entitled to deductions from payments to the courier if the delivery service is not delivered within a reasonable time, unless, it is the fault of the customer, if the quality of the delivery service would be below the expected standards, and if complaints are received from platform users as a result of the delivery service (the equivalent of workers' compensation).

During the registration process, the courier candidate undergoes online training and a test (analogous to competitive selection), as a courier, has the opportunity to participate in the "Partner Orientation Programme" (analogous to training) free of charge, has the right, in consultation with the platform, to delegate his/her functions to a third party or another courier (analogous to temporary substitution), independently chooses the working hours (availability) and can rely on advance booking of availability (analogous to flexible working hours).

In addition, the courier (employee) is responsible for delivery services, which must be provided in a **professional manner**, fully and in accordance with any applicable legal requirements, and for purchasing the equipment required for delivery services (e.g., thermal bags).

The courier must also own or otherwise possess a car, scooter, or bicycle for use in the delivery service and **is responsible** for:

- all costs resulting from the use of the vehicle and the costs incurred in providing the delivery service;
- any necessary permits or licenses required to provide the delivery service, including any permits relating to the vehicle;
- Providing the necessary insurance for delivery services (e.g. GVH, accident insurance).

The agreement separately stipulates that the courier, who is an individual, is required to hold a valid **work permit** and residence permit, in the event that the courier's citizenship requires such a permit in order to provide services in Kazakhstan.

It is important to note that a **health card** is required to work as a courier, as the transport of food is one of the 15 categories of work where workers are required to have this document.²⁹ Accordingly, the courier is required to undergo a pre-employment medical examination before starting delivery services and to undergo subsequent medical examinations every 12 months, and to carry certificates of all required medical examinations with him/her when providing delivery services.

²⁹ https://egov.kz/cms/ru/articles/health_care/medicalbook

However, while the courier's relationship with the platform is somewhat similar to an employment relationship, the Agreement states that the parties are **independent contractors** and there is **no employment relationship** or reporting relationship between them.

At the same time, according to forbes.kz, according to the "Top KZ Retail E-commerce 2022", the revenue of Wolt in Kazakhstan in 2021 amounted to **27.8 million USD** (11.8 billion tenge), having decreased for the year by a third, and on average, more than **140 thousand orders** per month were fulfilled on the platform.³⁰ It is worth noting that in May this year Wolt was acquired by the American company **DoorDash**, which is considering opening a regional hub in Kazakhstan with the creation of the relevant infrastructure, including the creation of sorting and distribution centres.³¹

Also of interest is the approach of the **Glovo** digital labour platform, which, according to the Glovo Courier Platform Terms and Conditions of Use³² can act as an **intermediary** for immediate product delivery, mediating the **processes** of receiving and/or making payment, as well as receiving and fulfilling orders.

Meanwhile, Glovo Kazakhstan LLP's core business is "web portal activities" (OKED 63.12.0), which includes operation of websites using search engines to create and maintain extensive databases of Internet addresses and content. The company paid 124m KZT in taxes in 2020, 188m KZT in 2021 and almost 428m KZT since the beginning of 2022. According to the "Top KZ Retail E-commerce 2022" Glovo's revenue in Kazakhstan in 2021 was **41.4 million USD** (17.6 billion KZT), up 9% year-on-year, with an average of over **326,000 orders** per month fulfilled on the platform.

Having launched a global "**Commitment to Couriers**" initiative last year, the platform was one of the first in Kazakhstan to provide **social guarantees for couriers** (employees). For example, according to forbes.kz, from 2022 maternity (paternity) benefits were launched, as well as compensation for sickness and payments to the courier's relatives. Also, together with Impact Hub Almaty³³, an **educational programme** "Start for couriers" was launched, which offers training in the basics of entrepreneurship to further develop their business.

As stated on Glovo's³⁴ website, commits to ensuring fair conditions for every courier in each country by the end of 2023 as part of "**The Courier Pledge**", which includes four commitments: ensuring fair wages, strengthening social rights, protecting against unforeseen events through comprehensive insurance, and providing opportunities for training and development. It is worth noting that in Kazakhstan, the company currently estimates a 27% compliance rate with its commitments.³⁵

However, in accordance with the above regulation, the platform's fees also include access to **insurance coverage**, i.e., in fact the courier purchases the insurance at his own expense. However, the platform's courier can be either an independent user or a specialist of a logistics company, and the platform, in turn, does not direct or **control** the

³⁰ https://forbes.kz/leader/40_krupneyshih_torgoviyh_internet-ploschadok_-_jurnal_sentyabr_2022_1663610805

³¹ <https://informburo.kz/novosti/investicii-v-kazahstan-kuda-gotovy-vkladyvat-amerikanskije-kompanii>

³² <https://glovoapp.com/kk/legal/terms-couriers/>

³³ <https://www.youtube.com/watch?v=SK2QD5fQ2ZQ>

³⁴ <https://delivery.glovoapp.com/kz/faq/the-couriers-pledge/>

³⁵ <https://www.thecourierspledge.com>

actions when providing delivery services. Moreover, the Regulation states that there is **no obligation** between the platform and the courier.

Meanwhile, the couriers carry out their activities on the basis of a contract with the platform with payment every fortnightly, weekly or as agreed (delivery services are paid to the courier by the caterers) and are solely responsible for meeting all **tax obligations and payment of fees**, and are required to inform the platform of any changes in their legal or tax status as well as in employment relations, social security matters, etc.

In addition, the courier is fully responsible for the result of the services he/she provides and shall bear the possible additional costs associated with cancellations, incorrect provision of services, inability to continue or terminate the order, etc. on his/her own. The acceptance of the order by the courier on the platform is considered to be the **act of entering into a commercial contract** with the establishment and the user-customer.

Nor do the Terms and Conditions **create a partnership, franchise or employment relationship** between couriers and the platform, which is not a party to the transactions and has no control over the quality, safety, or legality of the services provided by the courier.

Similar to other digital work platforms, the Glovo Kazakhstan website lacks general information on the number of couriers (employees) and their income, including a regional breakdown. However, according to Karim Boguspayev³⁶, the general manager of Glovo in Kazakhstan 10 more than **5,000** couriers in 11 cities of the country are connected to the platform, the average age of which is 18-25 years, with an average income of **246-334 thousand tenge** per month. He also said that about 60% of couriers work as individual entrepreneurs, while the rest work under the contractual agreements, with the company seeking to **increase the share of individual entrepreneurs** among them.

This fact is also confirmed by the opinions of experts,³⁷ who believe that when hiring as a courier, the presence of individual entrepreneurs or willingness to open an individual entrepreneurship is a mandatory condition, and companies are willing to assist in registering individual entrepreneurs. This is explained by the fact that when concluding an CLC, the final income is markedly lower (since all the company's contributions are made at the expense of the employee's income), and the IE can opt for a more simplified and lighter tax regime.

However, according to interviews with experts in the platform economy, a survey of digital platform workers conducted by the Eurasian Centre for People Management ³⁸, **33%** of those employed on digital platforms (taxi and delivery) in Kazakhstan work there because they cannot find another job, **41%** of those surveyed see digital platform as temporary employment, with **33%** saying that over half their income is generated from working on digital platform services.

In turn, according to the Association of Taxi, the activities of digital platform drivers can be seen as **illegal carriage**, as the rules of passenger transportation under the legislation of Kazakhstan are not observed; for example, there is no medical examination of the driver and technical inspection of the vehicle before the trip.

³⁶ <https://kapital.kz/business/101265/karim-boguspayev-poryadka-60-kur-yerov-u-nas-rabotayut-kak-ip.html>

³⁷ <https://cabar.asia/ru/v-teni-plattformennoj-ekonomiki-v-kazahstane-kak-razreshit-rastushhie-trudovye-konflikty>

³⁸ Eurasian Centre for People Management

Here, experts point out that taxi aggregator partner companies are not in fact carriers and do not comply with legal requirements in this area, but at the same time, according to various data, taxi partner companies charge 4.5-10% of the cost per trip, while in general taxi drivers of digital platforms pay a commission of 17% to 30%.

Thus, experts conclude that it is important to ensure the **transparency of digital labour platforms** and the need to audit them, including the payment of all taxes and other mandatory payments, stressing that Kazakhstan currently has an unregulated **oligopoly**, which is difficult to influence with legislative leverage.

In general, based on practice, the following attributes of platform work can be noted: information mediation, in which workers provide services not on their own behalf but **on behalf (under the brand) of the platform**, and the actual (though formally denied) **control of the platform** over the process of service provision (order fulfilment) by the worker.³⁹ Consequently, more specific statistical reporting forms need to be introduced to accurately identify digital labour platforms and record their activities.

