

Bicycle delivery drivers: prevention prevented

Marc Malenfer, Michel Héry, Watch and Foresight Mission, INRS

(Conference "Uberization and workers' health: multidisciplinary analyses of delivery workers' work", Paris, 5 November 2021)

The Institut national de recherche et de sécurité (INRS) is a joint organization, financed by the Occupational Injuries and Diseases branch of the Social Security system, whose mission is the prevention of occupational risks. As part of its prevention mission, INRS has set up a Watch and Foresight Mission which is interested in the transformations of work in order to anticipate the associated health and safety issues. In this respect, in 2016-2017 it conducted a foresight exercise entitled "Platformisation 2027", the objective of which was to explore the potential consequences of the development of uberisation on occupational health and safety¹. It followed an ambitious exercise aimed at exploring possible changes in production modes and methods in France in 2040. The subject of uberisation was addressed and the social partners on the Institute's Board of Directors had asked the Mission to look into the matter further.

This work followed a classic foresight methodology known as "contrasting scenarios", based on the establishment of an inventory of the field, the identification and study of key variables in its evolution, and the elaboration of scenarios resulting from the combination of development hypotheses for these variables². It allowed to highlight a certain number of issues related to the health and safety of platform workers. A watch on this subject was then set up to ensure a follow-up of these questions.

Why take an interest in this subject?

Although INRS works for the benefit of companies and employees covered by the general social security system (designed for employees), and the vast majority of platform workers are self-employed, it seemed important to study this phenomenon because it will gradually affect many companies and employees for three reasons

- The use of technologies and organizational modes brought by platforms tends to spread in classical companies (geolocation, customer rating, algorithms),
- Hybridization with traditional companies through creations, takeovers, and partnerships is increasingly common,
- Some platform providers are themselves companies with employees (some self-employed can also be employers, for example in the construction industry, a craftsman can employ a few companions or apprentices).

It should also be noted that the platform business model is not stabilized. Many platforms are losing money, which raises fears of a speculative bubble phenomenon with all the possible abuses, including for the health of workers if they are considered as adjustment variables of a fumbling

¹ Platformisation 2027, consequences on occupational safety and health
<https://en.inrs.fr/news/platformisation-2027.html>

² Concerning this method one can see: Véronique Lamblin, L'analyse morphologique, Futuribles, avril 2018 :
<https://www.futuribles.com/fr/groupes/prospective-and-strategic-foresight-toolbox/document/lanalyse-morphologique/>

economic model. Moreover, the legal framework for platforms has not yet been firmly established, in a context that has given rise to numerous disputes. In France, for example, there is a significant gap between judicial decisions and those of the legislator.

I. An upheaval in the approach to occupational risk prevention

The configuration of the organization of the work of bicycle delivery drivers, self-employed workers carrying out their activity via applications developed by platforms, is not neutral in terms of occupational risks. Several factors prevent the implementation of preventive actions, such as:

- The employer's liability regime does not apply,
- The rules of insurance of work accidents and professional diseases do not exist,
- The monitoring of the health of these workers by the occupational health services, the tracking and a fortiori the recording of occupational exposure are not implemented,
- The constitution of work collectives³ is hindered.

Absence of employer's responsibility

In a traditional company, the application of Book IV of the Labour Code⁴ imposes a framework that obliges the employer to protect the health of employees:

- Obligation of result in terms of OSH,
- Respect of the general principles of prevention,
- Obligation to conduct a risk assessment and draw up an action plan,
- Obligation to organize the medical follow-up of employees...

In the case of a platform, all these obligations are only valid for employees who have an employment contract, self-employed workers who are in a service provision relationship are not concerned. From a legal point of view, they are solely responsible for their own health and safety.

Absence of insurance for occupational accidents and diseases

In France all employees in the private sector are compulsorily insured with the Occupational Injuries and Diseases branch of the Social Security. This implies:

- Contributions that are payable by the employer,
- That in case of an accident at work or an occupational disease, the employee benefits from the full coverage of the medical expenses,
- That the costs of the occupational injuries of the employees of a company are charged to it, thus increasing its contributions in the following years (except for companies with less than 20 employees which benefit from a unique rate according to their sector),

³ i.e. stable working groups with workers knowing each other and able to build solidarities and attention to the protection of the safety of every one

⁴ Book IV of the Labor Code is devoted to Health and Safety at Work

- That even if the system can be improved (under-reporting, under-recognition, etc.), the occupational injury branch is structurally balanced and that in order to reduce the contributions they pay, companies are encouraged to take preventive measures,

- To do so, they are supported by the agents of the Carsat/Cramif/Cgss⁵ network, who have at their disposal incentive tools (financial aid) and coercive tools (increase of contributions),

Platforms only contribute to the general scheme for their employees (on risk codes of digital companies that do not correspond to the activity of delivery workers): delivery workers who are self-employed do not benefit from this insurance system.

