

THE SHARING ECONOMY AND DIGITALIZATION: CHALLENGE FOR COMPLEX MODIFICATION OF LABOR LAW?

ABSTRACT

This diploma thesis discusses the phenomenon of last decade called sharing economy, which has many different forms and names. In its purest meaning, the sharing economy concerns behavior of economically active entities that, in order to reduce their own costs or to use their spare capacity, share free resources. As the best examples of sharing economy, we can name capital platform Airbnb, where people share their unused immovable in order to generate profit or work platform BlaBlaCar through which people reduce their car costs while travelling one-off long-distance trips.

However, as mentioned above, sharing economy has many different forms. One of them, which cannot be recognized as its pure form, is provided by Uber. Uber, as well as BlaBlaCar, created mobile platform through which providers of transport services can get in touch with users of these services. Despite this similarity, there are several significant differences from which one can conclude that Uber is not a classic provider of information technology services, such as BlaBlaCar. That was also borne out by foreign courts, including European Court of Justice. On that basis, a question arises, whether Uber drivers really carry on the activity of self-employed, or that the legal relationship between them and Uber can be regarded as a matter of labor law, since they are actually dependent on Uber.

This thesis further examines the evolution of labor law in Czech Republic, especially concerning the definition of dependent work. When all the characteristics of dependent work are fulfilled, classic employment relationship exists and labor code applies. If not, the civil and commercial law applies. It is clear, that Uber drivers cannot fulfill all the characteristics of dependent work's definition, so they will not be subject to labor law. Despite this fact, I am convinced that they should have certain level of protection, since they have to actually act for Uber in person, they are very often economically dependent and they are subject to its wide control.

The crucial issue is then the decision of Labor Tribunal in London, very first decision that needed to deal with this subject in detail. On the basis of its findings, the Tribunal stated, that Uber drivers fulfilled all the characteristics of so-called limb (b) worker category, which

is a special labor law status existing alongside normal employees and self-employed persons. I agree with both the conclusions of the Tribunal and the conclusions of the ECJ, which held, that Uber is a transport business entity such as the usual “yellow” taxi services. Unfortunately, Czech legislation does not have any similar category of self-employed but dependent subject and therefore the Czech courts would probably come to the conclusion, that Uber, Lyft or Taxify drivers are not employees and they are not entitled to the protective labor rights and social security rights.

In the last part, the paper focuses on how to remedy this unsatisfactory situation and how to prevent the potential litigations in this area. The possible ways of doing so are prohibition of companies such as Uber, novelization of the labor code *de lege ferenda* and creation of dual-track labor law. Based on several arguments, which I consider most convincing and based on the study of foreign legislation, the thesis describes as the most suitable solution the creation of a new category of quasi employees. By that, Czech Republic would not only prepare the ground for the possibility of classifying similar subjects of digital era in the future, but it would also enrich its legal order with something, that is not unique in the countries of the modern world.