<table>
<thead>
<tr>
<th>Page</th>
<th>Section</th>
</tr>
</thead>
<tbody>
<tr>
<td>03</td>
<td>Executive Summary</td>
</tr>
<tr>
<td>04</td>
<td>Key Findings</td>
</tr>
<tr>
<td>06</td>
<td>Editorial: Another Platform Economy is Possible</td>
</tr>
<tr>
<td>08</td>
<td>The Fairwork Project: Towards Decent Labour Standards in the Platform Economy</td>
</tr>
<tr>
<td>10</td>
<td>The Fairwork Framework</td>
</tr>
<tr>
<td>14</td>
<td>Background: Overview of the Ecuadorian Platform Economy</td>
</tr>
<tr>
<td>17</td>
<td>The Ecuadorian Legal Context: Worker or Employee? And Who Is the Boss?</td>
</tr>
<tr>
<td>19</td>
<td>Fairwork Ecuador 2022 Scores</td>
</tr>
<tr>
<td>23</td>
<td>Platform in Focus: Tipti</td>
</tr>
<tr>
<td>25</td>
<td>Workers’ Stories</td>
</tr>
<tr>
<td>26</td>
<td>Theme in Focus: Disguising Immigration in the Ecuadorian Platform Economy</td>
</tr>
<tr>
<td>28</td>
<td>Moving Forward</td>
</tr>
<tr>
<td>31</td>
<td>Appendix: Fairwork Scoring System</td>
</tr>
<tr>
<td>36</td>
<td>Credits and Funding</td>
</tr>
<tr>
<td>38</td>
<td>Endnotes</td>
</tr>
</tbody>
</table>
Executive Summary

This second Fairwork report for Ecuador aims to enlarge the scope of platforms evaluated, while also tracking the evolution of the platforms we evaluated last year.

There is no doubt that the general crisis triggered by the COVID-19 pandemic has completely changed the economic and social landscape in Ecuador: these include economic recession, higher informality, accelerated digitization, changes in the local platform market structure, and legal reforms. This report highlights the ongoing evolution of the Ecuadorian platform economy, the black market’s profile problem, the new business models of local entrepreneurs, and the legal challenges.

Ecuador’s GDP dropped by -7.8% during 2020, and has yet to recover to pre-pandemic production levels. This has resulted in higher and persistent levels of unemployment and informality (68% in 2022). Additionally, more than half a million immigrants, mainly from Venezuela and Colombia, are struggling to find adequate formal jobs in Ecuador – adding to the majority of the population with little access to formal employment – and have therefore turned to the platform economy as a relatively easy way to find work and income.

Nonetheless, the COVID-19 pandemic has also accelerated the digitization process of Ecuadorian society (another three million Internet users) which has boosted digital business and opened up new opportunities. We estimate the platform market in Ecuador has doubled to reach between three and four million users, and about 55,000 workers (+38%). Delivery platforms have benefited the most from this process, opening a window of opportunity for new players to accelerate their operations and take a share of the market.

Road transport services were first negatively impacted by strict curfews during the first months of the pandemic, however, with the gradual return to normal economic activity, their demand has increased.

Several of the platforms we evaluated last year (Ocre and EncargosyEnvíos) stopped operations and new players have taken over. The Fairwork ratings for this year show that some of these new players, particularly the local ones, offer better working conditions than the biggest transnational platforms. However, the majority of the gig workers in Ecuador continue to face unfair work conditions and lack benefits and protections. While public concern and the general socioeconomic crisis have pushed the government and regulators to initiate some legal and institutional reforms aimed at reshaping the labour market and eliminating the grey areas where these platforms have proliferated, working conditions on these platforms are not evolving at the same rate.

The platform market in Ecuador has doubled to reach between 3 and 4 million users, and about 55,000 workers.

This report assesses 10 of the country’s largest digital labour platforms against five principles of fairness – fair pay, fair conditions, fair contracts, fair management, and fair representation – giving each a fairness rating out of 10.

Two new local platforms, Tipti and Asoclim, lead the 2022 table with six points each, followed by the other two local platforms, GoGirls (three points) and AloApp (two points). The other six transnational platforms evaluated have not provided any evidence that allows us to assign any point, and therefore they all score zero points.
Key Findings

**FAIR PAY**

This year only two of the platforms (Tipti and AloApp) can evidence that workers’ net income after work-related costs is at or above the minimum wage, which in 2022 is set at 425 USD a month. When extending this net calculation to consider the living wage, which was calculated by the INEC at 724 USD in January 2022, none of the platforms can evidence this principle of fair pay.

**FAIR CONDITIONS**

This year only one delivery platform, Tipti, was awarded the first point. Tipti was also awarded the second point. Only Tipti was able to evidence some action taken to protect workers from risks that arise in their jobs, providing evidence of its efforts to improve working conditions, including loss-of-earnings compensation for workers, health insurance, and accidents insurance.

**FAIR CONTRACTS**

Only three platforms were awarded the first point: Asoclim, Tipti and Go Girl. An important criterion for awarding points for fair contracts was that the platforms recognised Ecuadorian law as the legal system for addressing worker-related issues. Five of the ten platforms we evaluated conform to the legal jurisdictions of other countries. Moreover, no platform was able to provide evidence that they do not unreasonably exclude liability on the part of the service user and/or the platform.
FAIR MANAGEMENT

Arbitrary termination or deactivation is a big concern for platform workers, who lack the recourse available to formal employees. Workers can face deactivation from platforms for arbitrary reasons, without due process. Only Tipti has codified its deactivation policies, providing workers greater recourse. Asoclim, Go Girls and AloApp have no managerial algorithmic technologies, meaning workers directly communicate with human representatives and are not sanctioned automatically.

FAIR REPRESENTATION

Only Asoclim was awarded both points for this principle. This platform operates with a social business model based on cooperativism, where each of the workers is a member of the platform and operates in a context of equality and access to decision-making. No other platform could meet the criteria for fair representation.
Another Platform Economy is Possible

Every crisis brings opportunities. While the COVID-19 pandemic seems to be behind us, the effects and challenges brought about by the transformations that have taken place over the past two years are still ahead of us.

The long-lasting lockdown measures put in place to contain the pandemic led many companies and public institutions to cease operations, and left thousands of Ecuadorians without jobs and with little scope for finding alternative sources of income. The platform economy became one of the few work opportunities left to many workers, partly thanks to the lack of regulations and the grey areas surrounding it.

The contraction of Ecuador’s economy, the ongoing social breakdown, and the state of emergency allowed the government to introduce several “temporary” institutional and legal reforms aimed at increasing the flexibility of the labour market to help companies maintain their operations and ensure a continued flow of taxes to an already underfunded public budget. These reforms began to shed some light on the grey zones where the platform economy was proliferating – not to put a stop to it, but to find some keys to unlock and increase the flexibility of the formal labour market. Once the storm passed, these “temporary” reforms began to be questioned, triggering a new debate not only on the need to regulate these grey areas, but to rethink the entire regulation of the labour market. Despite the complexity of the challenges and opposing positions, a window of opportunity has opened. Fairwork Ecuador has seized this opportunity to engage with platforms, workers, policy makers and regulators in a medium-term dialogue with the aim of finding common ground to create and support regulations suitable to the new techno-economic conditions that are emerging, while respecting the basic principles of fair labour.

