

# / COMPARATIVE STUDY



## THE REGULATORY FRAMEWORK OF THE COLLABORATIVE ECONOMY IN CENTRAL AND EASTERN EUROPE

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## Executive Summary

In June 2016, the European Commission (EC) issued the *European Agenda for the Collaborative Economy*. This paper evaluates the status of most of the regulatory areas of the collaborative economy covered by the *European Agenda* (market access requirements, consumer protection, employment, and taxation) in four EU member countries (Slovenia, Croatia, the Czech Republic, and Slovakia) which were not included in the EC document. Further, this paper compares the regulatory environment in these countries with the objectives and aims outlined in the *European Agenda*. Along with innovative examples of the collaborative economy in these four countries, attention is devoted to the areas where there is room for improvement. The regulatory frameworks analysed in this paper may inspire a transition to better regulatory environments for the collaborative economy in other countries around the world.

# 1. On the Collaborative Economy

**T**he collaborative economy is a socio-economic phenomenon that has gained worldwide attention with rapid growth in recent years. It may be defined as an economic model “where commonly available technologies enable people to get what they need from each other”.<sup>1</sup> The collaborative economy encompasses business models whereby online collaborative platforms create “an open marketplace for the temporary usage of goods or services,” pointing out that the latter are “often provided by private individuals, offering services on an occasional basis (known as »peers«)”.<sup>2</sup>

The online collaborative platform acts as an intermediary between professional or occasional (“peers”) service providers and users (See Figure 1). In addition, collaborative platforms may offer services (e.g. payment services, insurance, identity verification, handling complaints, or similar) through third parties, such as banks, payment processors, or insurance companies. Finally, the collaborative ecosystem interacts with regulatory and tax authorities on various levels – the EU, national and municipal levels.

While the collaborative economy is a new form of Internet-powered market, the rendering of services by individuals (“peers”) through online collaborative platforms is not a defining characteristic of it. Some argue that the collaborative economy does not concern sharing, but is rather a market-mediated access economy.<sup>3</sup> Indeed, upon examining two collaborative

economy pioneers, Airbnb seems to be increasingly flooded by major hotel chains and professional rental services, while Uber – especially in new markets – is increasingly cooperating with established taxi firms.<sup>4</sup>

Therefore, the potential of the collaborative economy lies in integrating crowds empowered by online technologies into established businesses. By adopting such innovative business models, established businesses are starting to revolutionise traditional business processes and capitalise on the vast possibilities of the online infrastructure for the provision of traditional (i.e. non-electronic) goods and services. In other words, the collaborative economy has in a way enabled the “digitalisation” of service provision in nearly all business sectors, which has allowed the collaborative economy to spread from transportation (Uber) and accommodation (Airbnb) to areas such as food (Uber Eats<sup>5</sup>, Saucey<sup>6</sup>), health (Cohealo<sup>7</sup>, Doctor on Demand<sup>8</sup>), wellness & beauty (Swipecast<sup>9</sup>, Kindly Care<sup>10</sup>) and finance (Crowdfunder<sup>11</sup>, Kiva<sup>12</sup>). Accordingly, the collaborative economy has proliferated all over the economy, engaging both production factors (capital and labour) and delivering both market products (goods and services).<sup>13</sup>

<sup>1</sup> Jeremiah Owyang, 2015. *The Collaborative Economy Defined*, <http://www.web-strategist.com/blog/2015/08/27/the-collaborative-economy-defined/> (19.04.2017).

<sup>2</sup> European Commission, 2016. *A European agenda for the collaborative economy*, COM(2016) 356.

<sup>3</sup> Olivier Blanchard, 2015. *Stop calling it the »Sharing Economy.« That isn't what it is.*, <http://olivierblanchard.net/stop-calling-it-the-sharing-economy-that-isnt->

[what-it-is/](#) (19.04.2017).; and G. M. Eckhardt and F. Bardhi, 2015. *The Sharing Economy Isn't About Sharing at All*, <https://hbr.org/2015/01/the-sharing-economy-isnt-about-sharing-at-all> (19.04.2017).

