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# Regulating Nonstandard Forms of Employment in Uruguay: Insights from International Experience and Options for the Future

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## Summary

The world is witnessing a process of technological change that, in parallel with increasing globalization, is changing the world of work. Technological change will likely lead to a shift in today's dominant labor relations and to the growth of labor relationships that offer more flexibility. The growth of more flexible labor relationships raises concerns about the diminished level of insurance against certain risks affecting workers, such as illness, work accidents, unemployment, and retirement. The aim of this study is to analyze the main challenges for labor regulation in Uruguay in view of the potential expansion of more flexible nonstandard employment (NSE) in general and the gig economy in particular. The study starts by presenting a conceptual framework for the main challenges associated with the potential growth of NSE relations. Then, the study focuses on Uruguay and discusses the country's current labor regulations and the trends observed for this type of employment—it highlights the difficulties in measuring them and identifies specific protection gaps in the various types of labor relationships.

Finally, after reviewing the main strategies developed at the international level to close protection gaps, the study presents three principles to guide the future agenda on labor regulation. The first principle suggests the need to strengthen the measurement of NSE and platform work. This is a necessary condition to identify current trends in labor relationships and examine the characteristics of the workers involved and the specific risks to which they are exposed. It is also an essential requirement to assess the impact of the policies adopted. The second principle proposes to base the design of future labor regulations on the analysis of market failures. Given the swift evolution of online platform work, and work in general, it is important to return to the foundations underlying labor regulations by identifying the basis of their existence. The third principle argues that it is important to bear in mind that the use of platforms and of new employment modalities in general generates not only challenges but also opportunities for social protection enhancement. For example, the fact that platforms operate through electronic means of payment means that income is often observable, thus hindering informal transactions. Future labor relations will generate some opportunities which should be taken advantage of to enhance social protection.

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## 1. Introduction<sup>4</sup>

The world is undergoing a rapid process of technological change, especially with regard to digital communication advances. With increasing globalization, this process has led to significant changes in the world of work. In the future, these changes are likely to deepen as production systems continue to incorporate technological changes. These structural phenomena were compounded by the COVID-19 pandemic, in many cases leading to production alternatives characterized by remote work, which also brought about profound changes in labor markets.

These changes in firms' productive organization often require a higher degree of work flexibility, while they also expand the labor market, with potential workers located in different parts of the world. These factors, as well as others to be discussed later in this report, may lead to a change in the labor relations now prevailing in the market and to the growth of relationships offering a higher degree of flexibility, usually identified as nonstandard forms of employment.

In line with this argument, one of the main areas for research linked to the impact of technological change on the labor market has focused on the analysis of new forms of employment (see, for example, Apella and Zunino 2017; ILO 2016; Maurizio 2016). Within the wide range of alternative employment modalities, a particularly relevant labor relationship because of its potential for growth is online platform work. The number of active platforms worldwide has grown from close to 10 in 2000, to 283 web-based work platforms, 383 delivery platforms, 106 passenger transport platforms, and 5 hybrid platforms in 2020 (ILO 2021a). The COVID-19 pandemic caused a significant increase in platform work. The mobility restrictions imposed by public health measures (lockdowns) led to a 50 percent increase in the use of delivery platforms in the Latin America and the Caribbean (LAC) region in March 2020 (ILO 2021a). In addition, microtasking and freelance platform downloads showed a 30 percent increase in LAC in the first quarter of 2020. Between 2013 and 2018, Uber expanded its platform in the region, allowing access to taxi services for 70 percent of the people living in Latin American cities and covering 35 percent of the towns in 15 countries (Azua, González, and Keller 2019).

The growth of these more flexible labor relations has raised concerns about the decreased level of insurance against certain risks affecting workers, such as illness, work accidents, unemployment, and retirement. This is because these contractual agreements usually do not grant the workers the same level of rights and protection provided to workers under standard work contracts. This situation poses a challenge for social protection systems, not only because of the increasing number of workers lacking coverage, but also due to the possible heterogeneity in terms of productivity potentially generated within the group of non-covered workers.

The cause of these problems is that in general, the legal framework governing labor market dynamics across the world has addressed a particular type of employment characterized by its continuity and full-time regime, which is part of a direct and subordinate relationship between workers and employers. This is commonly known as a 'standard' work relationship. These types of labor relations usually offer significant benefits that workers appreciate, including health coverage, contributions to the pension system, training programs, and work stability. Businesses also perceive and appreciate

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<sup>4</sup>This document is based on the presentation "Platform Work Globally and in Latin America and the Caribbean: Overview and Directions in Labor Regulation and Social Protection Policy," by Harry Moroz and Indhira Santos, February 10, 2021, in Washington, D.C., for the World Bank.

certain advantages offered by this type of labor relationship, such as having a stable workforce, which allows them to align interests among all of the members of the productive process; retaining the talents and skills of their workers; and the possibility to manage the whole range of tasks of their employees.

However, in the past decades, both in industrialized and developing countries, a growing shift has taken place from the so-called standard employment to more flexible forms of employment known as ‘nonstandard forms of employment’ (ILO 2016). Although no formal definition exists for this category, all labor relationships falling outside standard employment are part of it.

In the last decades, nonstandard employment (NSE) has advanced not only into low productivity work segments, but also into labor market segments formerly associated with traditional forms of employment. The causes facilitating the expansion of employment based on more flexible relationships include technological change, specifically the growth of digital communication, together with the significant expansion of digital skills. Globalization, which implies a search for more flexibility and therefore lower costs, also operates as a factor driving nonstandard labor relationships (Maurizio 2016). Finally, another relevant aspect is an ongoing process of structural change in which employment is growing in the services sector where demand is more volatile and seasonal thus favoring more flexible production processes.

In this context, the present study aims to analyze the main challenges faced by labor regulation in Uruguay given the potential expansion of NSE in general and of the gig economy in particular. To this end, this study discusses the main elements of labor legislation in Uruguay, identifying existing regulatory challenges in the light of the international experiences analyzed in previous literature.

The rest of the document is organized as follows. The next section presents a general review of the literature on the main definitions and problems associated with NSE and the expansion of the gig economy. The third section discusses the current Uruguayan regulations on NSE and platform work. The fourth section discusses Uruguay’s main challenges in the measurement of nonstandard forms of employment and the gig economy. The fifth section analyzes the costs and benefits of NSE in Uruguay from both the workers’ and the employers’ perspectives. The sixth section examines gaps in the protection schemes affecting nonstandard workers in Uruguay, explores possible solutions developed at the international level, and ends with a proposed guide for national-level policy development.

## **2. Nonstandard employment: topics discussed in the literature**

The existing literature on nonstandard and platform employment is abundant and deals with different aspects of the issue. This section reviews various topics that are relevant to understanding the phenomenon. Some aspects of these topics are revisited and further discussed in the later sections of the document.

### **2.1 Definitions**

A first distinction can be drawn between dependent employment, which implies a steady relationship between a worker and an employer, and independent employment, involving self-employed workers who effectively operate as such, that is, who work independently without any relation with a company supervising their tasks. In the dependent employment scheme, nonstandard work comprises several types of employment contracts. However, there is no specific definition of standard employment or

standard labor relationship; instead, the idea of this concept stems from the work contracts established by various regulations. Similarly, no specific definition exists for nonstandard, which arises in opposition to the former (ILO 2016).

Four major types of NSE can be identified (**Table 1**). These are (a) temporary employment, where the labor relationship is established for a specific time period; (b) part-time employment, which for practical purposes arises when the hours worked per week are less than 30; (c) triangular employment, which occurs when the workers are not employed directly by the company where they carry out their work, but have a dependent employment relationship with another company acting as an agency, which usually has a business contract with the company where the worker provides their services; and (d) covert independent salaried work relationships (independent employment), which exist when an autonomous worker has a permanent relationship with a company from which they receive a stable salary and where the company exercises a supervisory role which is incompatible with the worker's independent status. Note that this definition of NSE does not include self-employed workers, who are included in the independent employment sector.

**Table 1: Characteristics of different employment types**

	Standard employment	- Traditional labor relationships - Full-time employment, with contracts for an indefinite period of time between two parties (bilateral contracts) with a subordinate relationship.
		- Temporary employment - Employment with contracts for definite periods of time, including those covering projects or specific tasks. This also includes seasonal work and casual work as daily work.
<b>Dependent employment</b>		- Part-time employment - Employment with fewer working hours than full-time employment, marginal part-time employment, and on-call work.
	Nonstandard employment	- Triangular employment or other forms of employment involving multiple actors. - Indirect employment with a subordinate relationship with the end user. It includes subcontracted employment and temporary employment contracted by agencies. - Covert employment and autonomous dependent employment. - Covert employment is employment that appears to be different from reality though, in practice, a dependent relationship is developed. Autonomous dependent employment is employment under a commercial contract where workers depend on one or more customers for their income or receive direct work instructions as if they were in a dependent employment relationship.
<b>Platform employment</b>	Nonstandard employment	- It may involve different aspects of each NSE type, but is distinguished by the technology applied in the work.
<b>Independent employment</b>		- Includes self-employed and domestic workers.

*Source:* Based on ILO 2016; Moroz and Santos 2021.

NSE has been affected by increasing digitalization. Although many of the jobs created or transformed by digitalization have traditional working relationships, digitalization has also enabled the expansion of new business models, including online platforms. In general, platform workers' working conditions meet neither the definition for dependent employees nor for independent workers, thus constituting a new NSE modality (ECLAC and ILO 2021). In fact, there is abundant academic, regulatory and legal debate on the dependent or independent status of platform workers (Apella, Rofman, and Rovner 2020; ECLAC and ILO 2021; ILO 2016; OECD 2019a). This is to say that the debate focuses on whether platform workers have a dependent labor relationship with these companies or whether they are autonomous workers using the platforms to offer their services.

As a result, platform workers are generally situated in what could be described as a ‘gray area’ between dependent and independent employment. On one hand, they share some characteristics with wage earners, such as the inability to set their own prices rates or designate a substitute to carry out their tasks. On the other hand, the bargaining power of these workers is limited, and they do not benefit from the protection laws developed for wage earners or do so only in part (OECD 2019a).

In this sense, there is a heated debate about whether platforms are employer companies or simply technological intermediaries with no responsibility for the platform workers. This problem poses multiple challenges to the design of public policies aimed at regulating platform work, especially because it directly affects the workers’ access to labor rights.

The digital platforms’ position on this matter is generally that they are intermediaries. They argue that their role is limited to arranging contacts between service suppliers and demanders, and that platform workers should therefore be considered as independent workers who freely choose when and where to work and who are entitled to refuse to do certain tasks. However, there are multiple arguments refuting this position. The first is that the company maintains control over the workers even if they are labelled as independent workers. Additionally, companies may insist on certain performance standards to ensure quality and may prevent some workers from working because of poor evaluations or because they do not follow company instructions, which in some sense is equivalent to dismissal.