Several platforms have not survived the gale – including some we evaluated in last year’s report – but other actors have taken the opportunity brought by the pandemic to set up new forms of organisation based on fairer business models. Even if they do not yet comply with all fair work principles, these new platforms have shown that other ways to do business are possible. Fairwork Ecuador is committed to help them and all the other actors of the local platform economy to find the way toward fairer labour practices.

All of this takes place against an acceleration of the process of digitisation of Ecuadorian society driven by the global lockdown, integrating areas, populations and activities that were largely offline before the pandemic. Indeed, not only are more people connected and using online services, but they are doing business and making payments through digital means. The acceleration of electronic exchanges and payments is probably one of the biggest changes in the Ecuadorian economy brought about by the pandemic lockdowns. This opens up new opportunities for the development of the local platform economy, but also new challenges and risks associated with privacy and automation that need to be assessed and managed by public regulators and civil society. Fairwork Ecuador is working with other partners to try to
build solutions that give workers and consumers control over their digital traces, and to raise awareness of the functioning of platforms’ black boxes, the algorithmic management practices they use, and their impact on our daily lives.

This second Fairwork report for Ecuador offers a first look at the evolution of the local Economy platform over the last year, and the challenges triggered by the health crisis and the global transformations it entailed.

**FAIRWORK ECUADOR TEAM**

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**THE PLATFORM ECONOMY HAS BECOME ONE OF THE FEW WORK OPPORTUNITIES LEFT TO MANY WORKERS, PARTLY THANKS TO THE LACK OF REGULATIONS AND THE GREY AREAS SURROUNDING IT.**
**Towards Decent Labour Standards in the Platform Economy**

Fairwork evaluates and ranks the working conditions of digital platforms. Our ratings are based on five principles that digital labour platforms should ensure in order to be considered to be offering basic minimum standards of fairness.

We evaluate platforms annually against these principles to show not only what the platform economy is today, but also what it could be. The Fairwork ratings provide an independent perspective on labour conditions of platform work for policymakers, platform companies, workers, and consumers. Our goal is to show that better, and fairer, jobs are possible in the platform economy.

The Fairwork project is coordinated from the Oxford Internet Institute and the WZB Berlin Social Science Centre. Our growing network of researchers currently rates platforms in 27 countries across 5 continents. In every country, Fairwork collaborates closely with workers, platforms, advocates and policymakers to promote a fairer future of platform work.
Fairwork countries

AFRICA
Egypt, Ghana, Kenya, Nigeria, South Africa, Tanzania

ASIA
Bangladesh, India, Indonesia, Pakistan, Philippines

EUROPE
Austria, Belgium, France, Germany, Italy, UK, Serbia, Spain

SOUTH AMERICA
Argentina, Brazil, Chile, Colombia, Ecuador, Paraguay

NORTH AMERICA
Mexico, USA
Fairwork evaluates the working conditions of digital labour platforms and ranks them on how well they do. Ultimately, our goal is to show that better, and fairer, jobs are possible in the platform economy.

To do this, we use five principles that digital platforms should ensure to be considered as offering ‘fair work’. We evaluate platforms against these principles to show not only what the platform economy is, but also what it can be.

The five Fairwork principles were developed at a number of multi-stakeholder workshops at the International Labour Organisation. To ensure that these global principles were applicable in the Ecuadorian context, we then revised and fine tuned them in consultation with different stakeholders in Quito.

Further details on the thresholds for each principle, and the criteria used to assess the collected evidence to score platforms can be found in the Appendix.
The five principles

Fair Pay
Workers, irrespective of their employment classification, should earn a decent income in their home jurisdiction after taking account of work-related costs. We assess earnings according to the mandated minimum wage in the home jurisdiction, as well as the current living wage.

Fair Conditions
Platforms should have policies in place to protect workers from foundational risks arising from the processes of work, and should take proactive measures to protect and promote the health and safety of workers.

Fair Contracts
Terms and conditions should be accessible, readable and comprehensible. The party contracting with the worker must be subject to local law and must be identified in the contract. Regardless of the workers’ employment status, the contract is free of clauses which unreasonably exclude liability on the part of the service user and/or the platform.

Fair Management
There should be a documented process through which workers can be heard, can appeal decisions affecting them, and be informed of the reasons behind those decisions. There must be a clear channel of communication to workers involving the ability to appeal management decisions or deactivation. The use of algorithms is transparent and results in equitable outcomes for workers. There should be an identifiable and documented policy that ensures equity in the way workers are managed on a platform (for example, in the hiring, disciplining, or firing of workers).

Fair Representation
Platforms should provide a documented process through which worker voice can be expressed. Irrespective of their employment classification, workers should have the right to organise in collective bodies, and platforms should be prepared to cooperate and negotiate with them.
Methodology

The Fairwork project uses three approaches to effectively measure fairness of working conditions at digital labour platforms: desk research, worker interviews and surveys, and interviews with platform management. Through these three methods, we seek evidence on whether platforms act in accordance with the five Fairwork Principles.

We recognise that not all platforms use a business model that allows them to impose certain contractual terms on service users and/or workers in such a way that meets the thresholds of the Fairwork principles. However, all platforms have the ability to influence the way in which users interact on the platform. Therefore, for platforms that do not set the terms on which workers are retained by service users, we look at a number of other factors including published policies and/or procedures, public statements, and website/app functionality to establish whether the platform has taken appropriate steps to ensure they meet the criteria for a point to be awarded against the relevant principle.

In the case of a location-based work platform, we seek evidence of compliance with our Fairwork principles for location-based or ‘gig work’ platforms, and in the case of a cloudwork platform, with our Fairwork principles for cloudwork platforms.

Desk research

Each annual Fairwork ratings cycle starts with desk research to map the range of platforms to be scored, identify points of contact with management, develop suitable interview guides and survey instruments, and design recruitment strategies to access workers. For each platform, we also gather and analyse a wide range of documents including contracts, terms and conditions, published policies and procedures, as well as digital interfaces and website/app functionality. Desk research also flags up any publicly available information that could assist us in scoring different platforms, for instance the provision of particular services to workers, or the existence of past or ongoing disputes.

The desk research is also used to identify points of contact or ways to access workers. Once the list of platforms has been finalised, each platform is contacted to alert them about their inclusion in the annual ranking study and to provide them with information about the process. All platforms are asked to assist with evidence collection as well as with contacting workers for interviews.

Platform interviews

The second method involves approaching platforms for evidence. Platform managers are invited to participate in semi-structured interviews as well as to submit evidence for each of the Fairwork principles. This provides insights into the operation and business model of the platform, while also opening up a dialogue through which the platform could agree to implement changes based on the principles. In cases where platform managers do not agree to interviews, we limit our scoring to evidence obtained through desk research and worker interviews.

Worker interviews

The third method is interviewing platform workers directly. A sample of 8-10 workers are interviewed for each platform. These interviews do not aim to build a representative sample. They instead seek to understand the processes of work and the ways in which it is carried out and managed. These interviews enable the Fairwork researchers to see copies of the contracts issued to workers, and learn about platform policies that pertain to workers. The interviews also allow the team to confirm or refute that policies or practices are really in place on the platform.