It should also be noted that the heterogeneous forms of platform work (informal, IE, contracts of paid work), as well as the informational closedness of digital labour platforms for both tax authorities and statistical records, **make it impossible to establish its real scale**, while expanding the shadow nature of such work.

As far as official statistics are concerned, this information is for the most part significantly distorted. For example, according to the statistical bulletin “On e-commerce in RK”,⁴⁰ in 2021 the volume of sales of online food delivery services to order was 3 billion tenge, while in 2020 – 2.4 billion tenge, and in 2019 – 1.7 billion tenge. It should be taken into account here that, firstly, not all digital platforms indicate the actual core economic activity as food courier services, and secondly, the provision of delivery services by catering institutions may in some cases be carried out independently, although they tend to be classified within a group of catering companies.

Also highly questionable are the official statistics indicating a multiple increase in the volume of Internet food delivery services to order in Karaganda region: while in 2019 this figure was only 186 million tenge, already in 2021 it increased to over 2 billion tenge, or 67% of the country's total, and in Astana this figure, on the contrary, decreased: from 1.4 billion tenge to 88 million tenge. As for expert estimates, the volume of services rendered in this sphere in 2021 was forecast at 50-70 billion tenge,⁴¹ which is dozens of times higher than the official statistics.

At the same time, in order to assess the degree of involvement of workers in the field of platform work, one can consider the available official statistics, in particular, from the statistical bulletin “Main Indicators of the Labour Market of RK” as an example.⁴² It is worth noting that statistical records, in addition to the general methodology (including ILO standards), are also kept on the categories of employed persons defined by the Law of

³⁹ <https://www.ufz-kemerovo.ru/Documents/Detail/6f0dc9d2-a866-4427-9c77-a3c0f8de761b/>

⁴⁰ <https://stat.gov.kz/official/industry/17/statistic/5>

⁴¹ <https://kz.kursiv.media/2021-08-18/kak-inostrancy-izmenili-kazakhstanskiy-rynok-dostavki-edy/>

⁴² <https://stat.gov.kz/official/industry/25/statistic/5>

RK “On Employment”,⁴³ in particular on self-employed persons, contracts for self-employment, as well as independent workers.

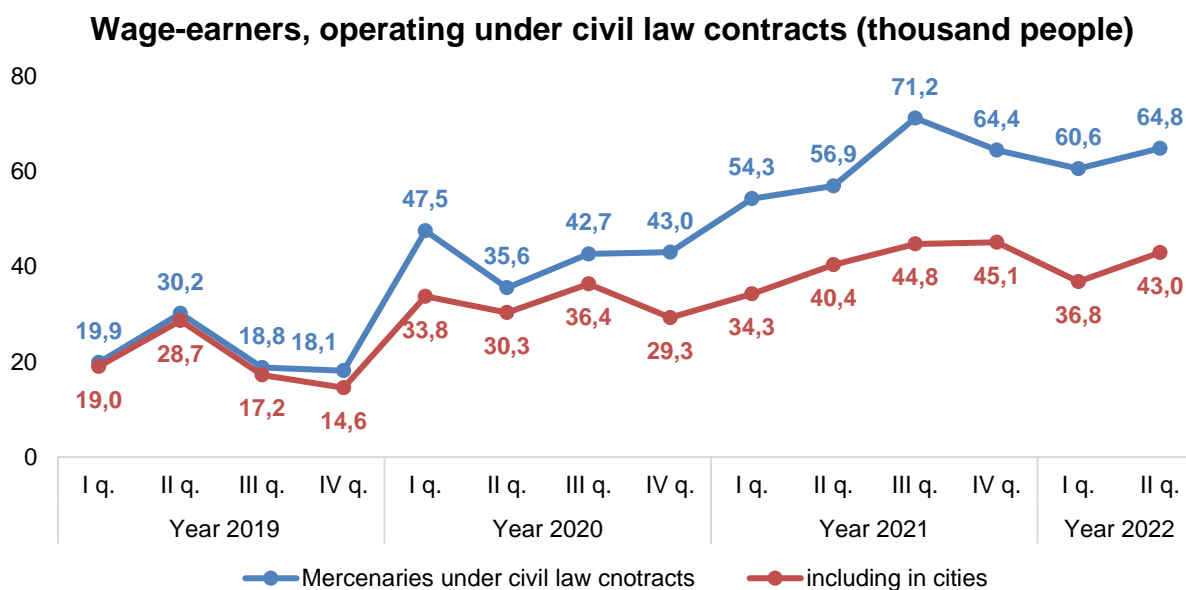
Thus, according to the mentioned before Act, **an employed person** is a natural person who carries out activities for payment or by generating income through the use of property, the production and sale of goods, the performance of work and the provision of services. In turn, employed persons consist of **seven categories**, among which, for the purpose of this study (as the most appropriate target group of platform work), are distinguished:

1) IEs carrying out independent and proactive activities aimed at generating net income and based on their own property (in their own name, at their own risk, and under their own responsibility);⁴⁴

2) Individuals who carry out activities under an CLC and who are not employees;⁴⁵

3) Independent workers (introduced in 2019) who carry out activities independently for the production (sale) of GWS in order to generate income **without state registration** of their activity.

The above categories, along with several other employed persons, are referred to as the **self-employed**, or as they are called - **other categories of the employed population** (in addition to employees). At the same time, according to the official statistics, there are **no** self-employed people working under the contract of CLC in the labour market, while the number of **hired workers under the contract of CLC** is growing every year. Consequently, the platform workers, who use the contract of self-employment in their activities, are also included in the category of employees by the statistics.



Source: BNS ASPR RK

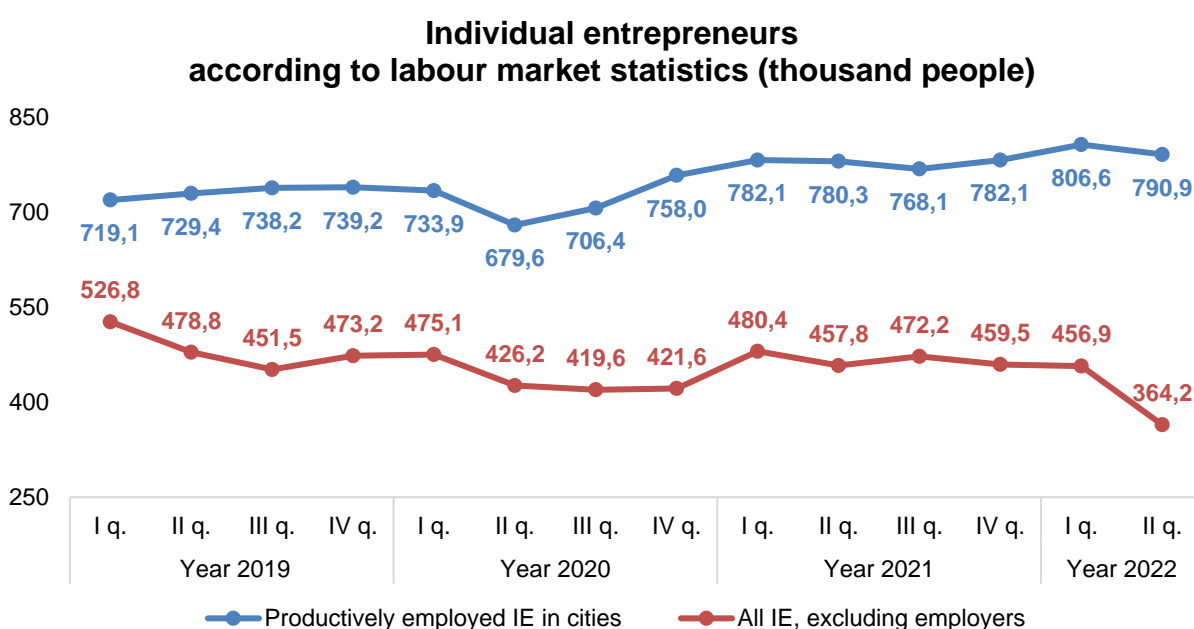
⁴³ <https://adilet.zan.kz/rus/docs/Z1600000482>

⁴⁴ Entrepreneurial Code of the Republic of Kazakhstan. URL: <https://adilet.zan.kz/rus/docs/K1500000375>

⁴⁵ By law, an employee can also carry out activities under the CLC agreement, in which the customer **determines the schedule and payment** for the time worked (unit of goods produced, services rendered)

Over three years, the number of those employed under the CLC (q/q) increased more than **2 times**, and among the urban population – **1.5 times**. Moreover, the peak of this indicator came in the third quarter of 2021, and this trend is likely to continue. The allocation of the urban population is due to the fact that the platform work is mainly concentrated in large settlements.

In turn, **individual entrepreneurs** are the largest category of self-employed, but it is not possible to single out platform workers from the total number. It should also be noted that the number of individual entrepreneurs in the labour market significantly exceeds their number according to enterprise statistics, which can probably narrow the required target group of potential platform workers, excluding those entrepreneurs who act as an employer from the total number.



