

The legal status of drivers of traditional and alternative taxi services in terms of employment law

Abstract

The aim of this thesis is to apply the defining features of dependent work to the activity performed by drivers in domestic taxi service – and based on this analysis – to decide whether the nature of this work really corresponds to the declared position of drivers as independent providers of transport services mediated by a third party, or whether they potentially are misclassified employees entitled to all labor benefits associated with such status.

The subject of interest is not only the activity of "traditional" but also "alternative" taxi drivers. Therefore, the work first deals with the phenomenon of shared economy, term allegedly justifying the above-mentioned dichotomy and in the eyes of some authors a reason for special legal treatment of some subjects on the taxi market. Through the analysis of the theory of shared economy with emphasis on the transport sector, a historical excursion into the sharing of transport capacity and a comparison of the operation of BlaBlaCar and Uber services, it is concluded that the subjects dealt in the thesis cannot be subsumed under the concept of shared economy. Furthermore, the case law of the CJEU is analyzed, on the basis of which Uber is qualified as a service in the field of transport and it is possible to apply a national regulation to it, in the domestic case the law regulating road transport.

The work therefore further deals with the application of this legislation to Uber and similar services, and is found to be a taxi service. Based on the analysis of individual articles related to the taxi service, it is concluded that the division of actors into "traditional" and "alternative" has no support in the law. The thesis also deals with the definitions of taxi service and a carrier, while with regard to the above-mentioned decision of the CJEU, the question is whether these definitions are still up to date. With regard to the wording of the law, Uber is designated as a carrier, which implies the obligation to have an employment relationship between it and the driver. The validity of such a conclusion is then reflected with the existing domestic case law, which does not yet provide a definitive answer, but in which a certain trend can be traced.

The third chapter focuses on the concept of defining features of dependent work and their application to the activities of the most relevant actors in the domestic taxi service. The conclusions are then confronted with previous foreign experience, where the issue is the subject

of active interest of legislators and courts, while in several countries there is a clear tendency not to grant drivers the status of independent providers, and furthermore to classify them as employees. At the same time, there are many opinions that the nature of this activity is somewhere on the border, and ways are being sought to provide drivers with at least some of the benefits of labor law, while allowing them the same flexibility they currently have.

The final part of the work is therefore devoted to the analysis of the most common solution proposals, which often consist of certain legislative interventions: whether it is broadening the definition of who is an employee or introducing a new category of workers that would provide a more flexible answer to modern trends in work activities. Despite the attractiveness of such innovative solutions, the work proposes a simpler approach, which reflects the true nature of the work of drivers in the taxi service, taking place in the strong presence of control by the superior subject, and sees the way in a relaxed interpretation of the current law, combined with more effective enforcement.