The regulation of platform work is further complicated by the different types of services they provide. Platforms can generally be classified into two types: web-based online platforms and location-based platforms (**Table 2**). The main difference between them is that on web-based online platforms digital employment materializes through tasks performed by the workers online (an example is the employment platform for programmers called Topcoder), whereas on location-based platforms the work is tangible or is provided to a customer at a certain location (one well-known example is the Uber passenger transport platform).

**Table 2: Employment types by platform**

	<b>Web-based platforms</b>	<b>Location-based platforms</b>
<b>Description</b>	Online tasks	Tangible work or work provided at a certain location
<b>Skill level</b>	- Low level: microtasks - Medium/high level: macrotasks (data analysis, programming, content creation, medical consultations)	- Low/medium level: transport, delivery, domestic services, domestic work, caregiving
<b>Examples</b>	Upwork, Workana, Amazon Mechanical Turk, Clickworker	Uber, PedidosYa, DiDi

*Source:* Based on Moroz and Santos 2021.

## 2.2 Benefits and challenges

Nonstandard labor relations in general and the use of platforms in particular offer many benefits that may be valuable for both workers and employees. They offer a wider and more flexible labor market for some individuals who in other circumstances would be excluded from or have limited access to work opportunities, such as workers who have responsibilities imposing time restrictions or people with disabilities. For example, this enhanced flexibility could facilitate labor market incorporation for women who perform unpaid domestic tasks or for young people who seek to reconcile their first job with the continuity of their studies. It is also advantageous for companies since in many cases they can

access a larger labor supply, a global market that allows them to improve their efficiency and productivity.

The access barriers for workers are usually lower in the case of location-based platforms, compared with web-based platforms (ECLAC and ILO 2021). The former generally require a more basic set of abilities, although they often seek specific skills such as caregiving. For their part, web-based platforms usually require mastering the digital skills necessary for remote task execution, which may be highly specialized, as in the case of programmers, or basic technical skills such as data entry.

Although opportunities arise for companies and for workers, NSE including platform work is accompanied by multiple challenges. The main challenges are employment and salary regulation, the workers' employment conditions, their social protection, and tax regulation. As regards worker protection, the organization of most systems in force is based on the concept of traditional employment, with a direct and clear relationship between employers and employees. However, given the changing nature of nonstandard work, it becomes necessary to adapt regulatory frameworks. This aspect will be further discussed later in this document.

### **2.3 Measurement and estimation**

Identifying NSE workers in general and platform workers in particular is challenging because both platform work and the various modalities of NSE tend to be geared toward specific, short-term tasks and are characterized by high job rotation, which hinders their measurement. These measurement problems in NSE at the national level have been addressed by several academic studies. Abraham et al. (2018) discuss the weaknesses in the current employment measurement methods. These methods were designed mainly for traditional labor relationships, especially in household surveys. This limits the measurement capability for nonstandard work relationships. This phenomenon affects the whole of South America, making it more difficult to estimate the relevance of this type of employment (ECLAC and ILO 2021).

Permanent household surveys are the traditional tool used in labor market analyses in the countries of this region. However, for NSE, this approach usually presents significant limitations. In the first place, surveys usually focus on the main employment, whereas nonstandard work, and particularly platform work, often constitutes a secondary activity. Additionally, in the surveys it is usually difficult to identify the type of contractual relationship. Another significant problem is that, based on the surveys, it is not possible to investigate what counts as a job in the respondents' opinion. One more aspect to be highlighted is that surveys use short reference periods, which hinders measurement when the activity is not continuous over time.

Finally, as regards survey-based measurement, as mentioned in ILO (2021b) data comparison between countries is weak because of two factors. The first one is the absence of a common terminology on the subject, and the second is the lack of an agreed definition on what platform work implies. In this sense, including specific questions in household surveys may help to clarify the differences behind the values obtained to estimate NSE.

Using the measurement of platform work as an example, the measurement strategies applied to quantify NSE in general may be categorized as follows: (a) adapting the existing surveys; (b) designing and implementing specifically designed surveys; and (c) an approach based on data that do not derive



from surveys, such as platform records, tax data or financial transactions. The strengths and weaknesses of each of these strategies are shown in **Table 3**.

**Table 3: Platform work measurement strategies**

Source	Examples	Strengths	Weaknesses
Adapting existing strategies	<ul style="list-style-type: none"> <li>• Employment surveys in Canada, China, Denmark, Finland, France, Germany, Italy, Russia, Saudi Arabia, Singapore, Switzerland, USA</li> <li>• Information and Communication Technology (ICT) surveys in 10 European Union (EU) countries</li> </ul>	<ul style="list-style-type: none"> <li>• Potential to compare platform workers and traditional workers</li> </ul>	<ul style="list-style-type: none"> <li>• The responders may not have a clear idea of what platform employment is, thus generating a bias in the answers</li> <li>• Small samples</li> </ul>
New surveys	<ul style="list-style-type: none"> <li>• ILO has developed surveys to quantify platform work</li> <li>• Platform companies can perform surveys</li> <li>• Online surveys</li> <li>• Surveys of participation in informal work</li> </ul>	<ul style="list-style-type: none"> <li>• Possibility to include in the survey detailed questions on the object of study</li> </ul>	<ul style="list-style-type: none"> <li>• Difficult to carry out comparisons with the other workers</li> </ul>
Tax records	<ul style="list-style-type: none"> <li>• Academic studies in the USA have used tax records to identify NSE</li> </ul>	<ul style="list-style-type: none"> <li>• Potential to identify all formal income-generating activities</li> </ul>	<ul style="list-style-type: none"> <li>• Difficult access</li> <li>• Difficult to carry out comparisons with the other workers</li> <li>• Difficult to identify platform workers</li> </ul>
Financial data	<ul style="list-style-type: none"> <li>• JP Morgan uses payments through online platforms to investigate platform work</li> </ul>	<ul style="list-style-type: none"> <li>• Potential to include even informal earnings</li> </ul>	<ul style="list-style-type: none"> <li>• Difficult access</li> <li>• Difficult to carry out comparisons with the other workers</li> </ul>
Online data	<ul style="list-style-type: none"> <li>• The online labor index measures independent online work in all countries by following up projects and tasks on major platforms</li> </ul>	<ul style="list-style-type: none"> <li>• Allows standardization across countries and occupations</li> </ul>	<ul style="list-style-type: none"> <li>• Limited scope (English language, main platforms)</li> <li>• Cannot be used to investigate worker profiles</li> </ul>

Source: Abraham et al. 2018; Bracha and Burke 2021; Farrell, Greig, and Hamoudi 2018; ILO 2021b; Meerkamper and Goldfarb 2020.

Despite these difficulties, there are several studies showing concrete estimates of the number of platform workers. Several estimates have been made of the scope of platform work in the region. Geraldo, Firmino, and Martins (2016) uses the questions traditionally asked in household surveys to estimate the number of persons working in the gig economy in Brazil’s transport sector. To do this, they use the questions on labor relationships, which allow them to identify whether a worker is self-employed or dependent, the sector of activity (which should be merchandise and passenger transport), and the occupation category (which should be driver and merchandise deliverer). Although the estimates may include individuals not performing their work through applications, this method offers one potential approach. In the case of Argentina, Madariaga et al. (2019) use semi-structured interviews with the managers of the main platforms in the market. For Colombia, Fernández and Benavides (2020) analyze and quantify platform work using purpose-built surveys addressed to independent service providers that generate income through platforms, businesses associated with platforms, and platform users. Similarly, based on a mixed strategy that included surveys specifically developed for workers and interviews with platform company managers, García and Javier (2020)

carried out an analysis estimating the scope of platform work and identifying platform worker protection needs in the Dominican Republic. **Table 4** shows estimates developed by different studies for various countries in the region.

**Table 4: Platform work measurement strategies**

Country	Estimate
Argentina	1% of the workforce are engaged in platform work
Brazil	31% of the workers in the transport sector work in the gig economy
Colombia	0.9% of the workforce are engaged in platform work
Dominican Republic	0.8% of the workforce are engaged in platform work

*Source:* Based on Fernández and Benavides 2020; García and Javier 2020; Geraldo, Firmino, and Martins (2016); Madariaga et al. 2019.

Several studies that analyze the characteristics of platform workers<sup>5</sup> mention that although they are a heterogeneous group and they vary according to the platform type they work for, in general they exhibit some common features. First, a bias toward young male workers is observed in relation to labor market averages. There is also a significant urban bias and a slightly higher education level than that found among average workers not engaged in platform work. These biases are slightly more pronounced in developing countries. In turn, there is also a bias toward migrant populations in Latin America. This is especially the case for Venezuelan migrants, a significant number of whom engage in platform work.

## 2.4 Regulatory challenges

Just as in the case of measurement, the growth of NSE poses challenges in the regulatory area. As mentioned before, the workers engaged in this type of employment, for whom no agreed definition exists, may be classified as belonging to a ‘gray area’ between dependent and independent employment.

Taking this specificity into account, one alternative is to consider platform work as a specific labor category requiring its own regulation. This is, however, not a simple option: one risk of this alternative is promoting a higher degree of labor market segmentation, which may be counterproductive for both companies and workers.

The adoption of an alternative regulation or the adaptation of existing regulation to protect platform workers’ labor rights requires first to understand market failures in these cases and how they differ from the failures existing in traditional labor markets. In platform work, some market failures are more significant, others are less relevant, and still others are simply different (**Table 5**). If the rationale that leads to regulation is considered, more flexible employment regulations can be generated, which can be better adapted to labor market changes.

**Table 5: Market failures and regulation (Traditional employment versus platform employment)**

Market failure	Traditional employment	Traditional instruments	Platform employment
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<sup>5</sup> See, for example, Azuara, González, and Keller 2019; ECLAC and ILO 2021; Fernández and Benavides 2020; García and Javier 2020; ILO 2021a; Madariaga et al. 2019.