Source: BNS ASPR RK

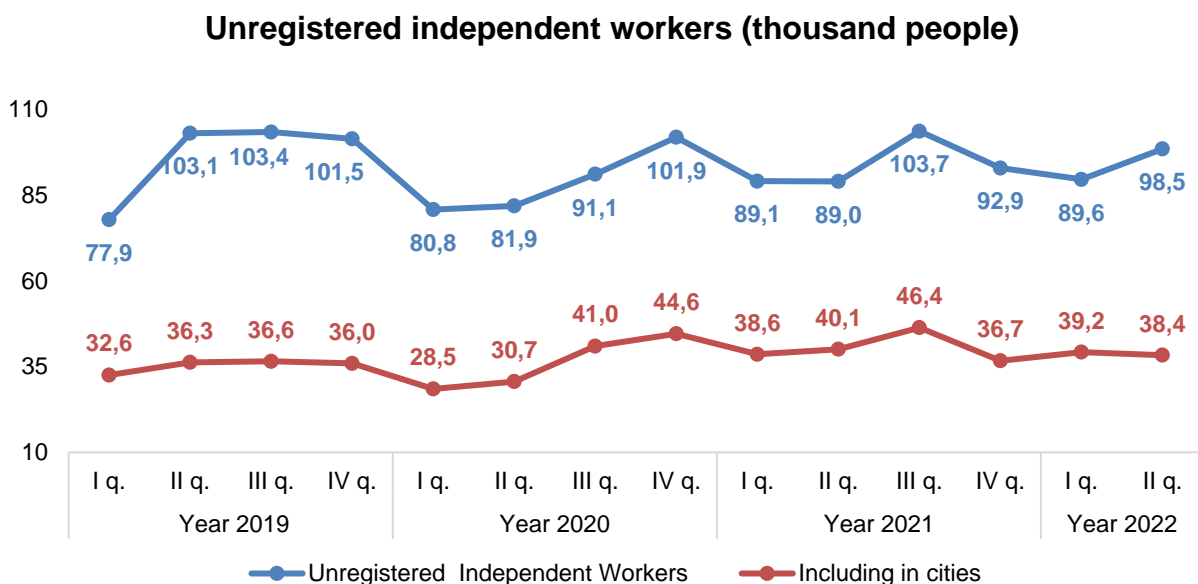
For the purposes of this study, data on productively employed entrepreneurs in cities was used without taking into account inactive entrepreneurs and entrepreneurs with incomes below the MSL. Usually platform work provides income in excess of the MSL and is carried out in large settlements.

At the same time, based on statistical data over the past three years there has been a constant downward trend in the number of individual entrepreneurs who do not hire employees. In the second quarter of 2022 (q/q), their number decreased by **almost a quarter**.

While the total number of productively employed entrepreneurs in cities is gradually increasing, ignoring the outliers (like Covid restrictions) and certain seasonality: over three years (q/q) there were **8% more** such entrepreneurs (**61.5 thousand people**). This is comparable to a similar increase in the total employed population (65.2 thousand people) and 3.5 times more than the increase in the self-employed in general (16.9

thousand people). In other words, structural changes are taking place in other categories of the self-employed population in favor of legal forms of work.

As for **independent workers**, most of them belong to those employed in PSF, who produce products partially for consumption and sale, as well as only for sale, mainly in rural areas. In this regard, the potential target group of platform workers in this category is likely to be undocumented independent workers, mostly in urban areas.



Source: BNS ASPR RK

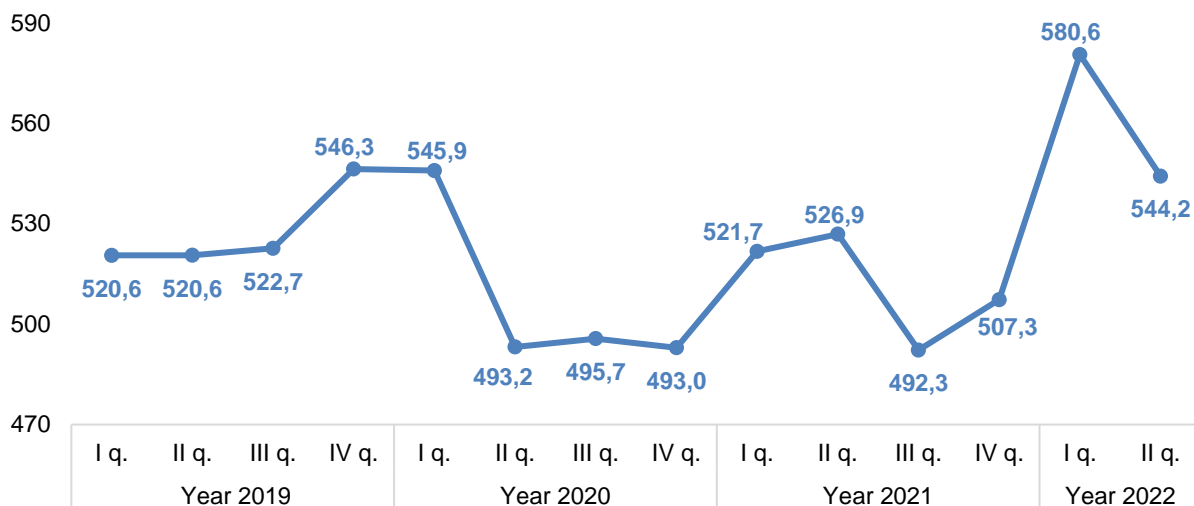
The number of unregistered independent workers in cities, as example, cab drivers, couriers or persons providing household and other services through digital labour platforms, has not changed significantly in three years, while succumbing to seasonal fluctuations, and stood at **38,400** in the second quarter of this year, up slightly from the same period in 2019 (**by 5.8%**).

Remarkably, in contrast to the dynamics of the number of contractual workers of the CLC and especially of individual entrepreneurs, in 2020, when strict quarantine restrictions were introduced, the number of unregistered independent workers increased significantly (which is probably explained by the overflow of the labour force from the legal to the "unregistered" sector). The peak of this indicator, as in the case of the civil law contracts, occurred in the third quarter of 2021.

Also in analytical purposes the number of employed urban population **by occupation** (mainly for cab drivers and couriers) could be considered. Thus, according to the Occupational Classifier (NC RK 01-2017)⁴⁶, motorcycle home-delivery couriers (8321-0-007), cab drivers (8322-1-001), and commercial delivery drivers (8322-4-004) belong to the "Production Equipment Operators, Assemblers, and Drivers" group.

⁴⁶ https://www.egfntd.kz/upload/NKRR/GK_RK_01-2017.pdf

Employed population in cities by group of occupations
"Operators of production equipment, assemblers and drivers"
(thousand people)

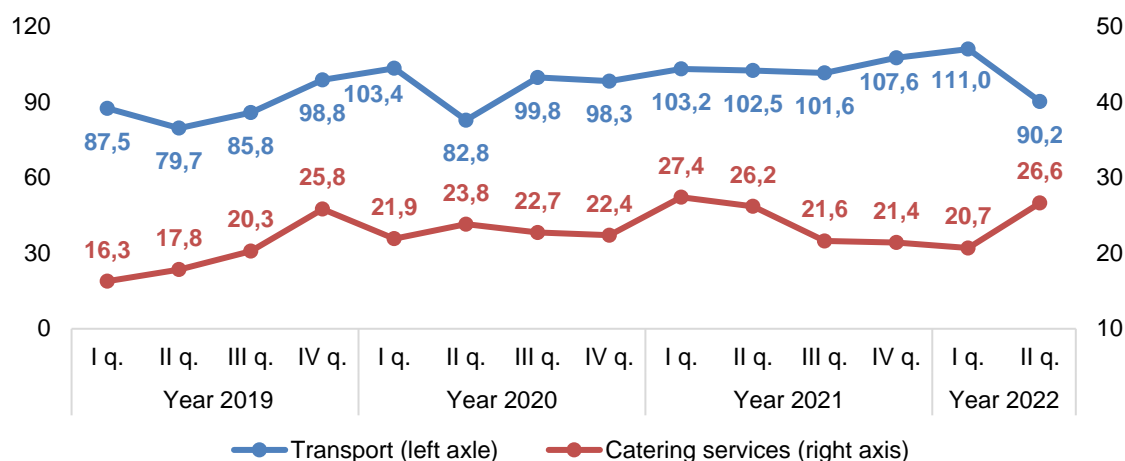


Source: BNS ASPR RK

The influence of COVID restrictions is clearly seen in the mentioned group of occupations: after the first quarter of 2020 there was a sharp decline (**by 10%** - from 546 thousand to 493 thousand) and in the third quarter of 2021, there was a significant reduction of employment (by **9%** - from 527 thousand to 492 thousand). This is followed by a remarkable sharp recovery (to 581 thousand people) and stabilization in the second quarter of this year (**544 thousand people**). At the same time, given the uncertainty in the actual share of cab and delivery aggregators in this group of occupations, it is very difficult to judge the relevance of these data in terms of the state of platform work.

