

LEGAL UPDATE

Uber drivers are employees and are subject to the Taxi Transport Collective Agreement

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On 13 September 2021, the Amsterdam District Court [ruled](#) that *all* drivers offering their services through the Uber app in the Netherlands are employees and not, therefore, self-employed contractors. Uber must now, retroactively, apply the generally binding Collective Agreement on Taxi Transport (CAO *Taxivervoer*) to those drivers' employment contracts and give them back pay.

The district court ruled that all the requirements for an employment contract had been met: work was being done in person, a salary was being paid and there was a relationship of authority.

Doing work in person

Uber drivers carry passengers for Uber. Given that drivers have to have certain licences, Uber verifies that they are doing the work in person by having them take a selfie. Accordingly, work is being done in person.

Salary

In addition, after Uber's service fee is deducted, drivers receive payment for taxi rides. According to the district court, this payment should be considered to be a salary. How that payment is referred to or the way it is made is not relevant.

Relationship of authority

The most important question to be answered when assessing whether there is an employment contract or a contract for services is whether there is a relationship of authority. The district court ruled in this case that there was a "modern relationship of authority" because that authority was organised indirectly and digitally. One relevant factor, for example, is that drivers are required to use the Uber app to sign up with Uber, and the terms on which they use the app are non-negotiable. Uber is also entitled to alter those terms unilaterally. Furthermore, the Uber app's algorithm determines how rides are distributed and what prices are to be paid for them. There is no free negotiation between the Uber driver and the passenger.

The Uber app also has a way of disciplining drivers. They are given a rating through the Uber app which could result in them receiving financial benefits. On the other hand, however, it could also result in certain drivers being removed from the app. Drivers are also not allowed to cancel accepted rides too often without being penalised. Ultimately, Uber alone has the final say when resolving any customer complaints.

These were the district court's reasons for concluding that there is a relationship of authority. That was not altered by the fact that the drivers are, to some extent, free to deny rides as well as to set their own hours and use different apps at the same time.

It is the facts that count

Although there is an agreement in black and white that Uber drivers are self-employed and some drivers actually want that to be the case, the conclusion was that their agreements with Uber should be seen as employment contracts. It is, therefore, the facts that count.

Trend

This was not the first court decision on the classification of employment relationships between online platforms and platform workers. Previous cases had, for example, been brought against Deliveroo, an online food delivery company, and Helpling, a cleaning app. In February of this year, the Amsterdam Court of Appeal ruled that the legal relationship between Deliveroo and its delivery drivers qualified as an employment contract (see our earlier [Legal Update](#)). In the case against Helpling, the Amsterdam District Court reached a different decision

The government has also stated its intention to protect platform workers. For example, the Minister of Social Affairs and Employment [announced](#) that he was going to examine options for strengthening the position of platform workers. The Amsterdam District Court's ruling in the case against Uber is therefore part of a discernible trend placing greater importance on the employment rights of platform workers.

If you would you like to receive information on how to classify an employment relationship, you can request a copy of [the book "Work & Pensions in Practice"](#) (only available in Dutch) for free. Alternatively, contact us to talk to a lawyer in our practice group.

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