

| DELIVEROO'S RIDERS ARE EMPLOYEES

On 1 June 2018, the Labour Court number 6 of Valencia has issued the first ruling on the legal nature of the relationship between a company providing home delivery services and its riders.

The proceeding derives from the claim for unfair dismissal filed by a Deliveroo rider, when the company ended the relationship unilaterally due to the rider having rejected several deliveries.

Following a thorough analysis of the contracts signed by the parties, the policies issued by the company and how the day to day activities of riders are organised and monitored, the Labour Court has concluded that (i) Deliveroo effectively controls the activities of its riders, (ii) they are a key part of the company's organizational structure and (iii) they do not take on any risk with their activity.

Consequently, it declares that their relationship is of an employment nature.

The elements that lead the Labour Court to believe that Deliveroo organises and controls the activities of its riders are:

- At the start of the provision of services riders have to download the mobile app which is developed and managed by the company, which must authorise him/her to use it.
- The company chooses the area where riders will provide their services.
- The company establishes the different time slots during which riders can choose to provide their services, and it is the company who finally chooses the schedule for their activities.
- The company gives specific instructions on how tasks should be allocated and sets times and rules of conduct with which the riders must comply.

- At the beginning of the day riders are required to go to a specific location where they await the assignment of orders, and where they would have to return after an order is finalised.
- The company has its riders geolocated at all times, and is able to ask for an explanation regarding the services carried out at any point. It also keeps track of the time taken to deliver the packages.
- Riders are not entitled to reject an order as it can result in the termination of the relationship.

Further, the elements that lead the Labour Court to understand that riders do not assume any risks are the following:

- Despite the fact that riders provide their own mobile phone and bicycle, they do not run a business themselves.
- The company unilaterally decides the price of the deliveries.
- Riders received a preset fee, regardless of how much the company charged, and after the company has prepared the corresponding invoice.
- Riders receive a fixed remuneration per delivery, as well as an amount for availability, but do not receive any of the company's profits.
- A riders' ability to subcontract the services is purely theoretical, as it rarely occurs in practice and needs to be authorized by the company .

Conclusions

In other jurisdictions, the fact that riders can choose when to connect to the app and, therefore when to start providing services has led their Labour Courts to conclude that they are effectively working on a freelance basis and shall not be awarded protection by Labour Laws.

However, as we have seen, the Labour Court of Valencia, in line with the two resolutions issued in the last 4 months by Labour Inspection authorities in Valencia and Madrid, does not pay much heed to who has the power to initiate the provision of services but rather how they are performed once the rider is connected to the app.

Despite the fact that the judgment can be appealed before the High Court of Justice of the Valencian Community, it is clear that the conclusiveness of this ruling will have an

immediate impact on the framework of the relations existing between delivery companies and their riders.

This Briefing has been written by M^a Eugenia de la Cera, lawyer of the employment practice area. The information contained in this Informative Note is of a general nature and does not constitute legal advice.

This document was produced on 15th June 2018 and Pérez-Llorca does not assume any responsibility regarding updating or reviewing its content.

For further information:

Fernando Ruiz

Partner

fruib@perezllorca.com

Tel: + 34 91 426 09 36