In addition, taking into account that taxi drivers' services belong to the **type of economic activity** "Transport and warehousing", and food delivery - to the "Provision of accommodation and catering services", the indicators of the number of self-employed urban population in these areas are also considered.

**The number of self-employed in cities according to foreign economic activity
"Transport and warehousing", "Provision of accommodation and food services"
(thousand people)**



Source: BNS ASPR RK

In the second quarter of 2020, there was noticeable decrease in the number of urban self-employed in transport sector (**by 20%** to 83 thousand people), while, on the contrary, in food services it slightly increased (**by 8.7%** to 24 thousand people). Even so, their number in the transport sector was approximately at the same level until the fourth quarter of 2021, when a slight increase was recorded, and already in the second quarter of this year there was a sharp decline in employment (down **19%** to 90,000).

At the same time, urban self-employment in food services peaked in the first quarter of 2021 (**27 thousand people**) with a subsequent decline until the second quarter of this year, when this figure rose by **28.5%** to almost 27 thousand people.

In addition, for reference, statistics on **remote employment** can be cited, for which official information began to be published in 2021. Probably, these data consider only employees, whose remote work is regulated by the Labour Code of the Republic of Kazakhstan, but taking into account that among the employees there are also those employed under the CLC agreements, they can also be a potential target group of platform work.



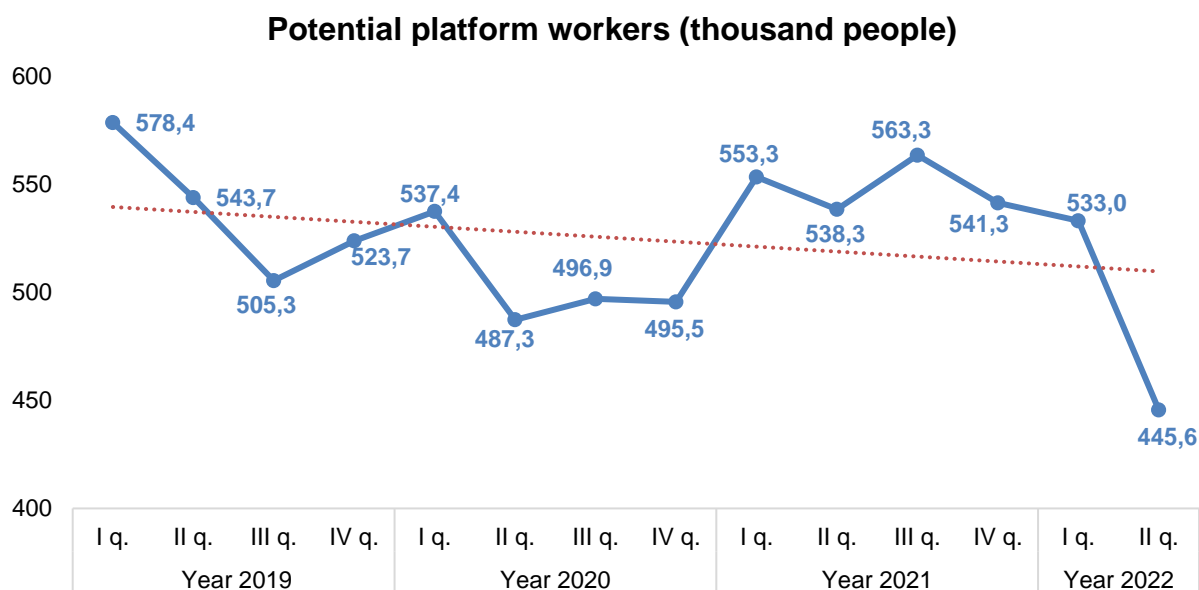
Source: BNS ASPR RK

The dynamics of the number of people employed in remote work demonstrates a certain correlation with the incidence of coronavirus infection: after a significant decline during 2021, remote work **more than doubled** in the first quarter of this year (from 24 to 54 thousand people), when there was also an increase in COVID-19 infections (mainly in January). Consequently, this statistic probably does not demonstrate the state of the platform work in the country.

* * *

Thus, it can be concluded that publicly available official statistics can only indirectly outline the limits of platform work in Kazakhstan, with the heterogeneous activities of digital platforms and the lack of certainty in the unambiguous legal and tax identification of platform workers essentially distorting the statistical record.

Moreover, it is likely that sole proprietors (not including employers), salaried workers under the CLC agreements in cities, and unregistered independent workers in cities are considered as **potential platform workers**.



Calculations of the author based on the data of the DVB ASPR RK

According to statistics, this indicator is characterized by undulation, but in general it has a downward trend, having decreased by **18%** in three years (q/q). The average value of the indicator for the period under review was **525 thousand people**, which for analytical purposes can be taken as an estimated base of **potential employees of platform work**, not counting, for example, employees who have a main permanent job and use Internet platforms for additional earnings.

At the same time, without having accurate information from the digital platforms themselves, it seems rather difficult to reliably calculate the degree of penetration of platform labour in the above-mentioned employment categories. At the same time, according to expert estimates, about a third of employees use digital platforms as a permanent job, therefore, an indicator of up to **175 thousand people** regularly employed on digital labour platforms is likely.

Even though, the content of work performed is similar for platform workers and other categories of self-employed, there are differences between the two. The platform regulates and, in some cases, controls the working conditions of platform workers, controls the work processes, methods and amount of payment, and charges fees for their services. Thus, workers **become dependent on the platform**, perhaps even more so than CLC employees who work "behind the state" for traditional employers.

It is also worth noting that, having a huge array of information at their disposal, Internet platforms could become a source for conducting an in-depth analysis of the state of labour relations in the platform economy, the development of such sectors of the economy, as well as behavioral models in society in general.

2. Regulation of employment relations in platform work

As noted above, legislative regulation of platform work is at an early stage of development, although relevant studies and attempts at legislative change are underway around the world. The need for such regulation is, on the one hand, quite clear, as it will help to ensure that the labour and social rights of digital labour platform workers are protected.

On the other hand, it is argued that regulating platform work under traditional labour law may raise the costs of digital platforms and have a negative effect on both customers and performers, and as a result can lead to in reduced platform work activity, the release of such workers and a reduction in income for this group.⁴⁷

However, it is noted that platform work, as a special format of employment, cannot be described in terms of a classical employment relationship but should be introduced into legislation as a new form of employment relationship and work activity. For example, there are proposals that platform workers should not be subject to regulation of working hours and minimum wages, but should be entitled to protection of their interests.⁴⁸

The other position emphasizes the need, first and foremost, for legal regulation of the employment status of workers in the platform economy, with recognition of them as workers in the traditional sense, and the signing of collective labour agreements.⁴⁹

Meanwhile, at the end of 2021, the European Union prepared a bill that provides for granting the status of employees up to 4.1 million Uber, Deliveroo and Bolt platform couriers and taxi drivers, based on their compliance with at least two of the following **five criteria**: setting wages, applying standards of appearance and behavior, quality control of work, limiting the ability to accept or refuse orders, as well as limiting the ability to create a customer base.⁵⁰

It should be noted that digital labour platforms actively defend their position of not considering themselves as employers for platform users, stating that they only provide information services. For example, after years of litigation in the UK and the Netherlands, Uber was nevertheless recognized as a taxi service company, with a number of social obligations to employees.⁵¹

In general, in a platform economy, concepts such as job security and income loss compensation, stable wages, rest and meal breaks, work vacations, pensions, and others (etc.) lose their meaning in most cases. In other words, the employee has to take care of his or her own insurance and pension contributions, without counting on the platform to shoulder some of the burden.

Some experts believe that, as an alternative, the platform should fully or partially compensate the costs of the worker's social guarantees based on his/her loyalty and

⁴⁷ Platform employment: definition and regulation / National Research University Higher School of Economics, Institute for Social Policy. – M.: NRU HSE, 2021.

⁴⁸ <https://ido.tsu.ru/novosti-ido/v-mire-onlajn-obrazovaniya/platformennaya-zanyatost/>

⁴⁹ <https://cabar.asia/ru/v-teni-platformennoj-ekonomiki-v-kazahstane-kak-razreshit-rastushhie-trudovye-konflikty>

⁵⁰ <https://www.bnnbloomberg.ca/food-delivery-ride-apps-to-pay-billions-more-a-year-in-eu-plan-1.1690357>

⁵¹ <https://trends.rbc.ru/trends/sharing/61fa98119a79470a7a1997b7>

rating on the platform.⁵² In this condition, the worker must be predominantly working on one platform and properly deliver his/her service.