<sup>4</sup> F. Celikel Esser F et al., 2016. *The European Collaborative Economy: A research agenda for policy support*, p. 5.

<sup>5</sup> See <https://www.ubereats.com/vienna/> (19.04.2017).

<sup>6</sup> See <https://www.saucey.com/> (19.04.2017).

<sup>7</sup> See <http://cohealo.com/> (19.04.2017).

<sup>8</sup> See <http://www.doctorondemand.com/> (19.04.2017).

<sup>9</sup> See <https://www.swipecast.com/> (19.04.2017).

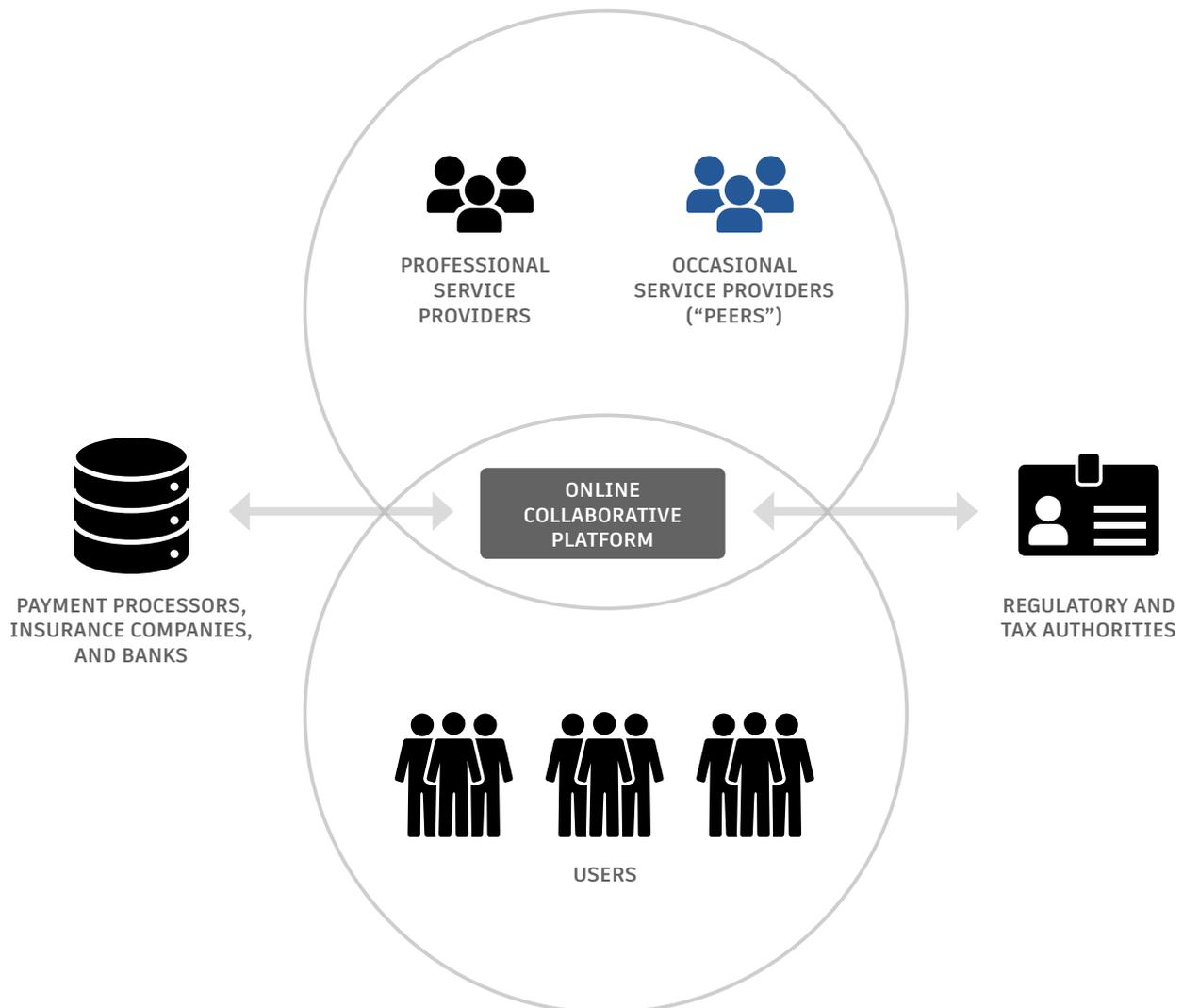
<sup>10</sup> See <https://www.kindlycare.com/> (19.04.2017).