Lack of medical follow-up and traceability of exposures

The insurance system for occupational injuries also allows for a statistical follow-up of the accident rate. All accidents at work are recorded and coded by sector. This is an important tool to orient prevention actions.

In addition, private companies are obliged to join an occupational health service which ensures the medical follow-up of employees and supports the company in its occupational health and prevention management. As such, each employee can request an appointment with the occupational physician who follows his or her company. The latter is particularly well placed to make the link between the state of health of employees and their working conditions, and thus propose actions to the employer.

The self-employed workers of platforms do not benefit from this monitoring. The law *To strengthen prevention in occupational health* adopted on August 2, 2021⁶ opens the possibility of access to this monitoring for the self-employed on a voluntary basis and at their expense (decree pending).

II. Platformed work organization and risk prevention

Independently of the legal and insurance issues mentioned above, the algorithmic organization of work set up by platforms poses several problems for prevention, because:

- It increases the gap between prescribed work and real work. Several examples show that the instructions and objectives assigned to bicycle delivery drivers do not take into account a certain number of constraints that they must manage in the field: traffic conditions, weather, waiting times in front of restaurants, etc.

- It encourages workers to expose themselves to physical risks, in particular through a system of task-based remuneration that encourages them to go as fast as possible, often in disregard of the traffic regulations.

- It is a source of psychosocial risks, a point that will be dealt with later.

- It does not allow for the proper application of the general principles of prevention; this issue will also be addressed later.

- It prevents the formation of work collectives that are essential to prevention. The delivery personnel are all in an individual relationship with the platform, which offers no framework for

⁵ These are regional social security funds that serve as local relays for the Occupational Injuries and Diseases branch of the Social Security in France

⁶ <https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000043884445>

collective discussion of working conditions. The delivery personnel often organize themselves to exchange advice.

Concentration of psychosocial risk factors (PSR) factors

By comparing the work situation of a bicycle delivery driver with the six families of psychosocial risk factors defined in the 2011 report "Measuring psychosocial risk factors in the workplace in order to control them" (known in France as the Gollac factors), we can measure the extent to which the organization of work set up by the platforms can be deleterious⁷.

For the record, these 6 families are:

- Work intensity and time,
- Emotional demands,
- Autonomy,
- Social relationships,
- Conflicts of values,
- Insecurity of the work situation,

The work situation of a bicycle delivery driver seems to us to be unfavourable on each of these six dimensions.

For example, the question of work intensity and time:

PSR factor categories	Characteristics of platform work	Example of deliverymen
Work intensity and work time , related to qualitative and quantitative work requirements, work rate constraints, the existence of unrealistic or vague objectives, requirements for multiple skills which workers might not have, contradictory instructions, long work weeks, unusual working hours, unpredictability of working hours.	Work rate imposed by artificial intelligence, task-based remuneration , performance assessment criteria, distinction not clear between private life and working life	The platform algorithm allocates delivery runs. The faster the deliveryman, the more runs he can make and the higher the income he can obtain. The most well-paid working hours are often atypical (evenings, weekend). Deliverymen can however choose their off-periods.

The above table shows that the work rhythm imposed on delivery personnel by the platforms can constitute a significant psychosocial risk factor.