Workers are approached using a range of different channels. In 2022 this included a strategy of direct communication with workers, contacting them through delivery requests, rides, or waiting for them at different locations in the city. After creating bonds of trust, several of them put us in touch with other workers on the platforms. In other cases, we circulated messages directly through platforms such as Whatsapp to other workers. In all of these strategies, workers were informed of the Fairwork project. Due to restrictions stemming from the COVID-19 pandemic, all interviews were conducted in open and public spaces.

The interviews were semi-structured and made use of
a series of questions relating to the 10 Fairwork (sub) principles. In order to qualify for the interviews, workers had to be over the age of 18 and have worked with the platform for more than two months. All interviews were conducted in Spanish.

Putting it all together

This threefold approach provides a way to cross-check the claims made by platforms, while also providing the opportunity to collect both positive and negative evidence from multiple sources. Final scores are collectively decided by the Fairwork team based on all three forms of evidence. Points are only awarded if clear evidence exists on each threshold.

How we score

Each of the five Fairwork principles is broken down into two points: a first point and a second point that can only be awarded if the first point has been fulfilled. Every platform receives a score out of 10. Platforms are only given a point when they can satisfactorily demonstrate their implementation of the principles. Failing to achieve a point does not necessarily mean that a platform does not comply with the principle in question. It simply means that we are not – for whatever reason – able to evidence its compliance.

The scoring involves a series of stages. First, the in-country team collates the evidence and assigns preliminary scores. The collated evidence is then sent to external reviewers for independent scoring. These reviewers are both members of the Fairwork teams in other countries, as well as members of the central Fairwork team. Once the external reviewers have assigned their scoring, all reviewers meet to discuss the scores and decide final scoring. These scores, as well as the justification for them being awarded or not, are then passed to the platforms for review. Platforms are then given the opportunity to submit further evidence to earn points that they were initially not awarded. These scores then form the final annual scoring that is published in the annual country Fairwork reports.

FURTHER DETAILS ON THE FAIRWORK SCORING SYSTEM ARE IN THE APPENDIX
Overview of the Ecuadorian Platform Economy

As highlighted in our first report of last year, the structural dependence of the Ecuadorian economy on extractive activities and raw materials has resulted in a lack of infrastructure, a low-skilled labour force, an unequal social structure, and high rates of unemployment and informal employment. As in other similar contexts, these conditions have created an ideal breeding ground for the proliferation of different ride-hailing, delivery and other online platforms over the past five years.

The socioeconomic transformations triggered by COVID-19 policies have deepened these conditions, and made them more complex. Economic recession, accelerated digitisation, changes in the local platform market structure, and legal reforms have all contributed to shaping these conditions.

The COVID-19 pandemic and its impact

The Ecuadorian economy was already in a recessionary phase long before the COVID-19 pandemic. Since the drop in oil prices in 2015, Ecuadorian production has struggled to rebound. In 2019, real GDP growth was zero. The prolonged lockdown policy put in place to contain the pandemic worsened the already weak economic situation, resulting in a GDP drop of around 7.8% in 2020 – one of the worst economic performances in Ecuador’s history. The persistence of the pandemic and the lockdown policies of 2021 have prevented a greater recovery effect observed in other Latin American countries. With a growth of no more than 4.2% in 2021, Ecuador registered the lowest recovery rate in the region. Official forecasts suggest that 2022 will be worse, with no more than 2.8% GDP growth. This means that the economy will not even recover to the already low level of 2019. However, if, as it seems, the pandemic crisis is behind us, it is very likely that growth expectations will be upgraded and the recovery will be faster.

This general economic trend is directly reflected in the employment and informality levels. Before the 2015 drop in oil prices, the adequate employment rate was about 49%. By the end of 2019, this indicator had dropped to 38%. The general lockdown implemented to contain the pandemic led many companies and public institutions to cease operations, and left thousands of people without jobs. After the first contagion wave in 2020, about 84% of the population was unemployed, underemployed or working in informal activities. Productive activities started to recover by the end of 2020 to reach 32% of formal employment, still far below the pre-pandemic state. It is estimated that the COVID-19 pandemic destroyed at least half a million formal
jobs during the first year of the pandemic and they have not yet been recovered. In April 2022, the employment rate was still at 2020 levels, which means that around 68% of the population is still unemployed or working under informal conditions.

Adding to this, there is a floating population of more than half a million immigrants, mainly from Venezuela and Colombia, who arrived over the last decade and who continue to struggle to find adequate formal jobs in Ecuador. While more than 87,000 of these immigrants left the country between 2020 and 2021 – very likely due to COVID-19 effects – most of those who have remained lack a valid visa to stay and work in the country, lack civil and labour rights, and are therefore more likely to be unemployed or working in the informal sector. They thus add to the majority of the population with little access to formal employment, and have therefore turned to the platform economy as a relatively easy way to find work and income.

**Digitisation**

The pandemic containment policies not only brought about economic constraints, but also drove an acceleration of the process of digitisation of Ecuadorian society. Since 2020, Internet penetration has increased by 6% to reach more than 75% of the population, with some 3.4 million people starting to use the Internet in the last year alone. At the same time, around one million people started using a new mobile connection, which is 6% more than last year, resulting in a mobile penetration of around 88.4%.

Along with this increase in the number of users, there has also been an improvement in the local infrastructure. The speed of the fixed Internet connection has increased by 53.5% in the last year to reach an average of 32.11 Mbps at the beginning of 2022. Although mobile Internet connection is slower (18.18 Mbps), it has also seen an increase of around 11% over the same period.

Last but not least, digital commerce and payments have also increased over the last few years. Although only half of the population has a bank account and 9% a credit card, digital payments have tripled from 10% in 2020 to 30% in 2022. This can be partly explained by the use of debit cards (28% of the population has one) that are now allowed for online payments, but also by the use of person-to-person online payments.

All these changes are most likely related to the constraints imposed by the general lockdown that forced people to undertake work, business, education, shopping, leisure, etc. online. Delivery and ride-hailing platforms have been among the first beneficiaries of this transformation.

**Changes in the Ecuadorian platform market**

Although these transformations have boosted digital business and opened up new opportunities, their effects have not been homogeneous throughout the sector. For obvious reasons, delivery platforms benefited the most from the general and long-lasting lockdown. It is estimated that during the first wave of COVID-19 alone (March-June 2020) its use grew by more than 200% for food and grocery delivery and by around 140% for courier delivery. This opened a window of opportunity for new players to start their operations and gain a share of the market. Ride-hailing services were negatively impacted at first by strict curfews during the first months of the pandemic, then by the need to adapt vehicles to COVID-19 protections. However, with the gradual resumption...
of productive activities, their demand has increased precisely because they offer a safer transport option than public transport.

Other platforms were less fortunate, and the pandemic made their business models unviable. Most of them, especially the local ones, have stopped operating or have shifted to other sectors or business models. Of the platforms we evaluated last year, “Ocre” stopped operations, “Repartos y envíos” has changed its business model and brand to Airpals, and “Glovo” was sold to another transnational platform: “PedidosYa”. Other local platforms that were not evaluated, but which were contacted, such as “Minkana” or “Kiarame”, are also off-line. Nonetheless, new actors with different business models are starting up. They focus on different markets such as care, housekeeping and gender-specific services (e.g. women-only transport), and experiment with different forms of organisation and business models.

