

Home work, platform work and the regulation of dependent labour

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The putting-out system raises a question that has returned in the twenty-first century in a new form: the legal status of workers who are formally independent but economically dependent on a single principal. The rural weavers of Basel owned or rented their looms, worked at home and were paid by the piece. Since they were not employees in the legal sense, the merchant bore none of the obligations of an employer. Yet their income, their work and their living conditions depended entirely on the merchant.

The same question arises today in the platform economy, where drivers, couriers and other workers perform services through digital platforms that present them as independent contractors. Courts and legislators in many countries have had to decide whether these workers are employees entitled to the protections of labour law and social security, or self-employed persons who bear their own risks. In Switzerland, the Federal Supreme Court decided in 2022 that drivers working for a ride-hailing platform in Geneva were to be treated as employees under cantonal law. The question has since been the subject of further litigation and political debate.¹

The history of the putting-out system shows that the question is not new. The home weavers of Basel, the *Posamenten*, occupied an intermediate position between the independent craftsman and the factory worker, a position for which the law of their time had no category. The factory legislation of the nineteenth century, which protected factory workers, did not initially cover home workers, and the Swiss Home Work Act, adopted in 1981, was one of the attempts to fill this gap.² The platform economy of the twenty-first century is, in many respects, a digital putting-out system, and the legal questions it raises are those that the ribbon industry of Basel raised two centuries ago.

1 Notes

1. Swiss Federal Supreme Court, judgment 2C_34/2021 of 30 May 2022 concerning drivers of a ride-hailing platform in the canton of Geneva. To be verified. ↩
2. Federal Act on Home Work of 20 March 1981 (Heimarbeitsgesetz, SR 822.31). To be verified. ↩

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