New Chapter for Croatian Platform Workers

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The start of the 21st century has seen the biggest changes and developments in employment law since its birth in the flames and smoke of the industrial revolution. The norm of the second half of the 20th century, comprising eight-hour shifts and nine-to-five office jobs, is now being dismantled. From remote working, flexible hours, compressed workdays and workweeks, all the way to platform work, the spectrum of employment law has never had so many colors. Even though Croatia represents a small jurisdiction, worldwide trends are certainly not bypassing it.

In order to keep up with the recent EU directives and trends, the Croatian government has submitted to the Croatian parliament a draft bill amending the *Employment Act* (Draft Bill). Although the Draft Bill is introduced primarily to implement *Directive 2019/1152 on transparent and predictable working conditions in the European Union* and *Directive 2019/1158 on work-life balance for parents and carers*, the Croatian government has used the opportunity to also tackle some of the contemporary issues of the Croatian employment law and practice, such as fixed-term and part-time employment contracts, temporary work agencies, and the remote work landscape. Last but not least, the Draft Bill will attempt to tame an ever-more expanding phenomenon – platform work.

Under the Draft Bill, platform work is defined as work performed by a natural person through digital technology (either on-site or remotely via electronic means, such as internet pages or mobile applications) for remuneration, and for a digital work platform or an aggregator. In this context, the Draft Bill recognizes both the situation where a platform worker is in a direct contractual relationship with a digital work platform and the situation where an aggregator acts as an intermediary between a digital work platform and a

platform worker. The existence of aggregators in the market is not a novelty, as many platform workers are employed by companies established solely for the purpose of intermediating between workers and the platform. What is new, however, is that under the Draft Bill the digital work platform will be jointly liable with the aggregator for all obligations the aggregator has toward the employees who perform work for the digital work platform – unless the platform acquires, on a quarterly basis, pre-defined documents evidencing, among others, that the aggregator has no outstanding tax debts and that the aggregator regularly pays a salary to its employees.

One of the problems that the Draft Bill is also trying to solve is employee misclassification. It has been recognized that, in practice, platform workers are often engaged on the basis of a contract other than an employment agreement, although the nature and circumstances of their work are more resemblant to an employment relationship. To this end, the Draft Bill provides a non-exhaustive list of factors that are indicative of an existence of an employment relationship with either a digital work platform or an aggregator, regardless of the type of contract in place.

The list of such factors includes, for example, limiting the freedom of the worker to refuse performance, specifying the time, place, and manner for the performance of work, etc. By way of exception, a platform worker will not be considered an employee – even if all statutory factors indicative of the existence of an employment relationship are met – if the platform worker earns less than 60% of three monthly minimum gross salaries within each quarter by working through a digital work platform. To put it in perspective, this means that if a worker earns less than about EUR 1,300 within Q1 of 2024, they will not be considered to be an employee of the digital work platform or an aggregator, unless explicitly contracted otherwise. It will be interesting to see whether the platform algorithms will take this income criterion into account when allocating work to its platform workers.

Although the Draft Bill is intended to apply as of January 1, 2023, the provisions regulating platform work are scheduled to enter into force only on January 1, 2024. One may hope that this one-year grace period will be effectively used by both digital work platforms and the government in order to resolve any questions that may yet arise in practice.

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