There are no official, reliable and up-to-date statistics on the number of users, workers, sales and investment of these platforms in Ecuador. Our last report estimated that there were about 1.5 million platform users and about 40,000 workers nationwide before the pandemic. If the trends estimated by the IDB report on the platform economy in Latin America are close to reality, we could expect the platform market today to have between 3 and 4 million users and about 55,000 workers. But these are only rough estimates that need to be confirmed with real data.

From the data and interviews with platforms, workers and other stakeholders we undertook for this report, it appears that – working conditions on these platforms are not evolving at the same rate. Indeed, apart from a few local exceptions, we have found no evidence that the large transnational platforms that have benefited from the increase in demand for their services have made any effort to provide fairer conditions for their workers. Nevertheless, public concern and the general socioeconomic crisis have pushed the government and regulators to initiate some legal and institutional reforms aimed at reshaping the labour market, and eliminating the grey areas where these platforms have proliferated. How these reforms are finally implemented will condition the future development of the platform economy in Ecuador.
Worker or Employee? And Who Is the Boss?

The ILO Centenary Declaration for the Future of Work, adopted in 2019 at the 108th session of the International Labour Conference reaffirms the “continued relevance of the employment relationship as a means of providing certainty and legal protection to workers”\(^\text{17}\). In this context, the Global Commission on the Future of Work report outlines the steps needed to achieve decent and sustainable work opportunities and examines the scope, objectives and application of the Employment Relationship Recommendation (No. 198)\(^\text{18}\).

Following the outbreak of the COVID-19 pandemic, the 2021 Addendum to the General Survey on Promoting Employment and Decent Work in a Changing Landscape\(^\text{19}\) looks at the impact of the pandemic on the application of Recommendation 198. Platform workers, however, are often excluded from labour protections and benefits such as health care, unemployment insurance and social security.

Indeed, Recommendation 198 recognises that protections offered by national legislation and collective agreements are linked to the existence of an employment relationship. It calls for measures to be taken to ensure protection of workers that may be particularly affected by uncertainty or ambiguity in the employment relationship where the rights and duties of the parties are not clear, and to combat disguised employment relationships where they exist. This policy encourages countries to develop and apply a national policy, to be reviewed at appropriate intervals, to guarantee effective protection for all workers in an employment relationship. Most of all, the policy should not interfere with true civil and commercial relationships.

Determining the existence of an employment relationship is at the centre of new legislation in Ecuador. On the basis of international judicial results, various core elements of platform work are being discussed currently in the Ecuadorian Congress, including, among others, employee misclassification. This problem started in early 2015, with most platforms using the label “independent contractors” to refer to their workers. While platform work does indeed have some aspects of independent contracting, including flexibility, payment by task, and the provision of their own working tools, platform work also has aspects of the employment relationship, including control by the platform of various aspects of the work, and the work being performed being integral to the software application.

The concept of flexibility is key to determining the binary divide between employment and self-employment.
Flexibility is related to: (i) the degree of the worker’s right to control the manner in which the work is to be performed; (ii) the opportunity for profit or loss depending on their managerial skill; (iii) investment in the equipment or materials required for the task; (iv) the degree of permanence of the working relationship; (v) and whether the service rendered is an integral part of the alleged employer’s business. The law therefore has to take into account if platform workers do in fact have flexibility in their jobs. In this context, some lawmakers have called for a demystification of the “autonomy” fiction. That is: are workers really in control of their own time, and can they disconnect from the application without being penalised?

Control through technology is another concept at the centre of the regulatory debate. According to the ILO Recommendation No. 198, subordination or dependence constitute potential conditions that can point to the existence of an employment relationship. Courts in South Africa, Uruguay and Brazil have already recognised that “even though there is no direct or physical supervision, control is exercised through technology, to the point that even the movement of the cell phone can be detected, indicating reckless driving”, that platform supervising activities represent a “form of exercise of the sanctioning power typical of an employer”, and that technology can enable platforms to enhance their control over worker’s activities, control by everyone and no one can be more effective than control by a dedicated manager. Tech-enabled control will most likely become increasingly relevant in the future, as forms of management-by-algorithm and algorithmic control spread far beyond platform work. There is therefore an obligation of algorithmic transparency, that is, for platforms to display to all platform workers the decision-making process of algorithms which affect their working conditions and the termination of their relationship with the platform.

Since August 2021, the Ecuadorian Congress has been debating a “Bill to Regulate the Labour Relationship of Employees with Digital Platform Companies”. The biggest problem faced by the bill is that it has not been able to formulate a hybrid alternative that includes the technological changes of the platform economy and yet does not replicate the classic employment relationship in the country. An orthodox approach to working conditions – working time may not be less than forty hours per week – could seriously jeopardise national entrepreneurs and the development of the platform economy in Ecuador.

While the current phrasing of the bill supports a definition of working time as log-in time – in line with Fairwork principles – the current phrasing also affects the possibility of workers to work on an hourly basis, hampering their flexibility by forcing them to work full time.

On January 17th, 2022, the Fairwork Ecuadorian team was invited among other civil society actors by Congresswoman Johana Ortíz to present the Fairwork project at the Ecuadorian Congress as part of the debate, knowledge and resolution of the Report for First Debate of the legislative initiatives related to the regime of “Labor Relationships in Digital Platforms.” Fairwork’s presentation brought fair labour principles into the legislative debate, and continues to actively participate in advocating for better working conditions in the country.
Fairwork Ecuador 2022 Scores
## Fairwork Ecuador 2022 scores

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The breakdown of scores for individual platforms can be seen on our website [Fairwork Ecuador](http://fair.work/ecuador).
Explaining the scores

Fair Pay
Platforms that ensure workers are paid at least the local minimum wage after work-related expenses are subtracted from workers’ earnings can meet this threshold.

This year only two of the platforms, Tipti and AloApp, could evidence that workers’ gross pay is at or above the minimum wage, which is set at 425 USD a month. When assessing minimum wage the scores took into account not only the amount earned by the worker for hours worked, but also the cost of providing task-specific equipment and paying for work-related costs out of pocket. The scores also factored in waiting times between jobs. Adding in these additional costs – such as unpaid waiting time, travel costs, vehicles, petrol, mobile phone data and insurance – meant that the minimum wage point could not unequivocally be awarded to the other eight platforms.

When extending this net calculation to consider the living wage, which was calculated by the INEC at 724 USD in January of 2022\(^{24}\), none of the platforms could evidence this principle of fair pay, and we see workers often working very long hours just to cover their expenses.

Fair Conditions
Platforms that show that they are aware of workers’ risks and provide steps to mitigate them can meet this point.

Platform workers face several risks during the course of their work. Adding to the risks workers routinely face, this year we still have to add the risk of COVID-19 infection. We therefore examined the measures platforms took to support and protect their workers.

This year only one delivery platform, Tipti, was awarded the first and second points. Only Tipti was able to evidence some action taken to protect workers from risks that arise in their jobs. Tipti presented evidence of its efforts to improve working conditions, including providing loss-of-earnings compensation for workers during 2022, health insurance, and accident insurance.
Fair Contracts
For platforms to meet this point, they must demonstrate that the contract or terms and conditions are clear and accessible to all workers.

