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VOICES FOR THE NETWORKED SOCIETY

The Regulatory Implications of Subcontracting Practices in Germany's Location-Based Platforms

A Fairwork Perspective

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ABSTRACT

Subcontracting is becoming a dominant business model in Europe's platform economy, enabling digital labor platforms to externalize employer responsibilities while retaining control over work through algorithmic management practices. However, it is only marginally addressed by the European Union's Directive on Improving Working Conditions in Platform Work. This article analyses the regulatory challenges posed by subcontracting arrangements by drawing on findings from the Fairwork Germany reports and discusses emerging regulatory proposals to address them. It concludes that the Directive presents a timely opportunity to strengthen worker protections in Germany's platform economy and promote fair working conditions for all.

KEYWORDS

digital labor platform \ subcontracting \ Germany \ platform regulation \ EU platform work directive \ worker protection

1 Introduction

Subcontracting is now a prevalent organizational strategy among digital labor platforms (DLPs) operating within the European Union (EU), particularly in the ride-hailing and food- and grocery-delivery sectors (Fairwork Serbia, 2023; Fairwork Poland, 2024; Fairwork Germany, 2025). This trend is evident in Germany, where subcontracted platform workers increasingly draw public (ZDFheute, 2025; Tagesschau, 2025) and scholarly attention (Fairwork Germany, 2025). Subcontracting enables DLPs to position themselves as mere market intermediaries and transfer key operational functions to third parties. These functions include comprehensive workforce administration, such as recruitment, termination, supervision, and communication, as well as responsibility for contracts, payments, equipment provision, and health and safety precautions (Fairwork Germany, 2025). Even when these duties are transferred, platforms often retain substantial power over work organization and worker control through algorithmic management mechanisms, which shape task distribution, performance monitoring, worker ratings, earnings, and access to platform work (Kellogg et al., 2020; Fernández-Macías et al., 2023). As a result, subcontracting provides DLPs with more flexible and less costly operational arrangements by facilitating swift adjustments in workforce size without the legal, financial, and administrative constraints associated with direct employment.

This combination of flexibility and cost efficiency directly translates into higher profits (Bertolini, 2024), making subcontracting a dominant business model for many platforms. Therefore, rather than a temporary or task-specific arrangement, subcontracting has become an integral component of the platform business model, a risk-management strategy that allows companies to externalize risks and responsibilities while retaining power and profits (Borelli et al., 2021). As recent Fairwork reports from several countries show, for workers, subcontracting often goes hand in hand with precarious and informal working conditions (Fairwork Serbia, 2023; Fairwork Poland, 2024; Fairwork Germany, 2025). It creates a regulatory grey zone that is inadequately monitored by labor inspectorates, public authorities, and the platforms themselves. Cost pressures transmitted down the subcontracting chain result in workers earning below minimum wage, enduring insecure and hazardous working conditions, and frequently working without proper contracts, or even any formal contract at all. At the same time, workers often lack effective channels for communication and appeals, both individually and collectively, because employment relationships are highly informal, and the subcontractor's identity is frequently unknown to them (Fairwork 2025).

Subcontracting thus poses a significant challenge to improving working conditions in the platform economy. Yet, it has only recently become a prominent topic in the debate on regulating the platform economy, and it occupies a minor position in the most important initiative in this direction, namely, the EU's Directive on Improving Working Conditions in Platform Work (Directive 2024/2831, PWD). The PWD focuses primarily on false self-employment and algorithmic management transparency, only addressing subcontracting briefly in Article 3, which requires Member States to "take appropriate measures" to ensure that workers performing platform work through intermediaries enjoy the same level of protection as those who have a direct contractual relationship with a digital labor platform.

In this article, we highlight the importance of this provision for the upcoming transposition of the PWD into national law by the end of 2026. Drawing on evidence from the 2025 Fairwork Germany report, we examine the challenges faced by ride-hailing and food- and grocery-delivery workers and discuss potential regulatory responses.

2 Subcontracting Arrangements in Germany's Location-Based DLPs

Fairwork has published three reports on the German platform economy (Fairwork Germany, 2025; Fairwork Germany, 2022; Fairwork Germany, 2020). Together, these reports demonstrate that subcontracting has gradually emerged as the dominant model for organizing work relations between platforms and workers, particularly in Germany's ride-hailing and food- and grocery-delivery sectors. However, they also reveal that subcontracting practices differ across sectors as they are shaped by distinct regulatory frameworks and market structures.

In the ride-hailing sector, subcontracting has been present from the beginning, with only a short-lived attempt by Uber to operate with independent contractors as part of its UberX model. Court rulings and the German Passenger Transportation Law (*Personenbeförderungsgesetz*) quickly pushed ride-hailing platforms like Uber and Bolt to partner with licensed fleet operators, often car-rental companies, who assume the legal responsibility for supplying and maintaining vehicles, employing drivers, and adhering to licensing and safety regulations. Within this arrangement, ride-hailing platforms position themselves as digital intermediaries facilitating transactions among third parties. This business model shields ride-hailing platforms from the legal obligations of an employer while allowing them to retain significant managerial control over workers and the work process: the app remains the key infrastructure organizing the working process, notably determining fares, allocating tasks, and implementing reward-and-punishment mechanisms through algorithmic management practices.