Impossibility of applying the general principles of prevention

The general principles of prevention constitute a robust and structuring doctrine for prevention officers. Introduced by the European Framework Directive on health and safety at work (Directive 89/391/EEC)⁸ and transposed into the Labour Code (Article L4121-2)⁹, they are theoretically binding on all companies. There are nine of them and they are classified in decreasing order of priority:

⁷ Report of the college of expertise on the monitoring of psychosocial risks at work, https://travail-emploi.gouv.fr/IMG/pdf/rapport_SRPST_definitif_rectifie_11_05_10.pdf

⁸ <https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000000333571/>

⁹ https://www.legifrance.gouv.fr/codes/article_lc/LEGIARTI000033019913

1. Avoid risks.
2. Evaluate unavoidable risks.
3. Combat risks at source.
4. Adapt work to the individual, especially the design of places of work
5. Adapt the place of work to technical progress.
6. Replace dangerous articles, substances, or systems of work by non-dangerous or less dangerous articles, substances, or systems
7. Use collective protective measures over individual measures
8. Develop an adequate prevention policy
9. Give appropriate training and instruction to employees. Avoid risks.

As an example, in the table below, a reflection on the possibility of avoiding risks:

Principles	Observations	Prospects
Avoiding risks.	Given the jobs made available to a large extent on platforms (drivers, delivery persons, personal assistance, interior construction, etc.) the primary objective of eliminating risks (for example those associated with manual handling or travelling) appear to be difficult to attain.	Some tasks identified as being particularly hazardous could be excluded from the scope of services handled by certain platforms, which would therefore redirect them towards specialised, skilled partners.

A quick analysis of the platform work situations shows that they were not designed with these principles in mind, but also that most of these principles are not applicable. This reveals that these platforms have been developed with customer satisfaction as their only criterion, without taking into account the preservation of workers' health.

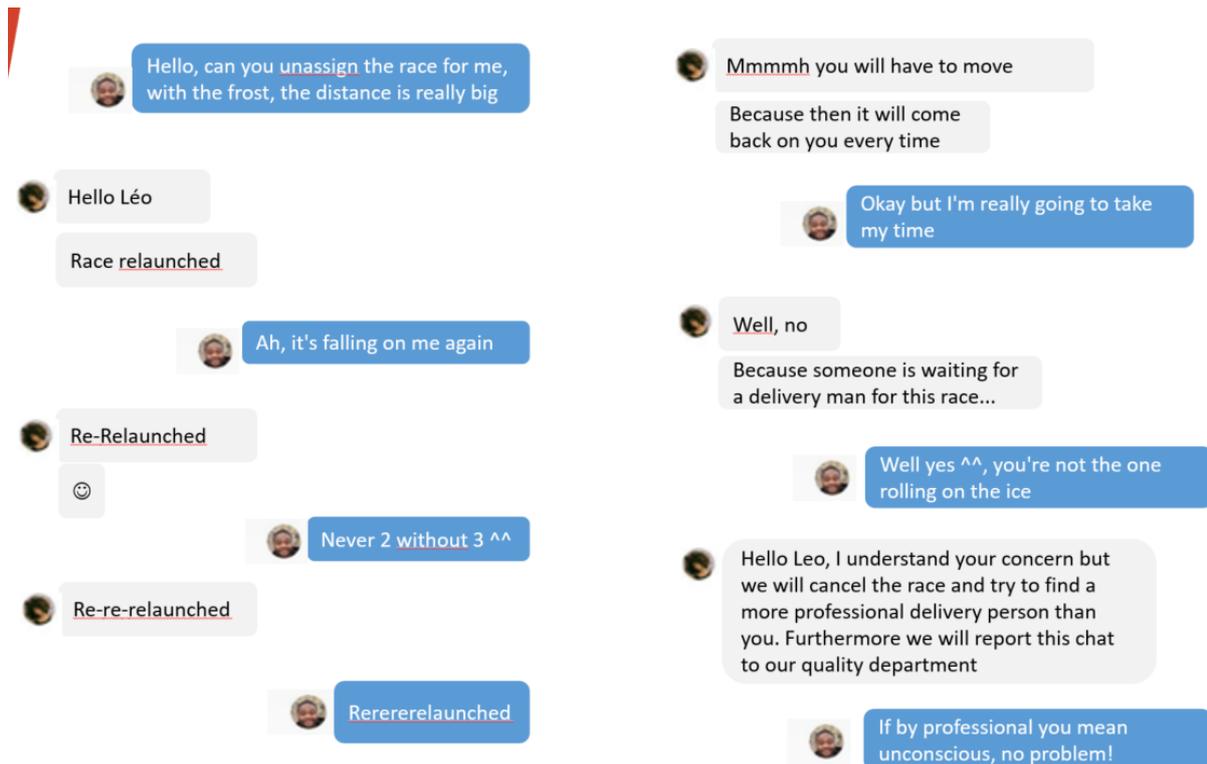
A more detailed analysis of this confrontation with the Gollac factors and the general principles of prevention can be found in the document "Platformisation 2027, consequences on occupational safety and health", referred to in footnote 1.