Meanwhile, as already noted, Kazakhstan has also begun to develop mechanisms to regulate new forms of employment, including platform work.

For example, in August this year, the MLSPPRK posted on the portal "Open National Legal Acts" the **draft "Comprehensive Plan for Labour Market Development until 2025"**,⁵³ which, in particular, notes that the number of workers under contractual employment contracts has increased to **176.9 thousand** in 2021 (although official statistics show different data) and that there are currently about **300 thousand** freelancers officially working.

At the same time, in terms of platform work, the Comprehensive Plan contains such measures as the development of mechanisms for social and medical insurance, pensions and taxation of workers in new forms of employment (Q1 2023), amendments to the legislation regarding the recognition of platform work and platform workers (2023), introduction of simple procedures for recognizing the employment of independent workers based on a standard public contract with online platforms and the availability of mandatory tax and social payments (2023), unification of tax and mandatory payments (2023), ensuring full protection of the labour rights of independent workers, regardless on the nature of employment (Q1 2023).

In addition, there are plans to update the National Occupational Classification of Kazakhstan (2023), professional standards (annually), and the National Qualifications Framework for Lifelong Learning (June 2023).

As part of this work, in early September this year the Ministry of Labour and Social Protection of the Population of the Republic of Kazakhstan submitted a **draft Social Code of the Republic of Kazakhstan** for public consultation (consolidating into a single document nine Laws, including laws on employment, mandatory social insurance, pension and other laws on social benefits, protection of persons with disabilities, social services and state benefits for families with children) and a number of related draft laws, which, among other things, provide for the introduction of a conceptual framework and relevant regulations on platform work.⁵⁴

In particular, the draft code defines the notion of an **"Internet platform"**, which is considered an electronic online platform that ensures interaction between the customer registered on it and the contractor for the provision of services and the performance of work.

The concept of "platform work", "platform work mobile application", "internet platform operator", "customer" and "contractor" on internet platforms are also defined.

Platform work is defined as an activity for the provision of services or the performance of work using internet platforms and/or mobile platform applications, the parties to which are the operator of the internet platform, the customer and the executor.

The **operator of an Internet platform** is an individual entrepreneur or a legal person who ensures the functionality of the Internet platform and the processing of the

⁵² <https://rg.ru/2022/03/21/platformennaia-zaniatost-izmenila-rynok-truda.html>

⁵³ <https://legalacts.egov.kz/npa/view?id=14182909>

⁵⁴ <https://legalacts.egov.kz/npa/view?id=14202768>, <https://legalacts.egov.kz/npa/view?id=14202798>, <https://legalacts.egov.kz/npa/view?id=14202791>, <https://legalacts.egov.kz/npa/view?id=14202816>

information posted on it in order to provide intermediary services to registered customers and executors. A **contractor** is defined as individual, individual entrepreneur or legal entity registered on an Internet platform who provides services to customers or performs work using Internet platforms **on the basis of a public contract**.

It is also noted that the relationship between the Internet platform operator, the customer and the contractor is regulated in accordance with **the Civil Code of the Republic of Kazakhstan**, while the employment relationship between the legal entity, which is the Internet platform operator, and the employees it engages with is regulated in accordance **with the labour legislation of the Republic of Kazakhstan**.

Where the provider is a natural person, platform work is recognized as **main employment** for the contractor when providing services or carrying out work for **more than 20 hours per week** (half of the normal working hours of employees) using Internet platforms and/or mobile platform work applications.

It is worth noting that the operator of the Internet platform is responsible for making a **combined payment** (which will replace the SAP) to an individual provider (other than an IE): IIT, MPC (1% of income), social contributions to the SSIF (1% of income) and OSMS contributions, which will allow such employees to receive pension and social benefits, as well as medical care in the OSMS system. According to the code draft, operators of Internet platforms are considered to be **tax agents** for the payment of MPC, employer's MPC and CPPC.

In addition, platform workers are included in the list of persons subject to **compulsory social insurance**. Also, individuals who are payers of the pooled payment are included in the list of payers of **OSMS contributions** according to the accompanying amendments to **the RK Law "On Compulsory Social Health Insurance**, whose amount is proposed to be set at **1% of income** (for salaried employees it is set at 2%)

At the same time, in order to determine the amount of **social payments for loss of work, disability, loss of income due to pregnancy and childbirth, adoption of a newborn child, care, as well as for loss of breadwinner** for platform workers, their monthly income will be determined by dividing the amount of social contributions actually paid per month by the social contribution rate of **3.5%** until 1 January 2025, and from 1 January 2025 by **5%**. At the same time, the MPC for platform workers is planned to be set at **1% of income** from the provision of services (performance of work).

In turn, the Civil Code of Kazakhstan is supplemented by a new Article 387-1, which introduces a new type of public contract for the use of an internet platform or mobile platform work application, providing that the internet platform operator provides the provider with access to the internet platform or mobile platform work application to provide services to the customer.

The Labour Code also provides for new Article 146-1, which stipulates the specifics of regulating the labour of employees of a CE that carries out activities using Internet platforms and (or) a mobile application of platform work. Thus, the employment contract between the employee and the CE is concluded for a certain period, and a different duration of daily work (working shift) may be established for employees.

The system and conditions of remuneration, duration and procedure for recording working time of such employees will be established in accordance with the labour legislation of Kazakhstan, acts of the employer, collective agreement or employment contract.

In addition, the RoK Law on Road Transport clarifies the concept of "taxi carrier": in addition to the current definition of it as a individual entrepreneurs or individual entrepreneurs providing passenger and luggage taxi transportation services, it is also proposed to provide this possibility to natural persons engaged in providing services or carrying out work using internet platforms and/or mobile applications of platform work.

Such individuals will be included on a notification basis in the register of persons operating as taxi haulers, which is currently maintained by the local executive bodies of districts and cities of regional importance. Submission of the notification is mandatory.⁵⁵

At the same time, carriers who are individuals are exempt from the obligation to use taxis with a uniform colour scheme and distinctive signs, but are required to comply with other requirements of the Act (pre journey technical inspection, medical examination and others) and their compliance with these requirements is the responsibility of the Taxi Information and Dispatching Service.

In turn, under a call centre contract, the taxi call centre provides customer orders to taxi carriers or directly to taxi drivers.

* * *

Thus, it can be noted that the initiated legislative amendments are aimed, firstly, at recognizing at recognizing the presence of employees of digital labour platforms in the legal field, determining their status in social and labour relations, and secondly, at creating the preconditions (prerequisites) for the involvement of such workers in social insurance, health insurance and pension systems, not to mention taxation.

However, the proposed approaches appear to be incremental in nature, involving gradual changes to bring all aspects of platform work more seamlessly into the realm of existing labour and social legislation (e.g. only taxi drivers are singled out as a separate category of platform workers).

Unfortunately, the package of legislative amendments does not contain provisions to protect the rights and interests of platform workers through their involvement in the trade union movement, and to establish a system of tripartite social partnership in the field of platform work.

3. Social protection for platform workers

According to ILO Convention **No. 102 on "Social Security: Minimum Standards"** ⁵⁶, member states must guarantee protected persons (at least three of the following)

- 1) Proper medical care;
- 2) Sickness provision (45% of income);
- 3) Unemployment protection (45% of income);
- 4) Retirement insurance (40% of income);

⁵⁵ Through the portal www.elicense.kz

⁵⁶ https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---normes/documents/normativeinstrument/wcms_c102_ru.pdf

- 5) Support for occupational accidents and occupational diseases (40-50% of income);
- 6) Family care: child support;
- 7) Maternity cover; pregnancy and childbirth (45% of income);
- 8) Disability security (40% of income);
- 9) Support in case of loss of sole income provider (40% of income).

At the same time, the RK Law “On Minimum Social Standards and their Guarantees”⁵⁷ and by-laws of line ministries⁵⁸ in the areas of labour, social welfare, health care, family and children set such standards as:

- 1) MW (for employees under an employment contract);
- 2) Duration of daily work, working shift (for employees under an employment contract, depending on their categories and working conditions);
- 3) Basic paid annual leave (for employees under an employment contract of at least 24 calendar days);
- 4) The MSL, on the basis of which the amounts of the state basic pension, state social benefits for disability, loss of breadwinner, persons raising a child with a disability and the special state caregiver allowance are set;
- 5) The amount of the minimum pension;
- 6) Guaranteed scope of special social services (for people in difficult life situations);
- 7) The GAFMC in accordance with the RK Code “On Public Health and Health Care System”⁵⁹ and the GAFMC List (for citizens and resident foreigners and stateless persons);
- 8) Ensuring that health services are accessible to the population (standardised network of health care providers⁶⁰ for citizens and resident foreigners and stateless persons);
- 9) Protection of the rights and interests of orphans and children deprived of parental care who have been placed in foster care (child support payments, guardian or custodian allowances, jump-sum cash payments in connection with adoption).