Contractual arrangements in Germany's food- and grocery-delivery sector are more diverse than in the ride-hailing sector, which has a more uniform structure. In these platforms, subcontracting has become the dominant trend in recent years. Uber Eats entered the German market in 2021, operating exclusively with subcontractors. Wolt followed suit based on a hybrid model, swiftly replacing employed couriers with couriers employed by subcontractors. In May 2025, Lieferando also began to shift to the subcontractor model by dismissing directly employed workers and replacing them with subcontracted couriers (Tagesschau, 2025; Fairwork Germany, 2025). Flink is thus the only food- and grocery-delivery platform in Germany still employing all its couriers.

Two features characterize subcontracting arrangements in Germany's platform economy. First, subcontracting responds not only to cost and flexibility considerations but also to the regulatory risks inherent in self-employment models that often resemble false self-em-

ployment. Food- and grocery-delivery and ride-hailing platforms manage workers through app-based instructions for performing their tasks, limiting their control over client choice, working hours, shift length, and income determination; this challenges the assumption of autonomy inherent in self-employment (Dietrich & Patzina, 2018; Office for the Equal Treatment of EU Workers, 2025). However, German labor legislation lacks a clear, comprehensive set of criteria for identifying false self-employment, and the associated financial liabilities and potential penalties create strong incentives for DLPs to restructure work relations accordingly.

Second, subcontracting agreements in Germany's platform economy, particularly in the food- and grocery-delivery sector, often comprise several contractual layers as first-tier subcontractors outsource activities to benefit from the same risk-shifting arrangements established by the main contractor. In this multi-tiered structure, the regulatory responsibility associated with employment relationships is displaced down a fragmented network of subcontractors, who are often pressured to violate labor regulations to meet the conditions imposed by upper-tier contractors (Bertolini, 2024; Borelli et al., 2021). This cascade of contractual relationships often makes it difficult for authorities to identify the employer and determine whether, and to what extent, they comply with labor regulations.

3 The Regulatory Implications of Subcontracting

Although location-based DLPs in Germany adopt different subcontracting arrangements, the patterns of labor law violations are remarkably similar along multiple dimensions of work, undermining workers' rights and freedoms. Among these, Fairwork Germany (2025) highlighted the following patterns. Workers are paid per task, a system that excludes waiting time between tasks and often results in overall earnings falling below the statutory minimum wage. This infringes the statutory entitlement of workers to remuneration at least equal to the minimum wage for every hour worked, as guaranteed by the German Statutory Minimum Wage Act (*Mindestlohngesetz*, §1 and §20). To make up for their low earnings, workers have to work longer, sometimes up to 15 hours a day. These long working days are systemic to the organization of work rather than exceptional occurrences, which breaches the German Working Time Act (*Arbeitszeitgesetz*) on the maximum daily working time (§3). The Act is further violated when breaks are not properly granted in accordance with §4 and when excessively long working hours prevent compliance with the statutory minimum uninterrupted rest period of 11 hours between consecutive working days, as required by §5(1). Many subcontractors also deny workers access to statutory annual and sick leave, in violation of the Federal Vacation Act (*Bundesurlaubsgesetz*, §1 and §3) and the Continued Remuneration Act (*Entgeltfortzahlungsgesetz*, §3(1)), respectively.

In subcontracting chains, mini-job contracts are a common mechanism for disguising regular employment relationships. Mini-job contracts formally cap workers' incomes at €603 per month and exempt employers from health insurance and public pension contributions. In practice, however, subcontractors pay wages in cash that exceed the statutory threshold

while declaring only the mini-job amount. This practice violates numerous labor regulations, in particular employers' obligations under the German Social Security Law (*Sozialgesetzbuch IV*, §28 and *Sozialgesetzbuch VI*, §1) to accurately report wages, pay social security contributions based on actual earnings, and contribute to statutory pension insurance. It also violates the Act to Combat Undeclared Work (*Schwarzarbeitsbekämpfungsgesetz*, §1(2)) because it involves the deliberate concealment of regular employment relationships and the full amount of remuneration to evade social security contributions and tax obligations.

Furthermore, workers employed by subcontractors receive neither adequate protection against work-related risks nor health and safety training, in breach of employers' duties under the Occupational Safety and Health Act (*Arbeitsschutzgesetz*, §3 and §12(1)) and the German Social Accident Insurance (*Deutsche Gesetzliche Unfallversicherung, Vorschrift 1*, §4). Workers also report that their accounts on the platforms are deleted when they attempt to establish a works council to engage in collective voice representation. This systematic denial of collective rights violates the freedom of association protected by the German Constitution (*Grundgesetz*, Article 9(3)) and undermines the statutory right to employee representation guaranteed under the Works Constitution Act (*Betriebsverfassungsgesetz*, §20(1)).