<sup>11</sup> See <https://www.crowdfunder.com/> (19.04.2017).

<sup>12</sup> See <https://www.kiva.org/> (19.04.2017).

<sup>13</sup> F. Celikel Esser et al., 2016. *The European Collaborative Economy: A research agenda for policy support*, p. 6; JustPark, 2017. *The Sharing Economy Index*, <https://>

Figure 1: Collaborative Economy Ecosystem



## 1.1 OPPORTUNITIES AND CHALLENGES

Opportunities of the collaborative economy arise in many areas. Firstly, collaborative platforms provide individuals with the opportunity to share their assets or time, followed by obtaining income in a more flexible manner than through regular employment. Secondly, services rendered through collaborative platforms create new choices for consumers and increase market competition, all

leading to an improvement in the quality of services offered by traditional providers. Thirdly, collaborative platforms may also yield positive outcomes for the government. As most of the collaborative economy transactions are processed digitally and online, they are not only traceable but also provide an opportunity for more effective collection of taxes and other dues, provided that collaboration between the authorities and platforms is ensured. For example, the city of Amsterdam and Airbnb entered into an agreement, under which Airbnb collects and remits Tourist Tax on behalf of the hosts.<sup>14</sup> In

[www.justpark.com/creative/sharing-economy-index/](http://www.justpark.com/creative/sharing-economy-index/) (19.04.2017); and Jeremiah Owyang, 2016. *Honeycomb 3.0: The Collaborative Economy Market Expansion*, <http://www.web-strategist.com/blog/2016/03/10/honeycomb-3-0-the-collaborative-economy-market-expansion-sxsw/> (19.04.2017).

<sup>14</sup> I Amsterdam, 2014. *Amsterdam and Airbnb sign agreement on home sharing and tourist tax*, <http://www.iamsterdam.com/en/media-centre/city-hall/press-releases/2014-press-room/amsterdam-airbnb->

France, collaborative platforms notify users of their annual income earned through the platform and, furthermore, notify them how and by what amount to fulfil their tax obligations.<sup>15</sup> Lastly, the collaborative economy has a positive impact on society. As such, it can lead to more optimal use of resources, environmental sustainability, circular economy or even strengthening of community values through consumer-to-consumer (C2C) transactions.<sup>16</sup>

At the same time, the collaborative economy creates challenges. Firstly, flexible employment may result in increased violations of workers' rights. Secondly, provision of services through collaborative platforms can represent unfair competition for standard business models. Thirdly, even though transactions performed via collaborative platforms are traceable, the platforms may be used for unreported transactions, contributing to the rise of the shadow economy.

These challenges mostly arise in the absence of collaborative economy-specific regulations, addressing the continuous and swift development of new technologies. Consequently, transactions facilitated by collaborative platforms are regulated in the same way as traditional services, even though such regulations may not be best suited or proportionate. Considering some new characteristics of the collaborative economy, the same aims can now be achieved with different and, most importantly, fewer regulations. As such, EU member states are bound by the Services Directive to take into account the principle of proportionality when determining regulatory frameworks for services in the internal market.<sup>17</sup>

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agreement (02.05.2017).

<sup>15</sup> Commission staff working document (*European agenda for the collaborative economy – supporting analysis*), SWD, (2016) 184, p. 43.

<sup>16</sup> OCU et al., 2016. *Collaborative Consumption: Collaboration or business? From value for users to a society with values*, pp. 11-2, <https://www.slideshare.net/AmayaApestegua/collaboration-or-business-collaborative-consumption-from-value-for-users-to-a-society-with-values-ocu> (02.05.2017).

<sup>17</sup> Article 10, Directive 2006/123/EC on services in the internal market. Note: the Services Directive does not apply *inter alia* to “services in the field of transport”, one of the most important sectors of the collaborative economy.