In addition, in Kazakhstan the social protection of citizens, including platform workers, is built on the principles of shared responsibility of the state, employers and population. In practice, from the point of view of the platform worker, this means the need to participate in health and social insurance systems, pension schemes, as well as fulfil tax obligations.

For example, the Law “On Compulsory Social Health Insurance”⁶¹ establishes the right of insured consumers of medical services to receive timely and quality medical care, as well as the right to choose a medical organization within the OSMS system.

Persons eligible for medical care under the OSMS are those for whom contributions were **deducted** (from the employer) and/or contributions were **inputted**

⁵⁷ <https://adilet.zan.kz/rus/docs/Z1500000314>

⁵⁸ <https://adilet.zan.kz/rus/docs/V1500011975>, <https://adilet.zan.kz/rus/docs/V2100022482>, <https://adilet.zan.kz/rus/docs/V1500012113>

⁵⁹ <https://adilet.zan.kz/rus/docs/K2000000360>, <https://adilet.zan.kz/rus/docs/P2000000672>

⁶⁰ <https://adilet.zan.kz/rus/docs/V2000021452>

⁶¹ <https://adilet.zan.kz/rus/docs/Z1500000405>

(from the employee) to the NHIF and those exempt from contributions for whom contributions are made by the State (children, registered unemployed, non-working pregnant women and others, 15 categories in total), military personnel, law enforcement personnel and special State agencies.

As far as platform workers are concerned, they are given the following opportunities to participate in the OSMS system:

1) Independent workers are SAP payers who pay 1 MCI (3,000 tenge) in the capital, national and regional cities and 0.5 MCI (1,500 tenge) in other settlements (the payment includes contributions to the UAPF, contributions to the FSS and SSIF, as well as the IIT);

2) IEs who have paid a contribution to the FSMS (5% of 1.4 MW - 4.2 thousand tenge);

3) for individuals who receive income under contracts of paid employment, the calculation (withholding) and transfer of contributions to the FSS (2% of income not exceeding 10 MW, maximum 12 thousand tenge) is carried out by the employer (customer);

4) Individuals with no permanent income pay a contribution to the FSS in the amount of 5% of the MW (3,000 tenge).

According to FSS reporting,⁶² the fund received 751.5 billion in 2021, including 46% state contributions, 42.7% employer and employee contributions, 1.9% for individual entrepreneurs and less than 1% for the rest.

Deductions and contributions were paid to **17.5 million people**, or **91.4%** of the population. The average amount of deductions was 3.7 thousand tenge and the average annual frequency of deductions was 9 times a year: deductions were paid at least 9 times a year for 3.7 million people and 2.3 million people for the entire 12 months.

Also, the report of the FSS states that by the end of 2021, **15.5 million people** of **81.3%** of the population are participants of the OSMS system, most of whom are privileged citizens – 11.3 million people (59.5%) and wage workers – 5.6 million people (29.1%). Consequently, the rest of the population (about **3.5 million people**), including platform workers, are outside the OSMS system due to the fact that they do not pay contributions to the FSS.

However, in his address to the people of Kazakhstan on 1 September 2022, President Tokayev said that, despite ongoing reforms, the state of health care leaves much to be desired, and chronic underfunding results in insured citizens not receiving the medical services they are entitled to.

The head of state noted that the situation is exacerbated by the artificial division of medical care into state-guaranteed and insurance packages, instructing the government to review approaches to health care financing, including the launch of a voluntary health insurance system.⁶³

In turn, according to the **RK Law on “Compulsory Social Insurance”**,⁶⁴ the compulsory social insurance system covers six types of insurable events (social risk),

⁶² <https://fms.kz/upload/iblock/c2e/c2e8b21d695145b3d1fbae1ea9ec72c8.pdf>

⁶³ <https://www.akorda.kz/ru/poslanie-glavy-gosudarstva-kasym-zhomarta-tokaeva-narodu-kazahstana-181130>

⁶⁴ <https://adilet.zan.kz/rus/docs/Z1900000286>

upon the occurrence of which system participants acquire the right to receive social benefits (with deductions from MPC):

1) **Disability** (two monthly average income less 55% of MW (according to the SAP – 1 MW) multiplied by income replacement ratio of 0.6, disability ratio of 0.3-1 and length of participation from 0.1 for six months to 1 for six years, with a further addition of 0.02 for each additional year of participation);

2) **Loss of breadwinner** (income determined in the same way as above, multiplied by income replacement ratios of 0.6, number of dependents of 0.5-1 and length of participation of 0.1-1, adding 0.02 for each year of participation);

3) **Loss of employment** (for up to six months when registered as unemployed, excluding SAP payers; average monthly income multiplied by income replacement ratios of 0.4, which the draft Social Code plans to increase to 0.45, and length of participation of 0.1-1 with an addition of 0.02 for each year of participation);

4) **Loss of income due to pregnancy and childbirth** (average monthly income (according to the SAP – 1 MW) multiplied 5y the number of days of incapacity for work - number of days of incapacity for work divided by 30);

5) **loss of income due to the adoption of a newborn child** (similar to the previous point);

6) **loss of income due to care for a child after the age of one year** (average monthly income (under the SAP - 1 MW) multiplied by an income replacement ratio of 0.4; maximum payment of up to 40 per cent of 7 MW or 168,000 tenge; the draft Social Code provides for an increase to 1.5 years).

Thus, it can be stated that platform workers who carry out their activities through payment of SAP are the most disadvantaged group of the employed population, as only 1 MW is applied in calculating social risk payments, which can be assessed as significantly underestimated (60,000 tenge in 2022).

The social insurance is compulsory for salaried employees, self-employed persons, private practitioners, SAP payers, as well as foreigners, stateless persons and kandas permanently residing in the country (with the exception of persons of pensionable age). In this context, as participants of the social insurance system, **potential platform workers** (in urban. areas) are employees under self-employment contracts (51,500 in 2021), employed workers of individual entrepreneurs (304,200), as well as contributors of SAP - mostly unregistered independent workers (44,000).

Meanwhile, **payers of social contributions** are employers, individual entrepreneurs, private, practitioners (rate 3.5%, from 01.01.2025 - 5% of income of an employee in the amount from 1 to 7 MW - from 2.1 to 14.7 thousand tenge) and SAP payers (till 2024), and **recipients of social payments** – individuals (including employees of digital labour platforms), for whom social contributions were made to SSIF before the onset of social risk event.

According to the SSIF,⁶⁵ in 2021, more than 322 billion tenge of social contributions have been paid for the number of social insurance system participants in the amount of **6.6 million people (35% of the population)**. Recipients of social payments were 662.8 thousand persons for child care, 225.5 thousand for pregnancy and childbirth, 105.7

⁶⁵ <https://qfss.kz/ru/обязательное-социальное-страхование/инфографика/инфографика-2021/>

thousand for job loss, 94.7 thousand for disability, as well as 57.7 thousand for loss of breadwinner.

The average monthly social benefits for pregnancy and childbirth amounted to 576,000 tenge, for loss of employment 46.3 thousand tenge, for child care 32.9 thousand tenge, for loss of breadwinner 27.6 thousand tenge and for loss of ability to work 26.8 thousand tenge.

As can be seen from the above data, the number of people involved in the social security system and the average social benefits themselves are comparatively low, which also applies to platform workers.

At the same time, according to the **RK Law "On pension provision"** ⁶⁶ citizens and foreigners and stateless persons permanently residing in the country have the right to pension provision, and both the amount of pension savings and the amount of the basic pension payment guaranteed by the state depend on the length of participation in the pension accumulation system and regularity of pension contributions.

Thus, the **public basic pension** is set at **54%** of the minimum subsistence level for 10 or fewer years of contributions, or none at all, with an increase of 2% for every full year of contributions over 10 years, but not more than **100% of the minimum subsistence level**. The draft Social Code provides for an increase to 70-120% of the subsistence minimum pension in 2027, and from 2028 the minimum and maximum amounts of the basic pension are to be set at **50-85% of the minimum wage**.

In addition to the basic pension, a **retirement pension** (for persons with at least six months of service as of 1 January 1998) is also paid from the state budget, the amount of which is determined on the basis of **60%** of the average monthly income for any three consecutive years since 1998.

At the same time, for each full year worked before 1998 more than the required length of service, the pension is increased by 1%, but not more than **75%** of income. Meanwhile the income for calculating old-age pension cannot exceed 46 MCI (146 thousands tenge), i.e. the maximum possible amount of such pension is about 110 thousand tenge. It should be noted that the draft Social Code plans to increase this restrictive level to 55 MCI.