With the situation of subcontracted workers in the platform economy gaining considerable public and scholarly attention, attempts have been made recently to put stronger regulations in place and enforce existing regulations. In January 2026, the Act on the Modernization and Digitization of the Combat against Undeclared Work and Unlawful Employment (*Gesetz zur Modernisierung und Digitalisierung der Schwarzarbeitsbekämpfung*) entered into force. The Act further empowers the Financial Control of Undeclared Work Unit (*Finanzkontrolle Schwarzarbeit*, FKS), the main authority responsible for uncovering and sanctioning labor law violations. It grants the FKS extended access to digital business data, enabling automated analysis for more efficient inspections. It also strengthens the FKS's authority to inspect subcontractors' records, thereby facilitating the detection of wage underreporting, false mini-jobs, and undeclared work in subcontracting chains used by location-based DLPs (Noerr, 2026). Although this regulation expands the authorities' opportunities to monitor the situation in the platform economy, the most important change to the regulatory framework governing platform subcontracting chains in Germany is expected to come with the entry into force of the PWD in December 2026.

4 The Platform Work Directive and Policy Debates on Subcontracting

The PWD primarily focuses on false self-employment and opaque algorithmic management systems. Subcontracting is comparatively overlooked and is addressed only in Article 3, which obliges Member States to adopt measures ensuring equal protection for workers in subcontracting chains and employed directly by platforms. Furthermore, the Directive re-

mains vague regarding what this means in practice and how joint liability can be created, leaving much discretion to Member States in terms of strategies for implementing the PWD into national law by the end of 2026. Recent scholarly (Fairwork, 2025) and media reports in Germany have exposed labor violations within subcontracting chains in the platform economy (ZDFheute, 2025; Tagesschau, 2025), sparking a debate about how such arrangements should be regulated. Two main approaches currently structure this discussion.

The first is modest in scope and draws on the legal means of subcontractor liability (*Nachunternehmerhaftung*) in German law regarding minimum wages and social security contributions in some sectors. Subcontractor liability essentially establishes joint liability insofar as the subcontracting company is responsible for ensuring that the subcontractor pays minimum wages and social security contributions when using subcontracted labor to offer services to a third party (BMAS, 2026). Subcontractor liability constitutes a key regulatory instrument in the construction, meat, and parcel-delivery sectors, providing authorities and workers with some legal ground to monitor and appeal subcontractors' practices and, thus, hold subcontracting companies accountable. Extending this regulation to the platform economy is considered a first step towards greater responsibility of DLPs for their subcontractors.

However, doubts remain regarding whether this is sufficient to tackle the labor issues in Germany's location-based DLPs. Subcontractor liability still requires workers to report labor rights violations and does not solve the problem of identifying the point of contact in an opaque system of tiered subcontractors. Additionally, while it provides grounds for local authorities to conduct more detailed checks of working conditions, its effectiveness is contingent upon the availability of sufficient resources to investigate and follow up on reported cases. Experience, particularly in Berlin, fuels the fear that local authorities are not sufficiently equipped for this task. As a result, regulators, trade unions, and academics are calling for a more drastic intervention to regulate the platform economy by banning subcontracting in the food- and grocery-delivery sector (Böckler Impuls, 2025). This second approach to subcontracting draws heavily on experiences in the meat industry, which faced similar systemic problems regarding labor standards in subcontractor networks and resulted in a legal ban on subcontracting in 2020 (Erol and Schulten 2025). The call for a ban on subcontracting has recently found prominent supporters in Germany's Conference of Ministers of Labor and Social Affairs (*Arbeits- und Sozialministerkonferenz*), leading the Federal Ministry of Labor and Social Affairs to publicly confirm that it will consider a subcontracting ban in the food- and grocery-delivery sector.

5 Discussion and Conclusion

The debate about how to best tackle the issue of subcontracting in the platform economy has just begun. So far, it remains unknown how the Federal Ministry of Labor and Social Affairs intends to translate Article 3 into concrete legal requirements in Germany. Likewise, the extent to which this regulatory initiative will improve compliance with labor regulations in subcontracting chains has yet to be determined.

Subcontractor liability and a ban on subcontracting in the food- and grocery-delivery sector have emerged as two approaches to addressing the fact that subcontracting has become the core business model of both food- and grocery-delivery and ride-hailing platforms in Germany (Fairwork Germany, 2025). However, the debate is limited. Public attention has focused primarily on poor working conditions in subcontracting chains in the food- and grocery-delivery sector, particularly following Lieferando's restructuring from a direct employment model to subcontracting arrangements. Consequently, calls for regulatory intervention have so far targeted food- and grocery-delivery platforms, proposing sector-specific regulation while largely leaving the ride-hailing sector outside the discussion. Although such targeted initiatives may offer pragmatic and potentially faster solutions, it is important to consider how efforts to improve working conditions in subcontracting arrangements relate to the regulation of the platform economy as a whole. The PWD's transposition therefore offers a timely opportunity to strengthen worker protections in Germany's platform economy and promote fair working conditions for all platform workers.

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