With collaborative platforms becoming increasingly popular, it is crucial that relevant information is transparent and available to the public, making it possible for everyone not just to participate in and benefit from this new business model, but to be cognisant of potential risks. One such source of information is the European Commission's *European Agenda for the Collaborative Economy*, providing “legal guidance and policy orientation to public authorities, market operators and interested citizens for the balanced and sustainable development of the collaborative economy.”<sup>18</sup>

## 1.2 EUROPEAN COMMISSION'S AGENDA FOR COLLABORATIVE ECONOMY

In May 2015, the European Commission's Digital Single Market Strategy recognised the exponential growth of new platforms, as well as identified opportunities and challenges of the collaborative economy, such as platforms controlling access to online markets and exercising significant influence over other players in these markets.<sup>19</sup>

In June 2016, the European Commission issued the further elaborated *European Agenda for the Collaborative Economy*.<sup>20</sup> This document provides a broad legal definition of the collaborative economy business models and includes guidelines for Member States on the application of EU Law, with the regulatory challenges of the collaborative economy raised in five critical legal areas: (1) market access requirements; (2) liability of online platforms, (3) consumer protection, (4) self-employed and workers in the collaborative economy and (5) taxation.

### ● Market access requirements

The Commission indicates that any such requirements for the players in the collaborative economy should be necessary, justified and proportionate to meet identified and legitimate public interest. In particular, requirements of Directive 2006/123/EC (“The Services Directive”) should be followed, with

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<sup>18</sup> European Commission, 2016. *A European agenda for the collaborative economy*, COM(2016) 356.

<sup>19</sup> European Commission, 2015. *A Digital Single Market Strategy for Europe*, COM(2015) 192.

<sup>20</sup> European Commission, 2016. *A European agenda for the collaborative economy*, COM(2016) 356.

the specific features of collaborative economy business models being taken into account.

- **Liability regimes**

The Commission, after analysis of the relevance of the e-Commerce Directive<sup>21</sup> and corresponding jurisprudence of the Court of Justice of the European Union (CJEU) for the operations of online platforms,<sup>22</sup> encourages collaborative platforms to continue to take voluntary action to fight illegal online content. However, such voluntary measures should not automatically be taken to mean that the collaborative platforms benefiting from the exemption from intermediary liability under the e-Commerce Directive no longer do so.<sup>23</sup>

- **Consumer protection**

The Commission encourages member states to seek a balanced approach, in line with consumer protection regulations, to ensure that consumers enjoy a high level of protection, in particular from unfair commercial practices, while not imposing a disproportionate administrative burden on private individuals who are not traders, but who provide services on an occasional basis. In addition, the Commission calls for the improvement of effectiveness and the use of online trust mechanisms.<sup>24</sup>

- **Employment market**

Although most Labour Law falls under the competence of member states, the Commission notes that the European Union has developed minimum standards in the field of social policy.<sup>25</sup> In addition, the Commission draws attention to the extensive jurisprudence of the Court of Justice of the European Union (CJEU) on the conditions under which an employment relationship exists in line with EU Labour Law.<sup>26</sup> According to the Commission, the fact



TRANSACTIONS FACILITATED BY COLLABORATIVE PLATFORMS ARE REGULATED IN THE SAME WAY AS TRADITIONAL SERVICES, EVEN THOUGH SUCH REGULATIONS MAY NOT BE BEST SUITED OR PROPORTIONATE.

whether an employment relationship exists should be established on a case-by-case basis, taking into consideration the factors characterising the relationship between the platform and the individual service provider. In particular, (1) the existence of a subordination link, (2) the nature of work and (3) the presence of remuneration shall be assessed. Hence, the Commission calls on member states to assess the adequacy of their national employment rules, as well as to provide guidance on the applicability of their national employment rules with regard to labour patterns in the collaborative economy.<sup>27</sup>

- **Taxation**

The Commission suggests proportionate obligations to member states, as well as a level playing field when it comes to both direct and indirect tax-

<sup>21</sup> Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market.

<sup>22</sup> See joined cases C-236/08 to C-238/08 *Google France / Louis Vuitton* and Case C-324/09 *L'Oreal / eBay*.