As for the **cumulative part** of the pension, it is formed by means of the MPC (10% of income not exceeding 50 MW or 3 million tenge), the CPPC (5% of income) and voluntary pension contributions. In addition, the draft Social Code envisages the introduction of the ECPC from 2023, with a phased increase from 1.5 per cent to 5 per cent of income in 2027.

The MPC is paid from the employee's income while the CPPC (for employees working in harmful conditions) and the ECPC are transferred to the UAPF at the expense of the employer. However, for employees under a contract of work or service for which the subject matter is the performance of work or services, the MPC is withheld from their income and remitted to the UAPF by the employer (customer).

In this respect, it is important for platform workers **to pay MPC**, as the length of participation in the pension system includes, first and foremost, the period for which they have been engaged.

⁶⁶ <https://adilet.zan.kz/rus/docs/Z1300000105>

Thus, according to UAPF,⁶⁷ as of September 1, 2022, the fund opened **11.8 million** individual pension accounts of depositors, which exceeds the number of the employed population by about 3 million, including the unemployed and those not in the labour force. Total pension savings amount to almost **14 trillion tenge**, 97% of which are formed from MPC.

However, when talking about **skills development for workers**, including digital work platforms, for whom this can to some extent be the basis for improving the quality of their working life, it is important to develop various measures to **implement lifelong learning**.

It should be noted that in Kazakhstan, the Lifelong Learning (continuing education) Concept was approved in July 2021,⁶⁸ according to which the main approaches to developing lifelong learning are the development of funding mechanisms and recognition of non-formal learning outcomes, increasing the capacity of the workforce through skills development, formation of a certification model governing the recognition of qualifications and skills based on experience, education, demonstrated knowledge and skills, increasing the coverage of citizens.

One example of a lifelong learning mechanism is the **Skills Enbek**,⁶⁹ online vocational training platform, where anyone can take courses in various fields and receive a certificate at the end of their training.

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Thus, it can be stated that, at present, social and labour guarantees for platform workers are provided to a lesser extent than those for salaried employees to whom labour law regulations apply.

For example, workers on digital labour platforms are not covered by minimum wage and annual paid leave guarantees, and health care, social security and pensions are available subject to the payment of relevant contributions to the FSS, SSIF and UAPF, while social benefits may be relatively low based on the small contribution of such workers to health, social security and pension systems.

Nevertheless, attempts have been made to regulate platform work by law, including from the perspective of strengthening worker's protection, but the proposed innovations are incremental in nature.

⁶⁷ <https://www.enpf.kz/ru/indicators/pa/current.php>

⁶⁸ <https://adilet.zan.kz/rus/docs/P2100000471>

⁶⁹ <https://adilet.zan.kz/rus/docs/P2100000471>

4. Involving platform workers in the trade union movement

According to the **RK Law “On professional unions”**⁷⁰, a trade union is a public association with fixed membership, voluntarily established on the basis of the **commonality of labour and industrial and professional interests** of citizens of RK for the representation and protection of labour and socio-economic rights and interests of its members, and they are established according to the **production-industry principle**.

Two types of trade union are distinguished: **local** (voluntary association of employees of one or more organizations) and **industry** (association of employees of one branch of activity (types or subtypes of economic activity) and related branches, as well as local trade unions).

With regard to the current situation of platform workers, they are in most cases not legally defined as workers (under the Labour Code) who could form a trade union, but at the same time, they are nationals, who have **common labour and professional interests**, i.e. a basis for unionization.

In fact, the creation of a trade union of platform workers is impossible in practice; accordingly, this also makes it difficult to protect their individual and collective social and labour rights and interests, including the resolution of labour disputes through conciliation and reconciliation procedures, as well as appeals to the state labour inspectorate and judicial authorities.

Furthermore, the formation of a tripartite system of social partnership in platform work, alongside the creation of a trade union infrastructure, will also require the identification of the employers in this area, although the Internet platforms themselves insist that they are not employers for platform workers.

In this regard, it should be noted that in Kazakhstan, as in some other countries around the world, there have been recorded methods of expressing their complaints in the form of protest actions by platform workers.

For example, in 2021, Wolt couriers organized "strikes" in Almaty on May 12th (50 people), July 7th (80 people) and October 21st (12 people appealing to the authorities). Yandex Go drivers also staged protests on December 6th (400 people) in Shymkent, and on March 31st in Almaty (video message). As a result, due to the risk of reputational damage, the Internet platform was forced to make partial concessions to the demands of such workers under the pressure from the authorities.⁷¹

Meanwhile, within the framework of the current legislation, among the factors preventing the involvement of platform workers in trade unions, one can also note **organizational difficulties** in convening constituent meetings associated with the dispersed dislocation of potential members of the trade union, as well as in some cases the short-term or irregularity of labour activity in platform work.

Given that legislative amendments have now been drafted to define both internet platforms and their platform workers, it seems relevant to adjust legislation to **allow workers on digital labour platforms to form trade unions**, including the ability to

⁷⁰ <https://adilet.zan.kz/rus/docs/Z1400000211>

⁷¹ <https://cabar.asia/ru/v-teni-plattformennoj-ekonomiki-v-kazahstane-kak-razreshit-rastushhie-trudovye-konflikty>

defend their rights and interests, negotiate, conclude agreements and collective bargaining agreements.

The creation of industry trade unions of platform workers, based on the activities of the respective internet platforms, is seen as the most feasible. This does not exclude the possibility of creating local unions in different cities, which could be part of industry trade unions to advocate for common positions at the industry level.

In turn, union-building activities could be organized on the basis of a dedicated information system integrated with Internet-based digital labour platforms (e.g. providing an opportunity to join a union) and allowing union membership to be recorded through the use of an electronic digital signature, conducting union work, interacting with union members and providing appropriate online support to them.

At the same time, representation of the interests of such local and sectoral trade unions at regional and country level can be achieved through their voluntary inclusion in the country's existing territorial and national trade union associations, which could assist in the initial stage of establishing platform worker trade unions through methodological, information and advisory and organizational support.

Overall, support for the involvement of platform workers in the trade union movement by the national trade union centers operating in the country (FTURK, Confederation of Labour of Kazakhstan, Trade Unions Commonwealth), in view of their experience, would give a notable boost both in terms of their self-organization as well as the inclusion of other social partnership parties in this process, with the subsequent conclusion of trilateral agreements and collective bargaining agreements.

It is also not ruled out that platform workers could form relevant public associations, which could enter into cooperation agreements with existing trade unions or become their associate partners, while being able to defend their interests by granting trade unions representational powers.

More detailed information on methods and approaches to engaging platform workers in trade unions was outlined in the report “Defining Kazakhstan's Trade Union Action Strategy on Non-standard Forms of Employment”, based on a joint ILO-FTURK study in 2021.⁷²

In addition, it makes sense to build cooperation with relevant NGOs, such as the Republican Association of Taxi Services of Kazakhstan (established as an association of legal entities in July 2020 with the main activity “activities of other public organizations not included in other groups”, OKED 94.99.0).

While such associations tend to oppose the Internet platforms of taxi aggregators, advocating the provision of a number of benefits to official carriers, they also offer interesting measures to increase the efficiency of this type of activity.⁷³

For example, it is proposed to maintain a register of taxi aggregators, monitor pricing of taxi services, set a maximum percentage of aggregator commissions, make taxi aggregators liable to passengers and drivers, create an electronic taxi database and generally introduce digital regulation of taxi services based on “big data”.

⁷² <https://kasipodaq.kz/wp-content/uploads/ОТЧЕТ-по-проекту-ФПРК-и-МОТ-Определение-стратегии-действий-профсоюзов-Казахстана-в-отношении-нестандартных-форм-занятости.pdf>

⁷³ <https://kapital.kz/business/95461/kak-predlagayut-regulirovat-rynok-taksi.html>

It is noteworthy that the public association Local Trade Union of Taxi Drivers in Almaty was created in March 2017 with the same core activity (activity of other public organizations not included in other groupings), although a separate activity - "activity of trade unions" (OKED 94.20.0) is defined for trade unions.

However, both the Republican Taxi Services Association and the Local Trade Union of Taxi Drivers for Almaty do not have official websites for their activities and there is no tax payment record for either organization, which to a certain extent casts some doubt on their active operations.

With regard to social partnership issues in the field of platform work, the most effective and feasible solution is the creation, on a voluntary basis, of **an association of internet platforms** for different types of activities. These could be platforms providing interaction between customers and providers of different services and works, as well as taxi and delivery aggregators.

Such an association could represent the interests of employers - internet digital labour platforms in the system of tripartite social partnership at national, sectoral and regional levels; become a signatory of general, sectoral and regional agreements; and participate in the process of signing collective agreements between individual internet platforms and their platform workers.