<b>Monopsony</b>	<ul style="list-style-type: none"> <li>• Employers have greater bargaining power, which allows them to pay less than the marginal product of work</li> </ul>	<ul style="list-style-type: none"> <li>• Minimum salaries</li> <li>• Unionization</li> <li>• Collective bargaining</li> </ul>	<ul style="list-style-type: none"> <li>• Some platforms have monopsonic power (due to work restrictions or to the installation of other platforms)</li> </ul>
<b>Information asymmetries</b>	<ul style="list-style-type: none"> <li>• Worker productivity</li> <li>• Company investment affecting productivity</li> </ul>	<ul style="list-style-type: none"> <li>• Trial periods</li> <li>• Temporary contracts</li> <li>• Rights increase with permanent contracts</li> </ul>	<ul style="list-style-type: none"> <li>• Easier to measure worker productivity</li> <li>• Lower company investment in worker productivity</li> </ul>
<b>Externalities</b>	<ul style="list-style-type: none"> <li>• Hiring and dismissal (affecting not only workers but also society)</li> <li>• Environmental safety</li> <li>• Occupational safety</li> </ul>	<ul style="list-style-type: none"> <li>• Severance pay</li> <li>• Unemployment insurance</li> <li>• Health and work accident insurance</li> </ul>	<ul style="list-style-type: none"> <li>• Hiring and dismissal potentially have smaller impacts (often, platform work is not the main job)</li> <li>• Occupational and environmental safety</li> </ul>
<b>Incomplete markets</b>	<ul style="list-style-type: none"> <li>• Skills mismatch</li> <li>• Finding adequate workers</li> <li>• Insurance markets</li> </ul>	<ul style="list-style-type: none"> <li>• Fixed-term contracts</li> <li>• Severance pay</li> <li>• Mostly other instruments: labor market information, public employment services</li> </ul>	<ul style="list-style-type: none"> <li>• Less relevant than in traditional markets (larger and more diversified supply and demand; lower change costs)</li> </ul>
<b>Public goods</b>			<ul style="list-style-type: none"> <li>• Smaller effects on the environment (for example, it is not necessary to travel to work)</li> </ul>

According to Apella, Rofman, and Rovner (2020), proposals to establish an employment category between wage earner and independent worker in regulatory terms have been discussed in the literature. A significant problem in the region and particularly in Uruguay is caused by the fact that most platform workers can access social security coverage (via monotax regimes), but they cannot be included within minimum salary regulations (the regulation does not consider the monopsony failure). Another problem is collective bargaining. In the absence of a legal category for these workers, bargaining processes allowing them to raise and discuss working conditions issues cannot be established (again, the existing regulations do not consider the monopsony failure for these workers). Additionally, workers in NSE relationships face problems such as lack of protection from unjustified or arbitrary dismissal or the lack of guarantees regarding work safety and health. The above issues are compounded by inclusion problems because companies are typically not obliged to comply with anti-discrimination laws, which may lead to job seekers being excluded and marginalized (ILO 2016).

As a regulatory challenge, it will be important to balance strategies to take advantage of the opportunities created by new technologies with regulations providing adequate labor and social protection for workers and their families. This problem arises because often new employment forms are inconsistent with existing labor and social protection regulations (Apella, Rofman, and Rovner 2020).

Considering the platform classification presented above, which divides platforms into location-based and web-based, it may be observed that the main regulatory challenges for each individual country are those stemming from location-based platforms. People working for location-based platforms operate in a national market can be regulated at that level. Web-based platforms, in contrast, require international-level cooperation, as the workers operate in a global market. The fact that this

employment involves cross-border transactions where the platform may be established in a country other than that of the worker and the customer has led to varying legal decisions between jurisdictions, which has ultimately led to inconsistent regulations and conflicts in legislation.

### **3. Nonstandard work in Uruguay: Legal and regulatory aspects**

In Uruguay, labor regulations are established in various standards at different levels within the legal system (Constitution, laws, decrees). Unlike other countries, Uruguay does not have a Labor Code. This legislative framework does not explicitly define NSE in general or platform work in particular, although it does include various references to the regulation of NSE forms. In addition, a bill has been developed with the aim of providing specific regulations for some platform workers. The main aspects of the legislation in force and the bill under consideration by the Parliament are discussed below.

#### **3.1 Dependent and independent employment**

A first classification which is relevant from the legal point of view distinguishes dependent workers and independent or self-employed workers. As defined by the National Statistics Institute (INE), self-employed workers are those who have no dependent relationship with an employer and operate their own economic undertaking without using wage earners. Dependent workers are those who maintain a subordinate labor relationship with an employer with or without a written work contract. Although, as mentioned above, the literature does not consider self-employment per se as a form of NSE, the differences in labor rights and risk coverage between dependent and independent workers are relevant when discussing the case of covert paid employment, a phenomenon that tends to concentrate the debate on platform work.

In the case of dependent workers, labor relationships between employees and firms find a general regulatory framework at the highest legal level since the Constitution of the Republic establishes that labor is under the special protection of the law and recognizes workers' moral and civic independence and their right to fair wages, working hour limits, weekly rest, and physical health. These subjects are regulated in detail by different acts.

The main differences between dependent and independent workers relate to two core issues: (a) social security coverage and (b) wages (and other work conditions) bargaining systems through Wage Boards.

For dependent workers, the social security system covers risks and social charges related to disability, old age, retirement, illness, work accidents, maternity, unemployment, and death (Act 16713). In the case of independent workers, a relevant difference is that they are not entitled to unemployment insurance, maternity leave, or sick leave. Because of the latter aspect, risk coverage is less complete in comparison with wage earners. This was particularly evident during the recent COVID-19 crisis, when sanitary restrictions resulted in job loss for many people. The lower coverage during the workers' active stage of life can also represent a growing challenge for the future if the arrival of new technologies generates changes in the structure of employment. Even if they are formal workers, independent workers would not have insurance allowing them to maintain certain income levels in the case of technological displacement or against the traditional cyclic shocks in the macroeconomy.

In both worker groups, the affiliation to social security is mandatory<sup>6</sup>, but in practice among independent workers informality is significantly higher. In Uruguay, social security is financed by the workers' personal contributions, as well as by employer and State contributions. In the case of independent workers, employer contributions are compensated by higher contribution rates paid by the worker.

The Uruguayan legal system acknowledges multiple labor unions, although in practice the labor movement is centralized through the PIT-CNT (Workers' Inter-Union Plenary - National Workers' Convention). The labor union movement plays a relevant role in the tripartite collective bargaining scheme operated through the Wage Boards (Acts 10449 and 18566) with the participation of the Executive, business associations, and trade unions.

Independent workers do not negotiate wages and therefore do not participate in Wage Boards, nor do they have any unions participating in the PIT-CNT. Nevertheless, this is also a critical aspect of salaried employment that is disguised as an independent relationships, as firms can use these arrangements to avoid establishing salaries through collective bargaining. In this respect, participation in collective bargaining is another relevant point in the debate about the type of labor relationship existing between workers and platform companies, as the categorization as wage earners or independent workers has clear implications in this sense.

### **3.2 Work contracts: Temporary work**

Another NSE form mentioned in the literature is that of workers with fixed-term contracts. According to national legislation<sup>7</sup>, as regards time periods, there are two types of labor relationships: (a) indefinite duration relationships; and (b) temporary duration relationships, which include sugar harvesting, substitutions, or other specific types of work.

It is worth noting that in Uruguay written work contracts are not mandatory, although they constitute a relatively extensive practice. However, for a labor relationship to be temporary, there has to be a written contract establishing the period of the dependent activity. If the duration is not specifically established or no work contract exists, the duration of the labor relationship is presumed to be indefinite. It is important to bear in mind that, within the term established in the work contract, there are no legal differences between fixed-term workers and those that maintain indefinite employment relationships.

Notably, Uruguayan legislation establishes three kinds of probation contracts under which companies can prevent the labor relationship from becoming indefinite at its beginning. First, Act No. 19973 stipulates that a probation period may be established in the contract. As regards this point, jurisprudence has determined that employment termination within the first 90 days of work does not give rise to severance payment for the worker regardless of whether the probation period has been specifically established or not. Second, a special regime is applied to construction sector contracts. Third and finally, another special regime is applied to the domestic service sector.

### **3.3 Triangular employment**

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<sup>6</sup> With the exception of foreign employees working in the Free Zones, who may choose not to benefit from the social security system and instead rely on treaties subscribed to by Uruguay.

<sup>7</sup> Acts 17556, 17930, 18046, 18172, and 19973, among others.

Another NSE modality mentioned in the literature is outsourced employment. This type of labor relationship occurs when workers are not employed directly by the company where they provide their services but have a contractual relationship with another company. In Uruguay, Acts 18997 and 18251 establish regulations related to outsourcing processes.

Act 18251 explicitly defines the subcontracting, intermediation, and manpower supply processes. It is established that subcontracting occurs when an employer, based on a contractual agreement, on his own account and through his dependent workers, executes works for or provides services to a natural or legal third party, called a 'patrono' or main company, when such works or services are integrated in their organization or when they are part of the establishment's main or accessory activity (maintenance, cleaning, security, or surveillance), regardless of whether such works or services are provided within the establishment or elsewhere. An intermediary is defined as the company contracting or intervening in the contracting of workers to provide services to a third party. Lastly, a manpower supply company provides services that comprise employing workers to make them available to a natural or legal third party (user company) which determines the workers' tasks and oversees their execution.

According to national legislation, the main company is responsible for labor and social security obligations when it uses subcontractors, intermediaries, and manpower suppliers. This means that the main company supervises the subcontractor's, the intermediary's, or the supplier's compliance with labor and social security obligations.

It should be stressed that, as regards labor rights, collective bargaining, or social security coverage, the national legislation makes no distinction between workers providing services directly to their employers or those who do so for a third party.

### **3.4 Platform work**

In Uruguay, the activity of service providers who employ digital means and technological applications to agree to supply of various services has been regulated only recently. The first references to the subject are found in the 2015 Accountability Act where the regulation focused on tax issues.

As regards employment, the only relevant regulatory example is related to the specific case of passenger service platforms, in the city of Montevideo. In December 2016, the Municipality of Montevideo issued Decree No. 36197, which regulates several aspects of such activity, including labor subjects. This regulation first establishes a series of obligations for drivers operating through platforms.<sup>8</sup>

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<sup>88</sup> These obligations are the following: "a) Holding a driving license issued by the Montevideo Municipality under the category required by such authority. b) Accepting trips provided only by authorized platforms in which the vehicle is duly registered. c) Holding a valid health card. d) Complying with tax, social security and labor regulations governing the activity. e) Allowing and facilitating the transport of guiding dogs accompanying persons with visual disabilities. f) Refraining from driving the vehicle under the influence of alcohol or psychoactive substances. Drivers shall also abstain from smoking or consuming food, alcoholic beverages or psychoactive substances while providing the service. The latter prohibition also applies to passengers. g) Refraining from driving the vehicle for more than 8 consecutive hours or more than 12 hours in a day. h) Refraining from providing the service unless the conditions established in article 11 or in the regulations are met."