Platforms operating in Ecuador are not characterised as having clear Terms and Conditions, and only three platforms were awarded the first point: Asoclim, Tipti and Go Girl.

An important criterion for awarding points for fair contracts was that the platforms recognised Ecuadorian law as the legal system for addressing worker-related issues. Five of the ten platforms analysed applied the jurisdictions of other countries and were therefore unable to gain this point. However, no platform was able to provide evidence that the contract does not include clauses which exclude liability for negligence nor unreasonably exempt the service user and/or the platform from liability for working conditions.

Fair Representation
For platforms to get this point, platforms should assure freedom of association and the expression of collective worker voice.

The first point on this principle requires that documented mechanisms exist for worker voice to be expressed, that freedom of association is not inhibited, and that the management would be willing to recognise or negotiate with a collective body of workers.

Only Asoclim was awarded the first and second points. This platform operates with a social business model based on cooperativism, where each of the workers is a member of the platform and operates in a context of equality and access to decision-making. No other platform could meet the criteria for fair representation.

Fair Management
To meet this point, platforms must demonstrate that workers are not arbitrarily deactivated, and that there is an avenue for workers to meaningfully appeal disciplinary actions.

Arbitrary termination or deactivation is a big concern for platform workers, who lack the recourse available to formal employees. The risk of account blocks and dismissal from platforms without notice is high for most workers in our study. Workers can face deactivation from platforms for arbitrary reasons, without due process. Several workers told us that they felt that the platform privileged the interests of customers over workers in disputes, and that platforms often took a long time to respond to communications. That is why we assess whether platforms have due process for decisions affecting workers. The Fairwork scoring system stipulates that platforms must include their policies for disciplinary action and deactivation in their terms and conditions, as well as provide clear processes for workers to appeal decisions.

Only Tipti has codified its deactivation policies, providing workers greater clarity. Asoclim, Go Girls and AloApp have no managerial algorithmic technologies, meaning workers directly communicate with human representatives and are not automatically sanctioned.
Tipti

Tipti is an Ecuadorian e-commerce company founded in 2016 and focused on the sale of products from supermarkets and specialty stores through digital media (App or web), and home delivery. The company aims to connect a team of specialised buyers with users/consumers looking to cover their needs at home.

### Principle 1: Fair Pay
- **Pays at least the local minimum wage after costs**
- **Pays at least a local living wage after costs**

### Principle 2: Fair Conditions
- **Mitigates task-specific risks**
- **Provides a safety net**

### Principle 3: Fair Contracts
- **Provides clear and transparent terms and conditions**
- **Does not impose unfair contract terms**

### Principle 4: Fair Management
- **Provides due process for decisions affecting workers**
- **Provides equity in the management process**

### Principle 5: Fair Representation
- **Assures freedom of association and the expression of collective worker voice**
- **Supports democratic governance**

**Total: 06/10**
This digital platform allows clients to order their shopping list of groceries and household items from mobile devices or computers. Tipti receives the orders and sends them to a network of buyers, who select and purchase the products and deliver them to the selected place, day and time. Tipti shoppers are workers trained in the selection of purchases; that is, they are professional buyers who support the client’s needs, allowing clients to receive specialised, fresh, and organic products of their preference.

Tipti also hires delivery workers, who stand outside supermarkets and stores, ready to deliver orders. Each supermarket has a group coordinator who is able to resolve any difficulties in real time and in direct contact with the workers.

Workers are chosen from a large database created by the platform using an artificial intelligence system that selects the profiles most in line with the company’s objectives. Therefore, it is not easy to join the company. On the other hand, Tipti generates bonds of loyalty with its workers, as it guarantees them a decent job five days a week, with the option of working extra on weekends. 41% of the company’s middle managers are women and 70% are female top managers. Tipti is currently seeking Sistema B certification as a socially responsible company with a more equitable business model.

Since its founding in 2016, Tipti has worked steadily to build one of the most important ventures in the Ecuadorian platform economy. It now works in 12 cities across the country and has a demand of more than 250,000 customers, with 2,100,000 devices being handled simultaneously, allowing them to successfully manage about 1,000,000 orders.

Tipti’s workers earn above the minimum wage. Both shoppers and delivery workers have incomes of at least 600 USD after deducting their operating costs. The small number of delivery workers ensures that the orders received by the platform can be distributed evenly among them, guaranteeing stable work for five days a week. Although Fairwork is pleased to award Tipti the first point for fair pay, the evidence from the delivery driver interviews prevents us from awarding the second point, which assesses earnings above the living wage after costs.

Regarding fair conditions, Tipti hires its workers under two different hiring regimes: as employees (shoppers) and as workers (delivery drivers). Shoppers have access to training, social security benefits, health insurance, and cell phone plans, among additional advantages. Delivery drivers receive training and protection against risks derived from their work. In 2019 Tipti initiated an influenza vaccination campaign and has continued its protection of workers by facilitating their access to COVID-19 vaccinations. Tipti was thus awarded the first and second points for its efforts to protect its workers, and it continues to add new benefits regarding health, access to credit, and occupational risks.

Tipti offers its workers two types of contracts: labour contracts for its shoppers and self-employment contracts for its delivery drivers. The latter are therefore considered to be self-employed. Both contracts are governed by Ecuadorian law and workers are subject to local law in the case of legal disputes. Tipti was only awarded the first point because its contracts include clauses which exclude liability for negligence or unreasonably exempt the service user and/or the platform from liability for working conditions.

The platform has developed two explicit policies for fair management: the Shopper Manual and the Internal Regulations. These policies detail the working conditions, the indicators that are rewarded, the indicators that lead to a penalty and the company’s ethical principles. Workers are in regular contact with group coordinators. and have a direct line with management through WhatsApp channels. Finally, the company is encouraging women to join management positions. Tipti scored both points for Fair Management.

Due to the labour regime operating in the country, Tipti does not recognise the collective voice of its delivery drivers, as they are considered self-employed workers without the option to constitute unions. Therefore, workers have no option to join a collective body to channel their group demands. For these reasons, we were unable to award the point for fair representation.
Adriana* is 28 years old and has a degree in economics. Four years ago she started her own baby clothing workshop. However, the confinement measures caused by the COVID-19 pandemic made it very difficult to keep the business going. Despite her efforts to promote her business on social networks such as Instagram and Facebook, she was unable to maintain production and had to lay off several of her workers. Now, she works on commission for several distributors.

In January 2022, she started working at Go Girl. Firstly, she was interested in supporting a company owned by women, and secondly, this new job provides her with an extra source of income. That said, if she were to rely solely on income from this job she wouldn’t make ends meet, as the number of gigs is very low and she earns less than the country’s minimum wage.

One of the things Adriana enjoys most about this job is meeting new people, getting to know areas of the city she had never visited before, and choosing rides without worrying about being penalised by the platform. Go Girl allows her to schedule her rides with complete freedom. She can accept or decline requests and, most importantly, she controls her own time. Although her income on the platform is peripheral, she is learning how other entrepreneurs are improving their business models. For her, Go Girl is an example of how to grow entrepreneurship in the country while respecting the autonomy of women workers.

