

**Fourth Study Commission
Public and Social Law**

Questionnaire 2024

**Digital Revolution Impact on the Labor Market: Platform or Gig Economy and
Artificial Intelligence**

HUNGARY

1-2.)

Platform work is a form of employment where users interact with other organisations using online platforms to provide services in exchange for payment. In Hungary, UBER first appeared in passenger transport and then spread during the Covid19 pandemic, mainly due to the rise of food and grocery delivery.

The legal definition of platform work has been the subject of numerous professional presentations in recent years, but the conclusion has always been that once such a case arises, the qualifying features of the employment relationship (e.g. nature of the activity, definition of the job as a job, personal work obligation, employment and availability obligations, subordination, provision of work equipment, etc.) must be examined individually to determine whether the relationship can be classified as an employment relationship.

Platform work affects the traditional employee-employer relationship mainly because of its magnitude. The platform solution is spreading rapidly because users are attracted by the fast, flexible and minimally tied employment opportunity, its digital solutions are in vogue, and it also significantly simplifies the employment environment for employers. However, a direct consequence of this is an increase in the vulnerability of workers. The significance of this is not felt by users in the short term and, in my personal opinion, is underestimated. From the employee's point of view, it can be a very advantageous solution, for example, to have a flexible, flexible form of auxiliary income that can be adapted to one's own needs, instead of a rigid employment relationship with many constraints.

As far as the Hungarian practice is concerned, in accordance with the general EU practice, users formally carry out the work under a contract of engagement - as self-employed persons. The reason for this is that a contract of agency is a much more flexible solution and better adapted to the expectations of the contracting parties (e.g. tax rules, flexible working hours, use of own means of transport, etc.). Nevertheless, users have to comply with a number of rules and restrictions that are specific to the employment relationship. Examples include the ex-post evaluation of the work performed, and the grading of the work performed in order to achieve various criteria (e.g. better performance is rewarded in the future, preferred for a new order). There are also mixed grades, e.g. the employer provides the mandatory clothing and a meal bag (with the service provider's logo), but the user has to provide the transport, which is expensive to purchase and maintain. The contradiction is that, despite all these qualifying features, they are not entitled to the employment rights and social protection afforded to workers under national and EU legislation (e.g. sick pay, workers' compensation for accidents suffered on the job, severance pay, paid holidays, unemployment benefits, etc.).

As far as judicial practice is concerned, unfortunately we do not have much data. Although we have been waiting for a long time for platform-based employment claims, we are not aware of

any employment lawsuit on this subject before the Metropolitan Court. However, given that platform work is in practice organised under a contract of agency, the court of general jurisdiction, not the labour court, has jurisdiction to hear disputes based on a contract of agency. Of course, it is also the task of the court of general jurisdiction to examine the legal nature of the underlying contract (agency or employment?), but we do not consider it to be viable for a platform provider to challenge the agency nature of the legal relationship as a defendant in such a lawsuit, claiming that it has disguised an employment relationship as an employer.

The Curia has already ruled in a case in a provincial court, and has not established an employment relationship for the platform provider. However, it should be pointed out that the underlying legal relationship was also in this case classified differently by the lower courts, so the situation was not clear-cut. However, the circumstances of each case must be carefully considered on a case-by-case basis, so it cannot be excluded that in another proceeding the qualifying elements of an employment relationship may be established on the basis of the employment practices of another platform provider.

3-4)

The issue of artificial intelligence is a new one, especially in Hungary. There are no relevant labour market legislation, court decisions, scientific reports or official data available.

In terms of the impact on the labour market, positive results can be seen for the time being, as this new field is creating new jobs, as these IT solutions have yet to be developed, while at the same time alleviating the increasingly pressing labour shortages in other areas of the economy. The Profession.hu job search site today has dozens of vacancies where the keyword artificial intelligence is mentioned in some context, typically in the field of data analysis and software development.

Given the shortage of labour in the Hungarian economy and low incomes in Europe, investors may nowadays be looking to replace the missing workforce with AI rather than "replacing" the existing workforce, especially given the high cost of developing AI solutions.

However, economic development is a reality in everyday life. Solutions using AI are becoming more and more common, e.g. online administration interfaces. The Hungarian labour market is currently not radically affected and its negative effects are not being felt, but the consequences of rapid change are difficult to predict. Many estimate that it will be a few years before we reach the point where artificial intelligence will actually eliminate jobs on a massive scale, but these are only predictions and we cannot imagine what new jobs it will bring. The impact of AI is not evenly distributed across industries in the labour market, with jobs in data entry, customer service, repetitive activities and basic analytics potentially at risk. Chatbots and virtual assistants, for example, can handle customer queries and provide customer support, reducing the need for human intervention.