As regards labor issues, the regulations require that drivers register with the social security agency and the tax administration as ‘one-person companies’, which is one of the variants existing in Uruguay for independent workers’ registration in the social security system. Thus, the regulation in force for this type of platform worker implicitly categorizes them as independent workers. However, it should be pointed out that the national legislation does not include an explicit position on the type of labor relationship (dependent or independent) of platform workers.

Beyond their classification as dependent or independent workers, various levels of government have indicated their interest in promoting the incorporation of the persons working as drivers for the Uber platform into the social security system. For example, at the national government level, measures have been taken to facilitate the process involving contributions to social security in the case of taxi drivers and drivers of applications such as Uber, seeking to increase the formality level in this sector. Specifically, since 2017 Uber workers can download to their mobile phones an application that automatically deducts social security contributions from their income. In this case, regardless of the fact that in relation to social security, drivers are independent workers, Uber acts as the withholding agent of social contributions and then transfers them to the Social Security Bank (BPS).

This measure is, in turn, related to the provisions established by Decree 48/017 ‘Measures to formalize overland passenger transport activity - Payment of VAT and Income Tax’. Through this decree, the government designates the entities (whether resident or not) that directly or indirectly participate in the supply or demand of overland passenger transport services in the national territory operated by any means, including digital applications, as the parties responsible for the payment of third parties’ tax and social security obligations. Thus, on the basis of the above-mentioned decree, the platforms dedicated to passenger transport became responsible to the government for the payment of their drivers’ contributions, which obliges platform companies to monitor the social security coverage (and tax obligations in general) of the persons operating through them.

A bill seeking to regulate various aspects of platform work was submitted to the Parliament in 2022 (**Table 6**). The scope of the bill is limited to merchandise delivery services and urban passenger transport. As explained in the justification section of the text presented to Parliament, this bill opts for a regulation model providing minimum benefits for platform workers without taking a position on the problem posed by the legal definition of the relationship linking these persons with digital platform owners since both dependent employees and independent workers may genuinely work in one or the other within the framework of the activities being regulated.

**Table 6: Regulatory change project in Uruguay**

Category	Current legislation	Bill
Definitions	Different regulation for dependent and self-employed workers with particular legal qualifications.	Minimum benefits for the workers, regardless of the legal qualification of the relationship between worker and platform.
	No definition of digital platforms.	Digital platforms are digital programs and procedures used by the companies that, regardless of their location, put customers in contact with workers to facilitate merchandise delivery services or urban passenger transport for consideration, such services being provided in the national territory, and which can participate in setting the price or the execution methods of the service.
Characteristics of the benefits		<ul style="list-style-type: none"> <li>- Platforms should respect the principles of equality and non-discrimination in algorithm application.</li> <li>- Platforms should provide information about the following matters to all workers: (1) the existence of automated monitoring systems used to control, supervise, or evaluate their performance; and (2) automated decision-making systems used to make or support decisions affecting working conditions.</li> <li>- Platforms should provide information about the bases of the decisions related to the restriction, suspension, or termination of a worker’s account on the platform; the refusal to remunerate or pay the agreed price to the worker; and the worker’s contractual situation.</li> <li>- The workers have the right to the intangibility of their digital reputation.</li> <li>- The essential tools to provide the work, such as means of transport or mobile phones provided with chips and data, may be provided by the platform company totally or in part.</li> <li>- Companies should train the workers prior to the start of the relationship.</li> <li>- The conditions and terms of use of the digital platform and the formalization of the work contract should be transparent, concise, and easy to access for the worker. The contract shall not contain abusive clauses or clauses excluding the responsibility of the platform without due justification. Uruguayan courts shall have jurisdiction at the international level over any dispute derived from the contract between the worker and the company when the claimant is a worker domiciled in the country.</li> </ul>
Dependent work conditions	- Maximum: 8 hours per day and 44 hours per week, or 48 hours in the case of the industrial sector.	- Maximum: 48 hours per week for the same digital platform.
		<ul style="list-style-type: none"> <li>- The worker’s remuneration may be fixed on the basis of working time, production, or piecework (agreed on the basis of certain dimensions).</li> <li>- Working time is considered to be all the time during which the worker is at the company’s disposal, starting from login to the application until disconnection. The time during which the worker is logged in but in pause mode is not considered work time.</li> </ul>



	Benefits applicable to work accidents and occupational diseases	Platform workers are incorporated in the regime in force
Independent work conditions	Possibility to register in the single tax scheme ('Monotributo'), which reduces tax payments for independent workers whose income falls below a certain threshold.	Independent workers providing services to companies owning digital platforms may register in the single tax regime ('Monotributo') and will be entitled to all the benefits established as regards coverage and social security, without prejudice to other legal schemes they may wish to use to pay taxes on their services according to the regulations. They have the right to exercise trade union freedom and to collective bargaining with the company owning the platform they work for. They may conclude collective agreements regarding work conditions and remuneration, provided they are more favorable than those stipulated by law.
Social security	Workers shall contribute to social security and shall enjoy different risk coverage according to their individual cases.	No change

The bill's first chapter presents the definitions of digital platform and digital platform owner companies, and defines its scope of application. The second chapter establishes conditions common to dependent and independent work forms. These include articles regulating the transparency of the algorithms and monitoring systems used by the platforms, data portability and digital reputation, minimum provisions on the terms and conditions established for digital tool use, and minimum work conditions and company obligations.

The third chapter focuses on the conditions applicable to dependent relationships, regulating working time (by imposing a weekly limit) and minimum pay. The fourth chapter establishes the conditions applicable to self-employment and incorporates self-employed workers who perform tasks through digital platforms into the regulations covering work accidents and occupational diseases stipulated in article 4 of Act No. 16074 dated October 10, 1989. The fourth chapter also establishes the coverage and social benefits for independent workers, who are included in the single tax ('Monotributo') scheme (Act 18083). This chapter also acknowledges the right to collective bargaining of the organizations affiliating or representing independent workers, which are authorized to enter into collective agreements regarding work conditions or remuneration. Finally, chapter 5, entitled 'Final provisions' establishes the competence of the Ministry of Labor and Social Security to monitor and control compliance with the provisions set out in the act.

Thus, although the bill under consideration admits the possibility of dependent and independent workers on the platforms, the latter would constitute a particular category of self-employed workers in the Uruguayan labor context, for whom the right to collective bargaining is regulated.

#### **4. Nonstandard employment trends**

Bearing in mind that, as previously mentioned, the growth of NSE can pose considerable challenges to labor regulation and to social security systems, the significant difficulties to measure NSE in most countries of the region are an important challenge. In the specific case of Uruguay, it is difficult to access official statistics to estimate the evolution over time of most of the NSE categories defined in the previous sections. This difficulty also extends to official statistics on platform work, although in this case it could be possible to obtain information from the platform companies themselves.

The main official data source that gathers labor market information is the Continuous Household Survey (ECH) of the National Statistics Institute (INE). Although some studies have attempted to quantify NSE in Uruguay through ECH data (Apella and Zunino 2017), this source of information only allows the construction of long series for the case of part-time employment. The ECH contains no information allowing for the identification of the prevalence of outsourced employment or covert salaried employment.<sup>9</sup> Additionally, the information allowing for the identification of workers under fixed-term contracts was incorporated into the ECH only in the second semester of 2021.

Platform work also cannot be identified based on the ECH. An estimate for the city of Montevideo (where almost half of the country's population is located) for 2019 can be obtained from the 2019 ECAF (Financial Capacities Survey) study, which investigates the prevalence of platform employment

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<sup>9</sup> After the recent methodological change made in the second semester of 2021, where the ECH sample shifted to a panel structure, it would be possible to analyze to what extent the workers declared as independent claim to receive a monthly income which varies only slightly, such that their labor relationship might resemble a salaried employment. However, no studies have addressed this subject up to now.

in several Latin American cities. Nevertheless, it should be noted that the sample of this survey is significantly smaller than the one used in INE’s ECH.

**Table 7** presents information on the types of NSE that can be identified from public information sources in Uruguay. The prevalence of part-time employment type is relatively significant, representing 21 percent of total employment. Fixed-term employment is much less significant, representing slightly under 5 percent. It is important to stress that these categories are not mutually exclusive, whereby the total work based on nonstandard relationships is not obtained by adding the different categories. For example, in 2022 almost 30 percent of the people reporting a temporal employment contract also declared that they had a part-time job.

**Table 7: Nonstandard employment in Uruguay: some measurable types**

	Geographic area	Source	Share	Year
Fixed-term employment	Country total	ECH	4.5%	2022 S1
Part-time employment	Country total	ECH	21.4%	2022 S1
Platform employment	Montevideo	ECAF	3.7%	2019

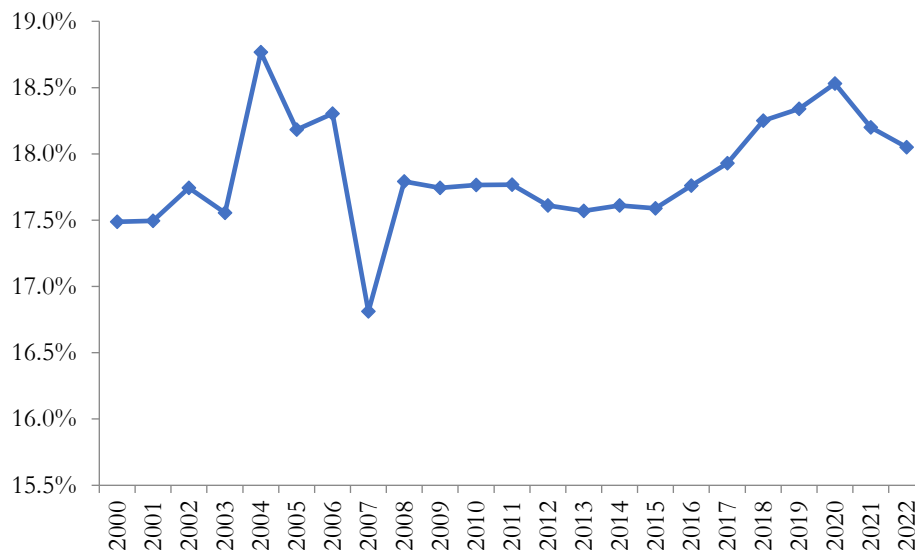
Source: ECH and ECAF.

As regards digital platform employment, the data contained in the ECAF survey show a low share of this work modality in Montevideo, representing 3.7 percent of employment. This percentage is comparatively lower than in other cities covered by the 2019 ECAF. The average share in the cities covered by the survey is slightly over 6 percent of total employment. In Lima, Panama City, and La Paz the share exceeds 8 percent of total employment.

