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Expectation in Peru for Proposed Legislation That Considers Digital Platform Users as “Employees”

According to a latest survey prepared by Adecco-Employers for Youth¹, Peruvian millennials consider Uber as the best company to work with in 2019. Since similar results have been found in Colombia and Chile, it is an undeniable truth that a growing number of ‘gig economy’ firms have taken the lead in the preference of the young labor workforce in the region.

In recent years, not only Uber but other digital platform companies have entered to the Peruvian market and are currently very popular such as Cabify, Beat, Glovo or Rappi.

Along with the tendency in the Latin American region, questions regarding the nature of the relationship between the users and the owners of the digital platforms started being raised as well as a growing concern about the users’ protection when rendering services.

In Peru, there is no legislation, judicial decision, nor executive order that rules digital platform services and the relationship with users. However, in the last four months, two legislation proposals has been filed in the Peruvian Congress about this matter². Both bills agree to consider the digital platform users (drivers or couriers) as employees and, consequently, to grant them benefits such as:

- Indemnity in case of arbitrary dismissal.
- Mandatory affiliation to social security and a pension fund systems.
- Right to organize themselves in unions.
- Mandatory hiring of additional insurances in case of accidents.

In our view, if there is a concern about the protection of users, including them into the employment law scope is not the most appropriate way to deal with it. This is because, on the one hand, their *sui generis* relationship does not necessarily fit in a typical employment nor independent contractor profile; and, on the other hand, this measure will raise costs for the digital platform owners and make it more difficult for them to continue running their business.

The proposed bills are currently pending to be discussed by the Commission of Employment and Social Security at the Peruvian Congress. We expect to have an update soon.

¹ <https://efy.global/>

² Both proposals can be found in the following links:

- http://www.leyes.congreso.gob.pe/Documentos/2016_2021/Proyectos_de_Ley_y_de_Resoluciones_Legislativas/PL0414420190404.pdf
- http://www.leyes.congreso.gob.pe/Documentos/2016_2021/Proyectos_de_Ley_y_de_Resoluciones_Legislativas/PL0424320190417.pdf