Carlos* is 28 years old and has been working for four years for delivery platforms in Quito. He came to Ecuador because of the economic crisis in Venezuela, where he had a steady job. When he started working for delivery platforms he earned enough money to support himself and his family. However, during the COVID-19 lockdowns he saw his income decrease drastically. He said, “although people placed more orders, changes in application fees and rising gasoline and oil costs reduced my income.”

Quito’s climate and geography present difficulties in completing orders according to the times set by the platform, but also affect the health of delivery drivers who are exposed to the changing weather, messy meal schedules, and complicated routes across the city, which makes their work day exhausting.

Carlos feels tremendously tired, but also worried because, despite the fatigue, the income does not seem to be sufficient. As he told us, “when I started working on the platform, the income was high enough, but since the shutdowns the changes in the platform are making our lives more precarious.” There is no indication that his earnings will improve in the coming months, which greatly discourages him.

*Names changed to protect worker identity
Over the last decade, Ecuador has received more than half a million immigrants from its neighbouring countries, mainly Colombia and Venezuela. This inflow is explained by certain attractive factors, such as a flexible migratory policy and a dollarised economy, as well as negative conditions in the sending countries, including war, violence, crime, poverty and political persecution. However, economic recession and political changes in the last five years in Ecuador have muted the attractive factors, creating more barriers for immigrants who want to settle in Ecuador and engage in economic activities.

Due to a very important migratory wave from Venezuela between 2015 and 2019, Peru and Ecuador shifted from a position that made the entry and regularisation of the migrant population relatively easier to a border closure in mid-2019. As a result of the drastic slowdown of the movement of the migrant population through regular passages, the number of irregular passages and human trafficking increased in both countries. Since 2010, Venezuelan citizens could freely enter Ecuador with a passport, Venezuelan identity card or Andean Letter with the last of these being granted at an immigration office when a migrant did not have any other document. Immigrants have been able to regulate their legal situation through three options: the Bilateral Treaty with neighbouring countries of 2010; a UNASUR Visa and a Professional Visa. The Bilateral Treaty grants residency and work visas for two years to citizens who could prove they were working formally in the country. The UNASUR Visa was used more widely between 2018 and 2019 to guarantee a two-year work permit without the need for a work contract for citizens from Argentina, Bolivia, Brazil, Chile, Colombia, Guyana, Paraguay, Peru, Suriname, Uruguay and Venezuela. The Professional Visa, by contrast, can only be obtained in Venezuela or in an Ecuadorian consulate of a bordering country, and has benefited approximately 90,000 people. Even though Article 11.2 of the Ecuadorian Constitution grants equal rights to all, including non-citizens, this
A lack of documents such as passports, a driver’s licence, a local residency or work permit seems to be the main thing that is pushing immigrants to use the profile black market. These entry barriers to work may indeed have arisen as an indirect consequence of local authorities’ attempts to regulate these activities and force the platforms to comply with local regulations. Nonetheless, accounts from some of our interviewees suggest another possibility. Several platforms have blocked access for new members for several months already. This refusal in the approval of new profiles is what has been feeding the expansion of black market profiles, and platforms are profiting from it because they can continue changing their terms and conditions and reducing the rate they pay to workers. This has resulted in structuring mechanisms for work exploitation by transferring an entire spectrum of risks from employers to workers, increasing precarious and unfair working conditions. Flaws in the local regulation and the underpinning business models of these platforms have created grey zones, in which irregular immigrants may find a job and a source of income but at a higher risk of exploitation and exposure to risk. These grey zones are the result of the subcontracting structure created by the profile’s black market and misplaced algorithmic management.
Pathways of Change

This is the second Fairwork report for platforms in Ecuador. This work highlights the evolution of the Ecuadorian platform economy, the black market’s profile problem, the new business models of local entrepreneurs, and the legal challenges. Since we have already made positive progress in engaging with various stakeholders such as the Ecuadorian Congress, platforms, entrepreneurs, and workers’ organisations we see four avenues for contributing to improvements in the Ecuadorian platform economy.

In this second year of scoring in Ecuador, Fairwork has deepened its engagement with platforms. Our first direct pathway to improving working conditions in the platform economy in Ecuador is working directly with platforms operating in the country. Local platforms have been more willing to embark on a dialogue about their challenges, barriers and possibilities for improving working conditions. These relationships have enabled new avenues of collaboration and advice on each of the Fairwork principles.

Platforms have control over the nature of the jobs they intermediate. The scores of this report show that the platform economy, as we know it today, takes many forms. Sometimes it works through apps, sometimes through other means such as WhatsApp or Instagram. In most cases, the platforms respond to commercial business models and in other exceptional cases to associations of workers seeking new business solutions to increase the work of their members. We have found that some platforms show a greater concern for workers’ needs than others. Therefore, there is nothing
inevitable about the working conditions in the platform economy.

Fairwork’s engagement with policy makers and the government is meant to ensure that the business imperatives of platforms are balanced with workers’ needs. The inclusion of Fairwork’s principles in the legislative debate in Ecuador has thus been of paramount importance in furthering efforts to promote legal regulation that improves working conditions and protects the ability of platforms to grow.

There is nothing inevitable about poor working conditions in the platform economy. Notwithstanding their claims to the contrary, platforms have substantial control over the nature of the jobs that they mediate. Workers who find their jobs through platforms are ultimately still workers, and there is no basis for denying them the key rights and protections that their counterparts in the formal sector have long enjoyed. Our scores show that the platform economy, as we know it today, already takes many forms, with some platforms displaying greater concern for workers’ needs than others. This means that we do not need to accept low pay, poor conditions, inequity, and a lack of agency and voice as the norm. We hope that our work – by highlighting the contours of today’s gig economy – paints a picture of what it could become.
The Fairwork Pledge

As part of this process of change, we have introduced the Fairwork pledge. This pledge leverages the power of organisations’ procurement, investment, and partnership policies to support fairer platform work.

As part of this process of change, we have introduced a Fairwork pledge. This pledge leverages the power of organisations’ procurement, investment, and partnership policies to support fairer platform work. Organisations like universities, schools, businesses, and charities who make use of platform labour can make a difference by supporting the best labour practices, guided by our five principles of fair work. Organisations who sign the pledge get to display our badge on company materials.

The pledge constitutes two levels. This first is as an official Fairwork Supporter, which entails publicly demonstrating support for fairer platform work, and making resources available to staff and members to help them in deciding which platforms to engage with. A second level of the pledge entails organisations committing to concrete and meaningful changes in their own practices as official Fairwork Partners, for example by committing to using better-rated platforms where there is a choice.

More information is available on the pledge and how to sign up at Fair.work/pledge
APPENDIX

Fairwork Scoring System

Which companies are covered by the Fairwork principles?

The International Labour Organisation (ILO) defines a “digital labour platform” as an enterprise that mediates and facilitates “labour exchange between different users, such as businesses, workers and consumers.” That includes digital labour “marketplaces” where “businesses set up the tasks and requirements and the platforms match these to a global pool of workers who can complete the tasks within the specified time.”

Marketplaces that do not facilitate labour exchanges - for example, Airbnb (which matches owners of accommodation with those seeking to rent short term accommodation) and eBay (which matches buyers and sellers of goods) are obviously excluded from the definition. The ILO’s definition of “digital labour platform” is widely accepted and includes many different business models.