* * *

Thus, given the focus of labour law and trade union law on traditional labour relations and employees, amendments and additions to existing legislation are required to involve Internet platform workers in trade unions and provide them with opportunities to form trade unions.

Legislative amendments are also required to integrate platform work into the system of social partnership in the labour sphere. It is also important to work with internet platforms to explain the importance and usefulness of establishing an organization that unites them as a party to social partnership for effective interaction with the workers' community and public authorities.

In this work, the national trade union associations are called upon to play a leading role in cooperation with authorized state bodies and Internet platforms. It is important to convey to all participants in these processes and the public in general the need to apply coordinated actions for the benefit of the working people, including platform workers who also need representation and protection of their rights and legitimate interests.

Overall, there is a need to establish a legislative framework and a digital infrastructure to actualize the right of platform workers to freely associate with trade unions.

5. Recommendations

Based on the study, a number of recommendations have been developed, which would be useful to discuss at different venues with the participation of all stakeholders, including the main and systemic ones that are proposed to submit to the Republican Tripartite Commission on Social Partnership and the Regulation of Social and Labour Relations for consideration.

1. In addition to the project regarding the legislative amendments on platform work issues, it seems appropriate to **classify and categorize online digital work platforms** in terms of their employer status based on a number of attributes such as:
 - 1) the intermediary nature of the work between platform workers and customers of services using Internet technologies;
 - 2) influence of the platform on the establishment of methods and amount of remuneration (rates of pay) of platform workers;
 - 3) actual control of the platform over the activities of employees (methods, terms and quality of services, compliance with the terms of the platform, application of penalties in case of their violation, etc.);
 - 4) platform's requirements to the standards of employee appearance and behavior, visual indication of employee's belonging to the platform;
 - 5) the impact of the platform on an employee's freedom to choose orders and the ability to not accept orders without lowering the rating in the system;
 - 6) establishing practical restrictions of direct employee contact with customers, bypassing the services of the platform;
 - 7) the platform's ability to unilaterally change the terms of public agreements, regulations, rules, offers, adhesion contracts, etc. or terminate them.
2. Taking into account the fact that, as a rule, platforms carry out their activities in an oligopolistic market, it is proposed to create and maintain a **register of Internet platforms of digital labour** registered in Kazakhstan, based on their classification and categorization.
3. Due to the algorithmic pricing of services provided through certain categories of online digital labour platforms, **regular price monitoring** within the framework of antitrust regulation is proposed to protect the rights of consumers of these services.
4. In order to ensure the transparency of the activities of online digital work platforms, due to the fact that they affect sensitive public, social and labour, and economic interests, it is proposed to give them the status of **public interest organization**, which will also ensure an annual external audit of the activities of Internet platforms.
5. In order to improve the quality of statistical information in the field of labour and employment, it is proposed to **specify the statistical reporting forms for online digital labour platforms**, reflecting the data on the number of platform workers, wages, working hours, the types and amounts of commissions charged by the platform, etc.

6. In order to create favorable working conditions for platform workers, it is advisable to consider additional regulations in **the content of the new type of public contract** for the use of an Internet platform or mobile applications of platform work. The additional regulations would include mechanisms for recording working time, ensuring safety and labour protection, providing rest and vacation time, paying social benefits for temporary disability, as well as the obligation of the platform to explain the reasons for refusal to register or disconnection from the platform, etc.
7. In order to identify platform workers in more detail, it is important to provide for the inclusion in the National Classification of Occupations of a separate **category of employees of Internet digital labour platforms** by type of activity.
8. Given the voluntary nature of the transfer of **personal data by employees of Internet digital labour platforms** to prevent their misuse, it is proposed to legislate the obligation of platforms to notify employees in the event of its dissemination, specifying the recipient of such information.
9. In order to form a legislative framework and create a digital infrastructure for the realization of platform workers' right to freedom of association, it is proposed to legislate:
 - 1) **the right to create trade unions by workers on Internet digital labour platforms**, including opportunities through the union to represent and defend their rights and interests, to negotiate collectively, to enter into agreements and collective bargaining agreements, to participate in the social partnership system, etc.
 - 2) the possibility of conducting trade union activities of employees of Internet digital labour platforms **in electronic format** with the use of an electric digital signature.
10. In order to create a full-fledged system of social partnership in the field of platform work, it is advisable to educate about the necessity and importance of establishing, on a voluntary basis, an **association of Internet digital labour platforms** of various activities as a party of employers' association in the social dialogue.

Conclusion

Studying the field of platform work, we can conclude that the presence of online digital work platforms in Kazakhstan is expanding every year, with new players coming in; with this development, foreign platforms are taking a large share of the market and operating through establishing representative companies under Kazakh law.

Such platforms position themselves as an information intermediary between customers and performers, explicitly excluding definitions as an employer for platform workers, but at the same time leaving opportunities to apply different models of interaction with such workers.

However, almost all Internet platforms have similar approaches in setting conditions for platform workers: public offers are developed, modified and terminated unilaterally; at the discretion of the platform, a worker can be refused registration or disconnected from the platform without explanation; although the platform declares no control over the worker, it is actually exercised through determining the methods, timing and quality of service delivery, requirements for compliance with the conditions of the platform, the application of penalties in case of their violation, etc.

Also, a common characteristic of Internet digital platforms is the specification of limited rights of platform workers in public offers: they only have access to information about orders and the platform is able to use and disseminate worker's personal data without notifying them. A number of platforms also affect the worker's freedom to choose their orders and their ability to not accept offers without negative consequences in the form of a downgrade in the system.

As a result, despite the voluntary principle of choosing one or another Internet platform, the possibility for employees to independently regulate their working hours, and the choice to accept the terms of public agreements and use platform services, employees become dependent on the platform, and perhaps even to a greater extent than, for example, employees under CLC agreements who work "behind the state" for traditional employers.

However, online digital labour platforms do not disclose summarized information about the number of platform workers, the nature of their work, the hours of work they are expected to perform, the average level of pay, etc., including by activity and region.

Meanwhile, the collection and processing of large amounts of data provides a unique advantage for Internet digital labour platforms, which could be a source for in-depth analysis of the state of labour relations in the platform economy, the development of such industries, and behavioural patterns in society in general.

In turn, expert estimates voiced by representatives of the Ministry of Labour and Social Protection of the Population of the Republic of Kazakhstan range from 500 to 900 thousand people employed on Internet digital labour platforms, while an analysis of official statistics showed that about **525 thousand people** can be potential platform workers (including individual entrepreneurs, those who do not use the labour of other workers - 82%, employees under CLC agreements in cities - 10%, unregistered independent workers in cities - 8%), of which about **175 thousand are regular workers** for whom platform work is the main source of income.

In terms of social protection, it can be stated that the social and labour guarantees for platform workers are currently provided to a lesser extent than for salaried workers, who are subject to labour law regulations.

For example, platform workers are not covered by the guarantees on the minimum wage, the duration of daily work or work shifts, and annual paid leave, while health care, social protection, and pensions are available subject to payment of the corresponding contributions to the Social Health Insurance Fund, SSIF, and UAPF. Such payments can be relatively low, given the small contribution of such workers to the health, social and pension systems.

In addition, there is a problem of insufficient coverage by compulsory insurance schemes: for example, around 3.5 million people, including platform workers, are outside the EPS system due to the fact that they do not pay contributions. Also, platform workers who are contributors to the EWC are not covered by the social risk of loss of employment, and for a number of other social risks, only 1 MRL is applied when calculating benefits, which can be assessed as significantly underestimated.

Therefore, an important step is the initiation of legislative amendments, which aim to recognize the existence of platform workers in the legal framework, to define their status in social and labour relations and to create the groundwork for a wider involvement of such workers in social, health insurance and pension schemes.

The involvement of platform workers in the trade union movement also remains a pressing issue, for which a legislative framework and a digital infrastructure need to be in place to implement the right to freedom of association for workers on digital labour internet platforms. In addition, legislative amendments are also needed on the integration of platform work into the social partnership system in the labour sector.

In this work, the leading role should be played by the national trade union associations in cooperation with the authorized government bodies and Internet digital labour platforms.

It is important to communicate to all stakeholders and to the public in general the need for coordinated action for the benefit of the working people, including platform workers, who also need representation and protection of their rights and legitimate interests.

In summary, it should be noted that in Kazakhstan, especially in recent years, there has been a significant impact of modern digital technologies on the economy and society as a whole, including the labour market. It is expected that the spread of Internet platforms will continue to expand, covering more and more areas of life and affecting the rights and interests of various groups of the population.

In this context, it is crucial to find the best and most effective way to use online platforms in a way that is mutually beneficial and mutually acceptable to all stakeholders (users, workers, platforms and the state). And perhaps the only way to do this is through an open and trusted social dialogue based on a tripartite partnership.

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