As previously mentioned, with respect to medium-term time trend analysis, it is only possible to analyze the share of part-time employment (**Figure 1**). The data show that in the first years of the 21<sup>st</sup> century there is no clear trend with regard to the share of this nonstandard form of employment. In fact, in the first years of this century part-time employment has fluctuated between 15 and 20 percent of total employment. In turn, the fluctuations reported show a negative correlation with the economic cycle; the maximum part-time employment values were registered in the economic crisis at the beginning of the century and in the recent COVID-19 crisis.

**Figure 1: Part-time employment in Uruguay**

% of total employment



Source: ECH.

Considering the significance of the NSE phenomenon in different dimensions highlighted in the second section of this document, Uruguay faces a very relevant challenge as regards the generation of statistics. But Uruguay is not alone in facing challenges measuring NSE. An analysis of Latin America shows that the measurement problem related to the inadequacy of household surveys for measuring this type of NSE is widespread among the countries in the region. For this reason, as mentioned in ECLAC and ILO (2021), it is difficult to estimate the significance of this employment and in particular of platform work in Latin America.

In the particular case of Uruguay, the country is not dealing with all of the limitations affecting the capture of non-traditional employment data mentioned above, such as the differentiation between salary and independent worker income or the absence of questions on secondary incomes. The survey fails to ask about the workers' contract type and does not allow a proper capture or breakdown of the information about NSE. However, as of the second semester of 2021 the household survey asks independent workers who decides their working hours, the kind of product or service offered, and its price; and it also asks about the investment made to carry out the economic activity, all of which potentially contribute to improve the generation of data on this type of employment. As previously mentioned, in the second semester of 2021, information was incorporated that allows for the identification of workers with fixed-term employment.

The recommendations of Abraham et al. (2018) to improve NSE measurement follow this line. The authors propose to include in the questionnaires questions that directly provide information on these work contracts. In this sense, a differentiation can be made between alternative work categories, such as independent contractors, as-needed workers, temporary workers, and workers in subcontracted companies. By directly asking about this type of employment, more accurate data would be obtained.

Beyond household survey data, in recent times, analysts have used administrative records (for example, tax records) to study the prevalence and nature of NSE. In the case of Uruguay, the records help to identify the type of company where each worker is engaged and they contain a code/description of

the position type, so it would be possible to identify these workers. However, these data are limited in that they only capture the employment declared to the authorities, which in turn might be under-declared. Therefore, both this data source and household surveys have potential weaknesses. The same happens with other alternative sources, such as government or business data: the information they provide is never free of bias or limitations affecting NSE estimates. Consequently, beyond the particular weaknesses affecting household surveys, they still are a good method to estimate NSE, providing they incorporate the necessary information.

## **5. Nonstandard employment benefits and costs**

The debate on the benefits and the economic and social costs associated with the growth of NSE is extensive (Kirkpatrick and Hoque 2006; Kunda, Barley, and Evans 2002; Maurizio 2016; Nesheim, Olsen, and Kalleberg 2007; Walker 2011). In the first place, taking into account the perspective of the decision made by the worker, the option to participate in the labor market through a nonstandard contractual relationship is defined by two dimensions: preferences and restrictions.

If we base ourselves on preferences, nonstandard relationships are usually characterized by a larger degree of flexibility with regard to working hours, hours worked, and the possibility to take vacation time, among other aspects, which may be positively valued by the workers. For example, Kunda, Barley, and Evans (2002) analyze the occupational choices from the perspective of a free agent, where a small number of highly qualified experts choose to work outside conventional arrangements to obtain a series of benefits that include higher financial rewards, more control over their work conditions, and better lifestyles. However, it is also noteworthy that in the literature, the choice of NSE by the worker is usually associated with examples of highly qualified workers.

On the other hand, the shift to NSE could also be part of the response to the perception that traditional benefits (promotion and job security) are not available in a standard labor relationship where flat structures hold no promise of long-term job security (Walker 2011). An alternative view suggests that people are forced to work in some of the NSE forms because they lack better alternatives. In some cases, the increasing number of self-employed workers may be the consequence of dismissals by large companies that immediately afterwards entered into subcontracting agreements. From this point of view, the new nonstandard workers are mostly economic refugees who cannot find a standard job. The negative aspects of nonstandard work include job insecurity, low and variable pay levels, and loss of non-remunerative benefits and training activities. The anti-cyclic behavior observed in part-time work in Uruguay, the only NSE form that can be analyzed over a longer period, provides some support for the view that NSE is a safety net rather than a modality explained by workers' preferences.

From the employers' perspective, it is possible to identify several factors that prompt their decision to hire employees through a nonstandard form of employment. In general, the reasons seem to be associated with the search for lower production costs and higher flexibility to adapt to the context. Companies value atypical employment for its lower costs not only in terms of salaries but also in terms of other benefits, such as concession of vacation periods, contribution to social security (in many cases), or severance pay (Nesheim, Olsen, and Kalleberg 2007; von Hippel et al. 1997). As will be further discussed in the following section, there are several regulatory aspects in Uruguayan legislation that could motivate companies to choose more flexible employment modalities to reduce their costs.

Maurizio (2016) proposes a series of reasons behind the demand for NSE. These reasons are diverse and their importance varies substantially from one country to another. Four of these reasons are

particularly salient: (a) changes in the economic structure and therefore in employment, shifting from primary and industrial production to an economy based on service production; (b) increased globalization in international trade, exposing companies to increased competition and therefore to the need to seek profits through productive efficiency; (c) macroeconomic context, in particular the degree of economic volatility, which leads firms to seek more flexibility to adapt to economic cycles; and (d) the technological change process favors the generation of remote labor relationships, especially in the sectors where the input or intermediate goods exchanged are digital in nature.

Structural changes in the economy, that is, radical changes in the relative significance of each branch of activity in the economy, affect employment level and composition. In this sense, the shift from an economy based on industrial production to a service-based economy could drive an increase in NSE because in the services sector demand peaks can be more frequent and less predictable than in the manufacturing sector, which puts companies under higher pressure to guarantee a certain flexibility in the production process. For example, the tourism sector exhibits some clear features favoring NSE. In particular, it is characterized by a high level of fragmentation in service provision, global chains and franchises, high seasonal demand, and the need to provide services outside of the working hours of a normal business day.

Uruguayan data reflect a moderate but sustained structural change process, with a lower share of primary and industrial activities in GDP. While in 2005 the joint share of these sectors in GDP was 24 percent, the data for 2021 showed a share of 17 percent. In this sense, the structural change process of the Uruguayan economy in the last few decades is consistent with the generation of stronger incentives for NSE in the labor market.

On the other hand, the expanding globalization in international trade drives the search for more flexible forms of labor relations. A higher degree of exposure to international competition generates incentives to seek mechanisms to reduce average production costs and, at the same time, brings about a greater fragmentation of the production process, leading to the acceleration of intermediate goods trade and the expansion of global supply chains. In this context, many companies find atypical labor agreements attractive, as they tend to be cheaper due to their lower salary and non-salary costs.

The macroeconomic context, including economic crises and growth volatility, can also affect the share of NSE in total employment. Depending on each country's regulatory framework, in a context of economic slowdown, an increase in NSE may be observed. In fact, employment is not usually sensitive to short-term macroeconomic shocks, that is, to the economic cycle. Instead, the variable used to adjust production levels to demand cycles is the number of hours worked.

In a context of an economic downturn, temporary workers are those most at risk of being dismissed. According to ILO (2016), for example, during the 2008–2009 recession in the United States, temporary workers represented 10.6 percent of the net employment losses despite the fact that they constituted less than 2 percent of the total workforce. Similarly, in Spain, temporary work dropped from 29 percent in 2008 to 22 percent in 2013 as a consequence of the economic crisis. As discussed in the previous section, no historic data on temporary work are available in Uruguay to analyze the behavior of this NSE form in the framework of economic context evolution.

In the same vein, a temporary reduction in working hours is another form of adapting to the macroeconomic context. Instead of firing employees, companies attempt to reorganize their workforces internally by cutting working hours and thus keeping a higher proportion of part-time

manpower. For example, in Argentina, the employment level is not flexible to cyclical shocks on GDP; instead, the adjustment variable is the number of working hours (Apella 2016). In this sense, during economic cycles, companies find it more efficient to adjust the number of working hours instead of reorganizing the combination of productive factors. Again, the behavior observed in Uruguay as regards part-time employment during the economic crises in the beginning of the century and the recent COVID crisis, discussed in the previous section, provide support for the role of the macroeconomic context in explaining trends in NSE in the country.

Additionally, economic volatility, by generating uncertainty over the medium term, could encourage firms to increase their share of NSE. Concern about the economic conditions following a recession could make the companies more cautious when hiring employees, which gives rise to temporary contract forms or to covert paid employment disguised as independent work. Although measurements of covert paid employment are not available in Uruguay, anti-cyclical behavior has been observed for independent employment globally (CINVE-OSS 2019).

Lastly, the technological change process, especially the development of digital communications, is a key factor spurring NSE. The expansion of services and global supply chains is linked to technological advances. New information technologies, the higher quality and lower cost of infrastructure, and logistics and transport improvements allow companies to organize and manage production over a more diversified geography. At the same time, new communication technologies have given rise to new work forms, such as internet platform work or on-demand work through digital applications. In this sense, technological developments allow companies to assemble worker teams that operate in any part of the world. The recent development of online recruitment services, such as ‘eLance’ and ‘oDesk’, facilitates the search for workers to be subcontracted to perform tasks online.

## **6. Protection gaps affecting nonstandard workers in Uruguay**

This section comprises three subsections, which are aimed at contributing to a public policy agenda related to new employment forms. To this end, we begin by analyzing the existing social protection gaps for standard and NSE forms in Uruguay. The second subsection describes different strategies developed at the international level to address those gaps. The last subsection proposes a set of principles to guide future modifications to employment-related regulatory policies.

### **6.1 Protection gaps in Uruguay**

As discussed in the previous sections, in Uruguayan legislation the usual NSE forms generally enjoy the same labor rights and benefits as traditional work, although some gaps remain that may lead firms to prefer these contractual modalities (**Table 8**).