<sup>23</sup> European Commission, 2016. *A European agenda for the collaborative economy*, COM(2016) 356, p. 9.

<sup>24</sup> *Ibid*, p. 11.

<sup>25</sup> *Ibid*.

<sup>26</sup> *Ibid*, pp. 11-13, citing the CJEU jurisprudence. In particular, Case C-413/01 *Ninni-Orasche* and Case C-139/85 *Kempf*. See also, COM(2010) 373, reaffirming

the free movement of workers: rights and major developments.

<sup>27</sup> European Commission, 2016. *A European agenda for the collaborative economy*, COM(2016) 356, p. 13.

tion in the collaborative economy.<sup>28</sup> Among possible tools to achieve this, the Commission suggests raising awareness of tax obligations, making tax administrators aware of collaborative business models, issuing guidance and increasing transparency through online information. In addition, it notes the opportunities of increased traceability enabled by the intermediation of online platforms. In this regard, it draws attention to ongoing practices in some member states, which have agreements with platforms for the collection of taxes, e.g. collaboration for the purposes of facilitating the payment of Tourist Taxes on behalf of service providers in the accommodation sector. Thus, the Commission concludes that collaborative platforms should proactively cooperate with national tax authorities to establish the parameters for an exchange of information about tax obligations; while member states are invited to assess their tax rules to assess a level playing field for businesses providing the same services. Member states should also continue their simplification efforts, increase transparency and issue online guidelines for the application of tax rules to collaborative economy models.<sup>29</sup>

While the European Commission's *European Agenda for Collaborative Economy* provides comprehensive guidance on the application of existing (i.e. *de lege lata*) EU law in the five above-mentioned areas to innovative collaborative business models, it has overlooked the opportunity also to provide guidance on the application of EU Competition Law (which, as current developments show, raises issues for the parties involved<sup>30</sup>).

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<sup>28</sup> Ibid.

<sup>29</sup> On the application of EU VAT legislation to collaborative economy business models, see European Commission, *VAT Treatment of Sharing Economy*, <https://circabc.europa.eu/sd/a/878e0591-80c9-4c58-baf3-b9fda1094338/878%20-%20VAT%20treatment%20of%20sharing%20economy.pdf> (19.04.2016).

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<sup>30</sup> In April 2017, the Italian court banned Uber due to unfair competition for taxis. See The Guardian, *Italy court bans Uber over unfair competition for taxis*, <https://www.theguardian.com/technology/2017/apr/07/uber-app-ban-italy-taxi-unions> (19.04.2017).

## 2. Country Reports

### 2.1 SLOVENIA

While some in Slovenia oppose the collaborative economy, asserting it will lead to “precarisation” and “uberisation” of the labour market with the abolition of the minimum wage, sick leave and other workers’ rights<sup>31</sup>, others (such as highly qualified specialists, e.g. programmers) fully utilise the emerging collaborative labour platforms, such as freelancer.com, ethlance.com and twitch.tv.

The government of Slovenia took note of the Commission’s guidelines on 15.09.2016, calling upon ministries and government agencies to apply the guidelines, as well as to actively participate in identifying ways and necessary legislative changes in order to envisage the application of the collaborative economy.<sup>32</sup> An inter-governmental working group was formed in early 2016 to prepare a legislative proposal, only to be dissolved several months later with no progress having been made. In April 2017, a new inter-governmental working group was set up to address the legislative vacuum.

In the meantime, however, the few collaborative platforms that do operate in Slovenia (Airbnb is present, while Uber is not), struggle with problems of the unclear regulatory and legal framework. As an example, it is not clear which rules and to what extent they may apply to new collaborative business models. The government is imposing almost impossible regulatory demands on those renting out

apartments via platforms such as Airbnb.<sup>33</sup> For this reason, simplification and clarification of the application of existing rules or, preferably, the introduction of new rules to create a simple, transparent regulatory and legal framework are much needed. Rules should be balanced, while simultaneously not stifling opportunities within the collaborative economy.