III. Illustrations of situations in which safety is not taken into account

We have selected here two examples illustrating these conflicts between customer satisfaction and workers' health.

In the end, it is the algorithm that decides

The first example is an exchange between a deliveryman and the regulator of a platform during an episode of snow and ice in February 2018. Here the delivery driver (blue bubbles) is an independent and his interlocutor an employee of the platform (gray bubbles). The deliveryman wishes to refuse a race because he considers it too far away with regard to the weather situation, his interlocutor agrees, he accepts but the algorithm systematically reassigns the race to the same deliveryman. Both are powerless against the algorithmic prescription. The driver protests, and is finally accused of not being a good professional and threatened with disciplinary consequences.



Reproduction of an exchange between a courier and the dispatcher of his platform

Freedom or security

The second example comes from a survey of a platform among its independent delivery people. Here, it is the vocabulary used that reveals the professional culture of the people who conceive the work in these platforms. The problem of vocabulary is undoubtedly amplified here by a translation from French to English that leaves something to be desired.

The questions introduce a binary opposition between "freedom" and "security" by asking to choose between one or the other. Sick leave is described as "benefits paid for by [the platform]".

Indicate the extent to which you agree with each of the following statements.

	Strongly agree	Rather agree	Somewhat disagree	Strongly disagree
Freedom to choose your hours is more important than safety	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
You would like to have more security in working with XXX even if you were to have less freedom to choose your hours	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
You would like to have benefits paid by XXX such as sick leave	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The freedom to choose your hours is the thing you like most about XXX	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

If you no longer had the possibility to choose your working hours, would you consider continuing or stopping your collaboration with XXX.

- Rather continue
- Rather stop

Reproduction of an excerpt from a platform's survey of its couriers

IV. Extension of the domain of platforms, the Quick commerce

The Covid-19 crisis has accelerated the transformation of food distribution and the emergence of Quick commerce, which is based on the promise of ultra-fast delivery (10 to 15 minutes). More than a dozen players are experimenting with different models, particularly in Paris, and consolidation of the sector is still to come.

Several models are being tested:

- Companies with their own distribution network, "dark store", employing employees, e.g. Gorillas or Getir
- Meal delivery platforms extending their activity to grocery delivery, notably via partnerships with retail chains, e.g. Uber Eats (with Carrefour),
- Platforms that send freelancers to shop in stores without a partnership framework (no employees, no logistics), e.g. Everli

It took many years for the Occupational Injuries and Diseases branch to advance prevention in the food distribution sector, which generates a lot of occupational injuries, particularly musculoskeletal disorders (MSDs), which required a strategy based on the framework mentioned above with :

- Mobilization of the social partners at national level,
- Development of technical recommendations with them (design and layout of premises and workstations, loading docks, lighting, handling equipment, shelving, non-slip flooring, etc.)
- Establishment of a national dialogue by brand,
- Targeted inspection campaigns by Carsat agents...

The sector's high-speed change is taking the prevention players by surprise, depriving them of many levers of action and involving workers in models that are not stabilized.

Today, we observe:

- A need to be close to delivery locations (individuals), which leads to hasty implementations in premises that previously had another function, which is likely to pose problems of mismatch between the configuration of the premises and the activity,
- Reduced working surfaces (for cost reasons) which do not facilitate facilities conducive to quality work,
- Strong time pressure due to marketing promises that are difficult to keep,

The conquest of markets could therefore be done at a heavy human cost (for "classic" jobs and self-employed jobs).

Conclusion

Through their economic model, which is based on an initial phase of massive investment at a loss and bypassing institutional regulatory frameworks, platforms are destabilizing sectors of the economy and exposing workers to risks without allowing them access to appropriate social protection.

In reaction to this competition, traditional players are tempted to integrate identical practices into their model. Future regulation is therefore an important issue, as many sectors are progressively concerned: transport, distribution, personal assistance, construction, etc. It should give prevention players the means to act in order to protect health and safety and force an essential rebalancing between the priority given to customer satisfaction and the necessary preservation of workers' health.