**Table 8: Regulatory differences between wage earners and independent workers in Uruguay**

Dimension	Wage earners	Independent workers
Contributions to social security	Mandatory Less informality than for independent workers	Mandatory More informality than for wage earners
Access to contributory retirement	Same requirements and access to benefits	Same requirements and access to benefits
Basis for social security contributions	Based on effective income	Based on notional earnings selected by the worker. This generates incentives to increase present income and reduce contributions and future income. They obtain a better actuarial relationship than wage earners.
Employee/Employer contributions	Employee contributions are 22.5% of the taxable concept (actual or notional earnings); employer contributions are 7.5% of the taxable concept	Employee contributions are 22.5% of the taxable concept (actual or notional earnings); employer contributions are fully paid by the worker
Risk coverage during the active stage	They benefit from unemployment subsidies	Not entitled to unemployment subsidies
	Severance pay in case of a permanent work relationship	Not entitled to severance pay in the case of fixed-term workers and self-employed workers who in practice operate as wage earners
Income	Salaries covered by general guarantees (prohibition of attachment, regulation of discounts, payment period, obligation to generate pay slips)	
	Minimum wages and salary adjustments according to Wage Boards	No minimum income
	Christmas bonus and vacation salary	Not entitled to Christmas bonus or vacation salary
Working hours	According to regulations: maximum 8 hours per day and 44 hours per week (48 hours in the case of the industrial sector)	Working hours are fixed by the worker
	20 days of annual paid leave and extra leave in special circumstances	Leave period fixed by the worker

In Uruguay all workers, both those in a dependent work relationship (wage earners) or acting as independent workers, are obliged to contribute to the social security system, so they should be considered as formal workers according to a legal definition. In spite of this obligation, in practice informality is significantly higher among independent workers than among wage earners. For example, according to data for the first semester of 2022, in the case of wage earners informality stood at 9.5 percent, while for independent workers the percentage was as high as 54.5 percent.

Thus, both dependent workers (under full-time, part-time, temporary, or indefinite contracts) and formal independent workers have potential access to a contributory pension after retirement, provided they meet eligibility requirements (at present, 60 years of age and 30 years of contributions for regular retirement<sup>10</sup>) and are also entitled to the coverage provided by the integrated health system. In this sense, it could be said that, in the case of Uruguay, there is no legal gap in terms of social security

<sup>10</sup> Contribution requirements become more flexible after 65 years of age (advanced age retirement); the least demanding combination is 70 or more years of age and 15 years of contributions.



coverage between nonstandard and standard labor relationships. This conclusion therefore extends to formal platform workers even if they are registered with the social security authority as self-employed workers.

However, in terms of contributions there are two fundamental differences between the two employment forms, which may affect the preferences of both workers and companies. In the case of wage earners, contributions to social security are made on the basis of the workers' actual income, whereas independent workers' contributions are based on notional earnings (fixed amounts unrelated to actual income) selected by the worker (see details in Zunino et al. 2019). Notably, most independent workers choose to contribute on the basis of low notional earnings, leading to a minimum or close to minimum retirement pension. This could encourage both companies and workers to increase the present income through the reduction of social security contributions.

In addition, there is some evidence of strategic behaviors in the choice of notional earnings at the end of people's working life to improve the retirement payment (Dean, Fleitas, and Zerpa 2022). Obviously, this behavior is much more difficult to implement among wage earners, whose contributions are based on their actual earnings. Finally, Zunino et al. (2021) shows that in Uruguay the retirement regimes based on notional earnings obtain a better actuarial relationship (the difference between the contributions made during the active stage and the services obtained in the passive stage). Both characteristics may encourage the workers to opt for independent labor relationships.

As regards the retirement scheme, another difference that is relevant for companies in the short term is related to employer contributions. Both for wage earners and independent workers, the total percentage of contributions is 22.5 percent of the taxable concept (actual or notional earnings). However, while employer contributions for wage earners stand at 7.5 percent of the taxable concept, independent workers must pay the whole contribution. Although in the long term it may seem indifferent whether contributions are paid by the worker or by the employer, since both are part of the total labor cost borne by the company, in the short and medium term it is possible that the savings on employer contributions may represent an incentive for employers to hire independent workers.

Beyond the social security system, there is an important difference between wage earners and independent workers as regards risk coverage during the active stage of their working life. While wage earners may enjoy unemployment subsidies, independent workers are not entitled to this benefit. This is a significant risk coverage gap in an emergent economy such as Uruguay, which is characterized by a considerable cyclic volatility, despite the stabilization process of the last decades.

Another relevant gap during the active stage of both types of workers is associated with severance costs. In the national legislation, dismissal is free, which means that the employer can sever the labor relationship at any time without invoking any cause to justify their decision (with the exception of discriminatory or abusive behavior). However, in the case of wage earners under a permanent work relationship, the employer must provide a severance payment, the amount of which depends on the worker's years of service and salary. In contrast, no severance is payable to fixed-term and self-employed workers who in practice act like wage earners in a permanent employment relationship with a single customer. This generates a higher level of flexibility for companies as regards salary cost adjustments, which could encourage companies to hire covert wage earners in an independent relationship. From the workers' perspective, this represents a reduction in risk coverage, as the lowering of dismissal costs generates a higher risk of unemployment in case of cyclical shocks in the economy or specific problems faced by the companies.

As regards income, significant gaps also exist between wage earners (including in nonstandard modalities) and independent workers since salaries enjoy a legal protection that is not afforded to other income types. First, the law establishes certain general guarantees for salaries that provide a higher level of income security for dependent workers. These include the establishment of time periods for salary payment and the employer's obligation to generate pay slips. Second, the salary establishment mechanism strengthens workers' bargaining power. In Uruguay, minimum wages and wage adjustments are established by the Wage Boards (Act 10449) through the generation of collective agreements, which are binding on the companies in the relevant sector. There is also a national minimum salary that is established by the Executive for each year. The minimum wage for each sector established by the Wage Boards may exceed the general minimum salary set by the Executive. Third, wage earners in Uruguay benefit from a Christmas bonus (*aguinaldo*) paid in portions in June and December, and from paid leave, which is paid at the time of taking annual leave (days off established by law). Notably, these points impose certain fixed minimums on labor costs, which may motivate firms to enter into nonstandard labor relationships to avoid those fixed costs.

Finally, another gap is found in the legal regulation applicable to wage earners (including in nonstandard modalities) on working hours and time off. The legislation in force establishes a maximum of 8 hours per day and 44 hours per week (48 hours in the case of the industrial sector). If the working hours exceed those limits, the excess is considered to be overtime and is payable at 200 percent of the normal salary. Overtime work is also regulated by the legislation and cannot exceed 8 hours per week. The legislation also provides for intermediate rest periods (half an hour in the case of a full working day) and weekly rest periods (at least 36 consecutive hours). Wage earners enjoy 20 days of annual paid leave plus extra leave days for special circumstances (sickness, study, marriage, maternity, paternity, caregiving, specific medical exams, and leave for union trade purposes).

As discussed in previous sections, though Uruguayan regulations do not define platform workers either as wage earners or as independent workers, in practice the regulations in force for Montevideo's Uber workers require registration in the social security scheme as independent workers. Thus, most of the gaps examined in the previous points exist between a wage earner and a digital platform worker.

In this sense, the expansion of platform work could imply a process of loss of labor protection, if and when this employment form substitutes standard salaried employment. However, in Uruguay, and even more clearly in other countries in the region, up to now platform work has increased in sectors dominated by a very high informality level (delivery, urban transport). In this case, the above gap analysis loses some of its teeth because in practice platform work substitutes a type of work that had no legal protection for a type of work that at least benefits from social security and health coverage.

## **6.2 Strategies to close protection gaps**

Existing literature and international experience provide potential strategies for confronting the challenges described above. These can generally be separated into strategies aimed at reducing gaps in labor rights and those focused on reformulation of social protection systems structure and financing.

### ***Strategies to improve worker protections***

We can identify three policy tendencies related to improving worker protections (**Table 9**).

**Table 9: Policy experiences, benefits, and weaknesses**

Policy line	Example	Policy	Benefits and weaknesses
Adaptation of current regulatory frameworks	California (USA)	Workers are defined as all persons contributing only manpower and not capital	Benefits: Right to minimum wages, to overtime pay, and to unemployment insurance, among other benefits Reducing the excessive use of the designation ‘independent worker’ in digital platforms Weaknesses: The regulatory frameworks in force may not be optimal if market failures are different
	France	New worker category specifically created for platform workers	Benefits: Workers’ access to rights and guarantees, such as for work accidents, and professional training Weaknesses: Risk of market segmentation
Creation of a new worker category	Italy	New category of workers offering personal services to the platform, which sets the services rates and conditions	Benefits: Access to the minimum wage established in wage bargaining processes, right to health and to training Weaknesses: Risk of market segmentation
	Austria	New category of workers called ‘new independent workers’	Benefits: Prevents avoidance of mandatory insurance and integrates earnings into social security Weaknesses: Risk of market segmentation
Creation of minimum rights and guarantees for platform workers	European Union	Inclusion of all work forms within the universal protection framework	Benefits: Protection against dismissal, right to collective organization and formation of unions, personal data protection, and prohibition of discrimination Weaknesses: Protection costs. Financial sustainability of the protection system
Guarantee equal treatment between groups based on occupational status	European Union, South Africa, and South Korea	Same treatment for temporary workers as for indefinite period workers	Benefits: Improvement for temporary workers, avoidance of discrimination Weaknesses: Implementation and control costs
	France, Italy, Spain, Norway, and Chile	General non-discrimination clause	
	United Kingdom, Germany, Portugal, and Sweden	Equal treatment for temporary workers for objective reasons	
	France, Germany, Spain, South Korea, Brazil, and Argentina	Pro-rata cash benefits for temporary workers	
Minimum working hours or earnings	Denmark	Minimum 15 hours/week	Benefits: Access to rights for part-time workers Weaknesses: Limitation for workers and companies that may prefer shorter work times
	France	Minimum established through collective bargaining, provided it exceeds 24 hours/week or when no bargaining is possible	
	Algeria	Minimum daily working hours which cannot be less than standard working hours	

	Netherlands	Payment of at least 15 hours/week when the contract provides for less working hours or when working hours are not fixed	Benefits: Access to minimum wage by on-demand workers
	United States	Payment for minimum number of working hours, generally fixed at 3 to 4 hours/week	Weaknesses: Limitation for workers and companies that may prefer shorter working times
Restriction of NSE	Uruguay, Argentina, Mexico, Spain, Portugal, and France	Prohibition to use temporary work contracts for a company's permanent needs	
	Argentina, Brazil, Portugal, Poland, and Belgium	Restriction or prohibition to use work contracts for on-demand workers	Benefits: Preventing NSE abuses by companies Weaknesses: Limitation for workers and companies that may prefer nonstandard work arrangements
	Italy and Norway	Limits to the proportion represented by nonstandard workers in a company's workforce	
	Brazil and Ecuador	NSE limited to non-essential activities	
Access to collective bargaining	Canada, Spain, and Germany	Establishes that the right to collective bargaining that extends beyond the labor relationship	Benefits: Enhanced rights and a stronger voice for nonstandard workers
	South Africa	Trade unions of temporary workers can exercise organizational rights with guarantees	Weaknesses: Potential negative impacts on job creation in sectors requiring flexibility

*Source:* Based on Alaimo, Chavez, and Soler (2019); Apella, Rofman, and Rovner 2020; Bensusán 2020; IDB 2019; OECD 2019b.