Fairwork’s research covers digital labour platforms that fall within this definition that aim to connect individual service providers with consumers of the service through the platform interface. Fairwork’s research does not cover platforms that mediate offers of employment between individuals and employers (whether on a long-term or on a temporary basis).

Fairwork distinguishes between two types of these platforms. The first, is ‘geographically-tethered’ platforms where the work is required to be done in a particular location such as delivering food from a restaurant to an apartment, driving a person from one part of town to another or cleaning. These are often referred to as ‘gig work platforms’. The second is ‘cloudwork’ platforms where the work can, in theory, be performed from any location via the internet.

The thresholds for meeting each principle are different for location-based and cloudwork platforms because location-based work platforms can be benchmarked against local market factors, risks/harms, and regulations that apply in that country, whereas cloudwork platforms cannot because (by their nature) the work can be performed from anywhere and so different market factors, risks/harms, and regulations apply depending on where the work is performed.

The platforms covered by Fairwork’s research have different business, revenue and governance models including employment-based, subcontractor, commission-based, franchise, piece-rate, shift-based, subscription models. Some of those models involve the platforms making direct payments to workers (including through sub-contractors).
How does the scoring system work?

The five Principles of Fairwork were developed through an extensive literature review of published research on job quality, stakeholder meetings at UNCTAD and the ILO in Geneva (involving platform operators, policymakers, trade unions, and academics), and in-country meetings with local stakeholders.

Each Fairwork Principle is divided into two thresholds. Accordingly, for each Principle, the scoring system allows the first to be awarded corresponding to the first threshold, and an additional second point to be awarded corresponding to the second threshold (see Table 1). The second point under each Principle can only be awarded if the first point for that Principle has been awarded. The thresholds specify the evidence required for a platform to receive a given point. Where no verifiable evidence is available that meets a given threshold, the platform is not awarded that point.

A platform can therefore receive a maximum Fairwork score of ten points. Fairwork scores are updated on a yearly basis. The scores presented in this report were derived from data pertaining to the 12 months between November 2020 and November 2021, and are valid until November 2022.

This report uses the Fairwork gig work principles 21.01. This version of the principles for location-based platforms came into effect in January 2021.

### Table 1 Fairwork Scoring System

<table>
<thead>
<tr>
<th>Principle</th>
<th>First point</th>
<th>Second point</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Principle 1: Fair Pay</td>
<td>Pays at least the local minimum wage after costs</td>
<td>Pays at least a local living wage after costs</td>
<td>2</td>
</tr>
<tr>
<td>Principle 2: Fair Conditions</td>
<td>Mitigates task-specific risks</td>
<td>Provides a safety net</td>
<td>2</td>
</tr>
<tr>
<td>Principle 3: Fair Contracts</td>
<td>Provides clear and transparent terms and conditions</td>
<td>Does not impose unfair contract terms</td>
<td>2</td>
</tr>
<tr>
<td>Principle 4: Fair Management</td>
<td>Provides due process for decisions affecting workers</td>
<td>Provides equity in the management process</td>
<td>2</td>
</tr>
<tr>
<td>Principle 5: Fair Representation</td>
<td>Assures freedom of association and the expression of collective worker voice</td>
<td>Supports democratic governance</td>
<td>1</td>
</tr>
</tbody>
</table>

Maximum possible Fairwork Score: 10/10
**Principle 1: Fair Pay**

1.1 Ensures workers earn at least the local minimum wage after costs (one point)

Platform workers often have substantial work-related costs to cover, such as transport between jobs, supplies, or fuel, insurance, and maintenance on a vehicle. Workers’ costs sometimes mean their take-home earnings may fall below the local minimum wage. Workers also absorb the costs of extra time commitment, when they spend time waiting or travelling between jobs, or other unpaid activities necessary for their work, which are also considered active hours. To achieve this point platforms must ensure that work-related costs do not push workers below local minimum wage.

The platform takes appropriate steps to ensure the following:

- Workers earn at least the local minimum wage, or the wage set by collective sectoral agreement (whichever is higher) in the place where they work, in their active hours, after costs.

1.2 Ensures workers earn at least a local living wage after costs (one additional point)

In some places, the minimum wage is not enough to allow workers to afford a basic but decent standard of living. To achieve this point platforms must ensure that work-related costs do not push workers below local living wage.

The platform takes appropriate steps to ensure:

- Workers earn at least a local living wage, or the wage set by collective sectoral agreement (whichever is higher) in the place where they work, in their active hours, after costs.

**Principle 2: Fair Conditions**

2.1 Mitigates task-specific risks (one point)

Platform workers may encounter a number of risks in the course of their work, including accidents and injuries, harmful materials, and crime and violence. To achieve this point platforms must show that they are aware of these risks and take steps to mitigate them.

The platform must satisfy the following:

- There are policies or practices in place that protect workers’ health and safety from task-specific risks.
- Platforms take adequate, responsible and ethical data protection and management measures, laid out in a documented policy.

2.2 – Provides a safety net (one additional point)

Platform workers are vulnerable to the possibility of abruptly losing their income as the result of unexpected or external circumstances, such as sickness or injury. Most countries provide a social safety net to ensure workers don’t experience sudden poverty due to circumstances outside their control. However, platform workers usually don’t qualify for protections such as sick pay, because of their independent contractor status. In recognition of the fact that most workers are dependent on income they earn from platform work, platforms can achieve this point by ensuring that workers are compensated for loss of income due to inability to work.

The platform must satisfy BOTH of the following:

- Platforms take meaningful steps to ensure that workers are compensated for income loss due to inability to work commensurate with the worker’s average earnings over the past three months.
- Where workers are unable to work for an extended period due to unexpected circumstances, their standing on the platform is not negatively impacted.

**Principle 3: Fair Contracts**

3.1 Provides clear and transparent terms and conditions (one point)

The terms and conditions governing platform work are not always clear and accessible to workers. To achieve this point, the platform must demonstrate that workers are able to understand, agree to, and access the conditions of their work at all times, and that they have legal recourse if the other party breaches those conditions.

The platform must satisfy ALL of the following:

- The party contracting with the worker must be identified in the contract, and subject to the law of the place in which the worker works.
- The contract is communicated in full in clear and comprehensible language that workers could be expected to understand.
- The contract is accessible to workers at all times.
- Every worker is notified of proposed changes in a reasonable timeframe before changes come into effect.
and the changes should not reverse existing accrued benefits and reasonable expectations on which workers have relied.

3.2 – Ensures that no unfair contract terms are imposed (one additional point)

In some cases, especially under ‘independent contractor’ classifications, workers carry a disproportionate amount of risk for engaging in a contract with the service user. They may be liable for any damage arising in the course of their work, and they may be prevented by unfair clauses from seeking legal redress for grievances. To achieve this point, platforms must demonstrate that risks and liability of engaging in the work is shared between parties.

Regardless of how the contractual status of the worker is classified, the platform must satisfy BOTH of the following:

• Takes appropriate steps to ensure that the contract does not include clauses which exclude liability for negligence nor unreasonably exempt the service user and/or the platform from liability for working conditions.
• Takes appropriate steps to ensure that the contract does not include clauses which prevent workers from effectively seeking redress for grievances which arise from the working relationship.

Principle 4: Fair Management

4.1 Provides due process for decisions affecting workers (one point)

Platform workers can experience arbitrary deactivation; being barred from accessing the platform without explanation, and potentially losing their income. Workers may be subject to other penalties or disciplinary decisions without the ability to contact the service user or the platform to challenge or appeal them if they believe they are unfair. To achieve this point, platforms must demonstrate an avenue for workers to meaningfully appeal disciplinary actions.

The platform must satisfy ALL of the following:

• There is a channel for workers to communicate with a human representative of the platform. This channel is documented in a contract and available on the platform interface. Platforms should respond to workers within a reasonable timeframe.
• There is a process for workers to meaningfully appeal low ratings, non-payment, payment issues, deactivations, and other penalties and disciplinary actions. This process is documented in a contract and available on the platform interface.

• In the case of deactivations, the appeals process must be available to workers who no longer have access to the platform.
• Workers are not disadvantaged for voicing concerns or appealing disciplinary actions.

4.2 – Provides equity in the management process (one additional point)

The majority of platforms do not actively discriminate against particular groups of workers. However, they may inadvertently exacerbate already existing inequalities in their design and management. For example, there is a lot of gender segregation between different types of platform work. To achieve this point, platforms must show not only that they have policies against discrimination, but also that they seek to remove barriers for disadvantaged groups, and promote inclusion.

Platforms must satisfy ALL of the following:

• There is a policy which ensures the platform does not discriminate on grounds such as race, social origin, caste, ethnicity, nationality, gender, sex, gender identity and expression, sexual orientation, disability, religion or belief, age or any other status.
• Where persons from a disadvantaged group (such as women) are significantly under-represented among a pool of workers, it seeks to identify and remove barriers to access by persons from that group.
• It takes practical measures to promote equality of opportunity for workers from disadvantaged groups, including reasonable accommodation for pregnancy, disability, and religion or belief.
• If algorithms are used to determine access to work or remuneration or the type of work and pay scales available to workers seeking to use the platform, these are transparent and do not result in inequitable outcomes for workers from historically or currently disadvantaged groups.
• It has mechanisms to reduce the risk of users discriminating against workers from disadvantaged groups.
groups in accessing and carrying out work.

- It takes practical measures to promote equality of opportunity for workers from disadvantaged groups, including reasonable accommodation for pregnancy, disability, and religion or belief.
- If algorithms are used to determine access to work or remuneration, these are transparent and do not result in inequitable outcomes for workers from historically or currently disadvantaged groups.
- It has mechanisms to reduce the risk of users discriminating against workers from disadvantaged groups in accessing and carrying out work.

**Principle 5: Fair Representation**

**5.1 Assures freedom of association and the expression of worker voice (one point)**

Freedom of association is a fundamental right for all workers, and enshrined in the constitution of the International Labour Organisation, and the Universal Declaration of Human Rights. The right for workers to organise, collectively express their wishes – and importantly – be listened to, is an important prerequisite for fair working conditions.

However, rates of organisation amongst platform workers remain low. To achieve this point, platforms must ensure that the conditions are in place to encourage the expression of collective worker voice. Whether or not platforms set the terms on which workers are retained by service users, platforms must demonstrate that they have taken appropriate steps to ensure that workers are informed of their rights (and have mechanisms in place to help protect those rights) and that workers are directed to appropriate collective bodies or trade unions.

Platforms must satisfy ALL of the following:

- There is a documented mechanism for the expression of collective worker voice.
- There is a formal policy of willingness to recognise, or bargain with, a collective body of workers or trade union, that is clearly communicated to all workers\textsuperscript{42}.
- Freedom of association is not inhibited, and workers are not disadvantaged in any way for communicating their concerns, wishes and demands to the platform\textsuperscript{43}.

**5.2 Supports democratic governance (one additional point)**

While rates of organisation remain low, platform workers’ associations are emerging in many sectors and countries. We are also seeing a growing number of cooperative worker-owned platforms. To realise fair representation, workers must have a say in the conditions of their work. This could be through a democratically governed cooperative model, a formally recognised union, or the ability to undertake collective bargaining with the platform.

The platform must satisfy at least ONE of the following:

1. Workers play a meaningful role in governing it.
2. It publicly and formally recognises an independent collective body of workers, an elected works council, or trade union.
3. It seeks to implement meaningful mechanisms for collective representation or bargaining.
Credits and funding

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None of the researchers have any connection with any of the platforms and the work undertaken received no funding or support in kind from any platform or any other company, and we declare that there is no conflict of interest.
ENDNOTES


2. INEC. Estadísticas Laborales. 2022.


23. Asamblea Nacional del Ecuador. Proyecto de ley que reforma el código del trabajo y la ley de seguridad social para el reconocimiento de la relación laboral de los trabajadores de empresas que operan a través de plataformas digitales. -OVJC 2021-0069-M:2021/10/28.


31. ILO 2021 report, p.107


33. Work-related costs include direct costs the worker may incur in performing the job. This may include, for instance, transport in between jobs, supplies, vehicle repair and
maintenance, fuel, road tolls and vehicle insurance. However, it does not include transport to and from the job (unless in-between tasks) nor taxes, social security contributions or health insurance.  

34 The ILO defines minimum wage as the “minimum amount of remuneration that an employer is required to pay wage earners for the work performed during a given period, which cannot be reduced by collective agreement or an individual contract.” Minimum wage laws protect workers from unduly low pay and help them attain a minimum standard of living. The ILO’s Minimum Wage Fixing Convention, 1970 C135 sets the conditions and requirements of establishing minimum wages and calls upon all ratifying countries to act in accordance. Minimum wage laws exist in more than 90 per cent of the ILO member states.  

35 In addition to direct working hours where workers are completing tasks, workers also spend time performing unpaid activities necessary for their work, such as waiting for delivery orders at restaurants and travelling between jobs. These indirect working hours are also considered part of active hours as workers are giving this time to the platform. Thus, ‘active hours’ are defined as including both direct and indirect working hours.  

36 In order to evidence this, where the platform is responsible for paying workers the platform must either: (a) have a documented policy that ensures the workers receive at least the local minimum wage after costs in their active hours; or (b) provide summary statistics of transaction and cost.  

37 Where a living wage does not exist, Fairwork will use the Global Living Wage Coalition’s Anker Methodology to estimate one.  

38 In order to evidence this, where the platform is responsible for paying workers the platform must either: (a) have a documented policy that ensures the workers receive at least the local living wage after costs in their active hours; or (b) provide summary statistics of transaction and cost data evidencing all workers earn a minimum wage after costs.  

39 Where the platform directly engages the worker, the starting point is the ILO’s Occupational Safety and Health Convention, 1981 (C155). This stipulates that employers shall be required “so far as is reasonably practicable, risk of accidents or of adverse effects on health.”  

40 The ILO’s Maritime Labour Convention, 2006 (MLC 2006), Reg. 2.1, and the Domestic Workers Convention, 2011 (C189), Articles 7 and 15, serve as helpful guiding examples of adequate provisions in workers’ terms and conditions, as well as worker access to those terms and conditions.  

41 Workers should have the option of escalating grievances that have not been satisfactorily addressed and, in the case of automated decisions, should have the option of escalating it for human mediation.  

42 For example, “[the platform] will support any effort by its workers to collectively organise or form a trade union. Collective bargaining through trade unions can often bring about more favourable working conditions.”  

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