The first of these policy tendencies involves adapting new employment modalities to the regulatory frameworks currently in force, that is, incorporating the workers engaged in NSE in general and platform workers in particular into the legislation covering wage earners or independent workers.

As regards the Latin American region, most initiatives are geared toward the Uber passenger transport platform and in many cases are associated with court rulings framed within the strategy of including new employment modalities in the existing regulatory frameworks. For example, in Brazil a court ruling extended security and occupational health standards to include platform workers and classified the latter as independent contractors. In contrast, in Uruguay a court decision recognized the existence of a labor relationship between Uber and its drivers. In the case of Argentina, the tax authority considered the platform as an economic group of companies and considers that Uber limits itself to acting as intermediary between transport supply and demand through independent workers (Bensusán 2020). However, there are court rulings that contradict this approach.

Another significant case is that of Colombia. The idea is to acknowledge the existence of a ‘substantive relationship’ between platforms and workers, which would be described as economically dependent digital work. Nevertheless, as argued by Bensusán (2020), the workers will be recognized as self-employed persons, and to engage in platform work they will be required to register with the social security authority.

A second policy tendency geared toward worker protection, which has been increasingly applied in recent times, involves the creation of a new category of worker to be added to the two traditional ones (wage earners and independent workers). This option has been applied in several countries, including France and Spain, and in some countries in Latin America (Alaimo, Chavez, and Soler 2019). As observed in the case of France, new worker category grants certain rights and guarantees, such as work accident insurance and professional training.

Another example is Italy where some regions have adopted specific regulations on platform workers’ labor rights. The regulations include the right to the minimum wage established in wage bargaining processes and the right to training. The regulatory framework considers digital workers to be those persons that, regardless of their labor relationship type, offer personal work to the platform, which organizes them to offer services through it and sets their rates and service conditions. However, Bensusán (2020) points out that this legislation has been questioned because the regions lack the competence required to legislate in this area. In turn, this type of policy faces the problem caused by the abusive use of the designation to avoid the labor costs arising from dependent work, which has given rise to what Bensusán (2020) calls ‘false subordinates.’

Another country that has followed this regulatory tendency is Austria. Nonstandard workers were incorporated into the general social security system through a series of legislative reforms undertaken with the aim of preventing evasion from mandatory insurance and integrating all income types generated by employment into social security. The so-called new independent workers have benefited mostly from lower mandatory insurance contributions (OECD 2019b).

The application of these two tendencies has given rise to a debate between those who believe that one option should be supported over the other. In particular, the criticism leveled at the creation of a new category of workers is based on the argument that the link between each individual and the platform can be considered to be similar to the self-employment relationship or to the independent relationship, depending on each particular situation. It is therefore argued that traditional categories should be

sufficient to adopt a regulatory response since the challenges posed by the gig economy are similar to those found in the general economy, such as informality, job insecurity, and labor market segmentation. The arguments in favor of the second policy line point out that offering companies this possibility generates particular incentives to apply it since it is less costly.

A third policy tendency for protection of nonstandard workers is the creation of a minimum level of rights and guarantees. This is one of the courses of action being taken in Europe and it also characterizes the legislative proposal in Uruguay (Alaimo, Chavez, and Soler 2019). The rights guaranteed may include, among others, the workers' right to organize, protection against dismissals, protection of personal information, and prohibition of discriminatory behaviors. Obviously, this policy may extend to all workers in the economy and even to all citizens in general.

Basically, the idea is that the protection regulations should be extended to grant the same treatment to all workers, and also to reduce companies' incentives to resort to NSE forms with the aim of reducing their labor costs (ILO 2016). Classifying the workers in another employment category implies denying them critical rights. For this reason, governments should make a strong effort to enforce the regulations. Also, workers may be caught in unequal power relationships because platforms, for example, have more control over the labor relationship than workers. Therefore, the legislation should grant them freedom of association and the right to collective bargaining (ILO 2016; OECD 2019a). In general, regulations aimed at ensuring equal treatment have focused on discrimination based on occupational status. The European Union, South Africa, and South Korea, among others, have enacted legislation providing that workers under temporary fixed-term contracts should enjoy the same treatment as workers under indefinite contracts. The principle of ensuring equal treatment for part-time workers have been included in a large number of countries with some variations in the legislation. Some include a general non-discrimination clause (for example, France, Italy, Spain, Norway, and Chile); others stipulate equal treatment except for objective reasons (for example, United Kingdom, Germany, Portugal, and Sweden); and others offer cash benefits on a pro-rata basis (for example, France, Germany, Spain, South Korea, Argentina, and Brazil).

Regulations aimed at ensuring minimum working hours or a minimum income for part-time or on-demand workers have also been widely adopted. Workers involved in NSE tend to work a low number of hours, they may have problems with their life-work balance, and their income level is very low. Only a few countries have established a minimum number of working hours for part-time workers to guarantee them a minimum level of income. Algeria, Denmark, and France have introduced different regulations in this sense. Algeria establishes that working hours should not be less than half of the standard working hours; Denmark establishes a minimum of 15 hours per week; and in France the minimum is set through collective bargaining, offering guarantees if the number of working hours turns out to be fewer than 24 hours a week or if the negotiation cannot be completed (ILO 2016).

In the case of on-demand workers, some states in the United States have introduced regulations that guarantee a minimum wage. Specifically, the regulation establishes that employers should pay their employees a minimum number of working hours, generally set at three to four hours a day, even if the working day is canceled or the working hours are reduced. Another regulation in the same vein is applied in the Netherlands where it is also established that if the working hours set in the contract are fewer than 15 hours a week or if working hours are not fixed the workers must be paid at least three hours per working day regardless of the hours effectively worked.

Some countries have restricted or prohibited the use of some types of NSE to promote equal treatment (ILO 2016). The regulations have included the following aspects: prohibition of the use of temporary contracts for a company's permanent needs (observed in Uruguay, Argentina, Mexico, Spain, Portugal, and France, among others); restriction of or prohibition on the use of labor contracts for on-demand workers (as in Argentina, Brazil, Portugal, Poland, and Belgium); limits on the use of temporary workers and on the renewal of the duration of temporary contracts or casual employment (with variable regulation forms in many countries); limits on the proportion of nonstandard workers in a company's total manpower (Italy and Norway); and limiting NSE to non-essential activities (Brazil and Ecuador).

Finally, adaptation of legislative frameworks to allow the association of workers involved in NSE is still nascent. South Africa stands out among the countries that have made progress in this respect by enacting legislation that enables temporary worker unions to exercise their right to organize with guarantees. Countries including Canada, Germany, and Spain have established that the right to collective bargaining extends beyond the labor relationship, thus granting these rights to dependent self-employed workers (ILO 2016).

### ***Strategies to guarantee access to social protection***

Packard et al. (2019) and Apella, Rofman, and Rovner (2020) provide general policy recommendations in this area (**Table 10**). A first line of action consists in modifying social security mechanisms to offer coverage to all employment forms. A complementary line of action is to simplify and facilitate the administrative processes related to registration, contributions, and benefit payments. Lastly, employment regulations and social security standards can be reformed to take into account labor market changes.

**Table 10: Policy experiences: Benefits and weaknesses**

Policy line	Policy	Benefits and weaknesses
Modify social security mechanisms to offer coverage to all employment forms	Policy with a minimum set of benefits for all workers; linking rights to workers and not to work relationships	Benefits: Eliminates the problems caused by combining earnings from different sources and by high income volatility Preserves rights in case of career or employment changes Addresses the problem posed by employment classification in categories other than the pertinent one Weaknesses: Risk collectivization Problems for low-income or part-time workers if subsidies are not available
	Policy with a minimum set of benefits for all workers; disassociating social protection from labor relationship	Benefits: Resolves the problem of following up rights during working life Benefits nonstandard workers because their income levels are on average lower and tend to have part-time jobs Weaknesses: Displacement of employer contributions Potentially reduced incentives to work
Simplify and facilitate the administrative processes related to registration, contributions, and benefit payments	Policy oriented toward facilitating and accelerating requirements and procedures.	Benefits: Improved coverage for workers Introduction of electronic procedures Weaknesses: These processes require investments and at times may imply lower contributions, leading to lower receipts and inequalities between workers
Introduce employment regulations and social security standards that take into account labor market changes	Regulatory framework change policy that recognizes innovation	Benefits: More effective regulatory instruments, enhancing workers' possibilities of receiving adequate protection and benefits Weaknesses: Difficulty in striking a balance between the adaptation to new employment models and security

*Source:* Based on Apella, Rofman, and Rovner 2020; ILO 2016; OECD 2019b.

Regarding the first of these recommendations, many of the regulations still in force were developed for economies in the industrial era so they do not protect workers engaged in NSE forms and instead concentrate on traditional employment modalities. In this sense, Packard et al. (2019) propose disassociating social protection from a worker's employment status, instead focusing it on individuals. For example, a possible objective could be to provide protection for all workers through a policy establishing a minimum set of benefits for all people regardless of their present or past relationship to the labor market and complementing this policy with a contributory program.

OECD (2019b) sets out two possible approaches for reform to include platform workers in social security coverage. Both approaches seek to adapt social protection systems to address the challenges posed by the new NSE forms and extend the rights to all workers. The first approach is to link rights to individual workers rather than to specific employment relationships, while the second approach goes in the opposite direction (in line with Packard et al. 2019) and proposes to disassociate benefits from contributions.



The first approach proposes that the contributions to social security made by the worker, the employer, or the State should be registered in a single account in the name of the worker. This would solve the problems caused by combining incomes from different sources (which would all be channeled to the same account) and by high income volatility, and would preserve the workers' rights despite career or employment changes. According to OECD (2019b), in the last few years this approach has become more popular. However, it is not free from weaknesses, which include non-collectivization of risk and problems for low-income or part-time workers if subsidies are not available.

The second approach proposes to disassociate social protection from the labor relationship. This means that tax-financed individual rights are provided in lieu of contributions. This could extend the coverage to nonstandard workers and avoid the problem of applying rights and benefits through different jobs and throughout the lifecycle. Workers in nonstandard relationships tend to have less stable careers, be more prone to work part-time, and have average earnings that are lower than those of workers as a whole so they would benefit from this approach.

The disassociation of social protection from employment status is also not free from problems. The main problem is the displacement of contributions. This would happen mainly with the contributions made by employers, but also with those made by workers. However, as argued by Packard et al. (2019), this strategy allows for rapid expansion of the system's coverage; thus, its effects are felt in the short term. Advancing in this direction requires a significant restructuring of the social protection scheme's financing structure to guarantee its long-term financial sustainability. A second challenge linked to the strategy aimed at disassociating social protection from employment status is related to a potential reduction of the incentives to work, although the studies in this area do not show any clear results pointing to disincentives (OECD 2019b).

As regards the simplification and facilitation of the administrative processes related to registration, contributions, and benefit payments, as mentioned by Apella, Rofman, and Rovner (2020), it should be noted that these initiatives may have effects on worker coverage. Following this line, advances could be made by simplifying contribution and tax systems and facilitating the access to electronic platforms for worker registration or to make payments. Policies applied globally include implementing services for independent workers in rural areas (as in Cabo Verde and Rwanda), reducing verification requirements (as in Brazil), or streamlining the procedures to register as self-employed workers (as in Canada, Italy, Chile, and New Zealand). In the particular case of Uruguay, Uber platform workers can download to their mobile phones an application that deducts social security contributions automatically, which is recognized to be a good practice at the international level. In other countries, such as Estonia, Lithuania, and Sweden, workers can request through the platform that their information be shared directly with the authorities (Apella, Rofman, and Rovner 2020).

Different legislative and administrative schemes are being developed in various countries with the aim of extending social protection coverage to platform workers in particular. These can be categorized into several different groups.

- i. **Legal coverage:** Extending social protection coverage to platform workers through legal requirements. For example, legislation was introduced in France to oblige the platform to pay work accident insurance premiums.
- ii. **Data collection:** Improving information on platform workers and their income. Several measures were adopted in Belgium, Estonia, France and other countries.

- iii. **Contributions:** Systems automatically deduct social security contributions from platform workers' earnings. Indonesia and Malaysia work with banks to register and automatically deduct the contributions from platform controllers.
- iv. **Single tax ('Monotributo') schemes:** Allowing platform workers to access social protection through single tax schemes. This is the case in Uruguay, which has extended the single tax coverage to platform workers, and of Argentina, where 55 percent of platform workers pay contributions to the social security system for their platform work, 90 percent of whom do so as single taxpayers (Madariaga et al. 2019).
- v. **Awareness-raising measures:** Increasing knowledge about the obligation to contribute to social security. In France, platforms must inform the workers about social security contributions and tax obligations.
- vi. **Responses to COVID-19:** Supporting platform workers during the COVID-19 pandemic. Finland and the USA extended unemployment subsidies to self-employed workers.

**Table 11** summarizes examples of these different strategies.

**Table 11: Experiences involving measures aimed at extending social protection to platform workers**

Country	Measures adopted
Belgium	• <b>Data:</b> Platforms can participate in the new and favorable tax regime, which requires them to report workers' earnings to the tax authorities who then send them to social security agencies. Workers enjoy tax and social security contribution exemptions up to an income of EUR 6,130.
Brazil	• <b>Single tax (Monotributo):</b> The government plans to extend single tax coverage to digital platform drivers so they may access illness, maternity, incapacity, and old age benefits (ILO 2021a).
Quebec (Canada)	• <b>Legal coverage:</b> The mandatory Quebec Parental Insurance Program is applied by law to self-employed workers, including temporary workers.
Chile	• <b>Contributions:</b> The government automatically deducts 10% from self-employed workers' electronic invoices.
Estonia	• <b>Data:</b> Cooperation with Uber and Taxify on automatic reporting of drivers' earnings through pre-completed tax statements. • <b>Contributions:</b> Self-employed workers may request credit entities to collect their contributions and tax payments.
France	• <b>Data:</b> The contribution collection agency and the tax authorities may request information on platform incomes exceeding a certain threshold. • <b>Contributions:</b> Platform workers may authorize platforms to transfer contributions to social security organizations. • <b>Awareness:</b> Platforms must inform workers about social security contributions and tax obligations.
India	• <b>Legal coverage:</b> The social security code extends protection to cover all workers, including platform workers.
Indonesia	• <b>Data and contributions:</b> The social security agency works together with the financial sector to facilitate registration and contributions toward benefits related to Gojek drivers' occupational injuries and death; social security contributions are drawn directly from the drivers' accounts.
Malaysia	• <b>Data and contributions:</b> The social security agency works together with the financial sector to facilitate registration and contributions toward benefits related to Grab drivers' occupational injuries and death; social security contributions are drawn directly from the drivers' accounts.
Singapore	• <b>Contributions:</b> Some platforms voluntarily transfer contributions to the relevant agencies.
Switzerland	• <b>Contributions:</b> Some platforms automatically transfer social security contributions and taxes to the relevant agencies.
United States	• <b>Data:</b> Platforms must send information on incomes exceeding a certain threshold to the tax authorities.
Uruguay	• <b>Single Tax (Monotributo), data, and contributions:</b> The government has introduced measures to extend the single tax coverage to taxi platform drivers; the drivers have to register with the social security agency and the tax authorities to receive their license to operate; the contribution to social security is automatically added to the price of each trip and is transferred to the social security agency.

*Source:* Based on ILO 2021a; ECLAC and ILO 2021; Bensusán 2020; ILSSA 2019; OECD 2020.

### 6.3 Guide for future public policy development

Bearing in mind the arguments developed in the previous section, legislation seeking to advance the regulation and risk coverage of NSE forms is still incipient and the evidence at the international level reflects a wide range of potential solutions. The final section of the document proposes a framework of principles aimed at improving the quality of public policies in this area.

***Principle 1: The measurement of nonstandard employment and platform work is essential for the implementation and evaluation of changes in public policy.***

The identification and quantification of nonstandard and platform workers is essential for the following purposes: (a) analyzing whether NSE is a growing phenomenon; (b) identifying workers' characteristics to analyze the particular features of the phenomenon and its common points with other traditional problems affecting the labor market; and (c) to evaluate the impact of policy changes.

As mentioned in section 4 of this study, at present, Uruguay's ECH only allows for the identification of part-time and temporary contract employment. For this reason, this study was unable to report triangular employment figures or covert salaried work. It was also not possible to use the ECH to obtain an adequate estimate of platform work.

In this respect, it would be important to introduce improvements to the ECH to allow a proper quantification of these phenomena. To this end, Table 3 of this report presents different strategies used internationally that allow for the quantification of NSE, particularly platform work. As the ECH provides access to relevant characteristics of workers' profiles (for example, their education level), and includes not only formal but also informal workers, modification of the ECH would permit comparison of nonstandard and platform workers with workers engaged in standard labor relationships on different dimensions such as age, sex, education level, and geographical area and also identification of whether there are gaps in income, health coverage, and social security.

In addition, as discussed in section 2.4, there are other options for estimating NSE that are based on data sources other than the ECH. In this sense, the use of the Social Security Bank and General Tax Directorate records would be a useful tool to obtain timely and accurate quantification of platform employment and monitor some of its potential problems. The main limitation of this type of data is that they help to identify informal work, but not to access other interesting variables, such as the workers' education level. However, taking into account Decree 48/017, mentioned in the third section of this document, it is to be expected that informality in the platform sector will not be high. Administrative records do allow monitoring of income, age, and geographical distribution (which is often not possible to monitor through the ECH due to representativity problems). Administrative records are also useful to monitor workers over time and to analyze phenomena such as work instability or income variability in more detail than through the ECH. For these reasons, the analysis of these data is a significant complement to ECH analysis, even if improvements are made to the latter.

Improving measurement will also require more clarity and accuracy in the definition of platform workers. Better definitions will guide the introduction of changes to data collection instruments as well as inform approaches to collecting data from alternative sources.

***Principle 2: Basing the design of future labor regulations on market failure analysis.***

Given the rapid evolution of platform work and labor in general, it is important to revisit first principles. One way to think about the design of new regulatory legislation that offers a step forward is to return to the principles justifying regulation, that is, market failures. As argued in section 2.4, in NSE in general and in platform work in particular, some market failures are more significant than in traditional work, some are less relevant, and still others are simply different. This means that regulations should not change every time new employment modalities appear; they should change only if the range of market failures characterizing the new relationships is different. If characteristic market failures are basically the same, an appropriate strategy may be to extend the regulation in force to include the new modalities. The impulse to generate new and individual regulations for each case brings the risk of generating labor market segmentation that is counterproductive for both companies and workers. For example, to regulate platform work in isolation is to ignore that the challenges identified for this group are similar to those affecting other groups of (informal) workers.

However, starting from the first principles also implies analyzing whether existing regulations are an adequate response to market failures in the traditional labor market. We could have a scenario where new employment forms are not exposed to market failures different from those occurring in traditional employment and, even so, the optimal solution may not be to extend the current regulation but to transform it. This situation may occur given: (a) the inequalities and difficulties in enforcing regulations and (b) the fact that at times regulations are designed to attain objectives for which better instruments may exist. In this sense, to take a step back and evaluate the rationale of the regulations allows for the development of regulatory schemes that are more adaptive and flexible to future labor market changes and that do not generate unnecessary segmentation. In more general terms, labor market regulation can be seen as part of a wider package of labor and social protection policies. Construction of new regulations would then take into account other social protection policies in order to address the problems detected in each case.

In the case of platform employment in Uruguay, some market failures seem to be more salient for platform workers. For instance, platform work seems to be concentrated in a small number of companies, which may give them a certain market power (monopsony); this market failure has also been identified for traditional employment, although the tools used in this case (centralized collective bargaining, minimum wage) are not applicable to independent workers and are thus not used in their case. However, this aspect is being considered in the proposed bill. More research is needed in this area to understand whether monopsony is present for platform work in Uruguay.

Finally, the analysis of first principles and market failures can lead us to conclude that the challenges identified happen in markets that are beyond the scope of national regulations. As discussed in section 2.4, online-based platform work likely requires international-level regulation (ILO 2019a). In this case then it may be relevant to advance toward cross-border coordination to regulate online-based platform work.

***Principle 3: The use of platforms creates not only challenges, but also opportunities for the expansion of social protection.***

Platforms have certain characteristics that create opportunities to expand social protection. First, the use of platforms is usually concentrated in a few large employers instead of many atomized employers. This gives rise to advantages in terms of oversight and offers the possibility to work directly with employers to facilitate integration into the social protection scheme and coverage under labor laws. Second, the fact that platforms operate through electronic means of payment facilitates oversight, which can disincentivize informal transactions. The observation of income thus offers the possibility to increase formality and facilitate integration into the social protection scheme and coverage under labor laws. For example, Indonesia and Malaysia work together with the social security agency to register platform drivers and automatically deduct contributions. Estonia works jointly with Uber and Taxify to enable the drivers to transmit income and deduction data to the tax authorities. Finally, the fact that payments are made online instead of in cash creates the possibility to use mechanisms to facilitate savings and insurance acquisition and make it easier to obtain coverage against old age, disability, survival, and unemployment risks.

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