#### 2.1.1 Market Access Requirements

In Slovenia, an individual providing collaborative services for profit, no matter how small in scope, is subject to more or less the same market access requirements as providers of traditional services. Consequently, all persons utilising collaborative platforms are required to meet numerous regulatory requirements, making *peer-to-peer* transactions less attractive.

Airbnb is the biggest collaborative economy player in Slovenia. The use of Airbnb legally to provide short-term rentals – e.g. in the summer – is practically impossible in Slovenia, due to the numerous regulatory requirements.<sup>34</sup> To name a few:

- An individual wishing to rent out his/her apartment needs to register with the Slovenian Business Register (Hospitality Industry Act, Article 14<sup>35</sup>);
- If an apartment is in a residential building with multiple units, the consent of 75% of the owners is required (Housing Act, Article 14<sup>36</sup>);

<sup>31</sup> Inštitut za delavske študije. *Uberizacija dela: delitvena ekonomija in izzivi delavskega boja*, <http://www.delavske-studije.si/uberizacija-dela> (28.04.2017); Klemen Košak, 2017. *Uberizacija je že tu*, <http://www.mladina.si/178398/uberizacija-je-ze-tu> (28.04.2017) and Luka Lukič, 2016. *Unions and NGOs continue to oppose Uber*, <http://www.rtvlo.si/news-in-english/unions-and-ngos-continue-to-oppose-uber/407031> (29.04.2017).

<sup>32</sup> Government of Slovenia, 2016. *101. redna seja Vlade RS: Vlada o vsebini dokumenta Evropska agenda za sodelovalno gospodarstvo*, 15.9.2016, [http://www.vlada.si/fileadmin/dokumenti/si/Sporocila\\_za\\_javnost/2016/sevl101.pdf](http://www.vlada.si/fileadmin/dokumenti/si/Sporocila_za_javnost/2016/sevl101.pdf) (30.04.2017).

<sup>33</sup> Rok Kužel, 2017. *Zakonito oddajanje sob prek Airbnb-ja tako rekoč nemogoče*, <http://www.rtvlo.si/gospodarstvo/zakonito-oddajanje-sob-prek-airbnb-ja-tako-rekoc-nemogoce/420079> (27.04.2017).

<sup>34</sup> Rok Kužel, 2017. *Legalno oddajanje sob prek Airbnb praktično nemogoče*, <http://www.rtvlo.si/posebnaponudba/legalno-oddajanje-sob-prek-airbnb-prakticno-nemogoce/420075> (29.04.2017). At present, inspectors are mostly issuing warnings (and not monetary penalties) for non-compliance with regulatory requirements.

<sup>35</sup> Uradni list Republike Slovenije (Official Gazette of the Republic of Slovenia) No. 1/95 with amendments.

<sup>36</sup> Uradni list Republike Slovenije (Official Gazette of the

- If it is a one-dwelling building, an Operating Permit is required (Hospitality Industry Act, Article 8);
- The apartment needs to meet several technical requirements (Hospitality Industry Act, Article 9);
- The apartment needs to be categorised (1 to 4 stars) and adequately marked (Hospitality Industry Act, Article 9);
- The host needs to register for Value Added Tax purposes (Value Added Tax Act<sup>37</sup>); and
- The host needs to provide guests with invoices (Value Added Tax Act).

In practice, it is especially difficult to reach the 75% threshold of consent from co-owners in multi-residential buildings. Some simplifications are being discussed for cases when an individual rents out an apartment for a maximum of one or two months per year, but no bill has yet been introduced in Parliament.<sup>38</sup> On the other hand, the last amendment to the Hospitality Industry Act introduced the Accommodation Facilities Register (*Register nastanitvenih obratov*). To be launched on 01.12.2017, the Registry will allow hosts to send relevant information to only one agency, the Agency of the Republic of Slovenia for Public Legal Records and Related Services (AJPES), rather than to multiple authorities individually.

Among other examples of the collaborative economy in Slovenia is *prevoz.org* – a car-pooling online platform. Initially designed as a platform for students travelling from university cities to their hometowns, it later became widely used as an alternative to public transport for Slovenians. In time, the platform moved from travel within Slovenia to travel across Europe. The online platform is based on a cost-sharing principle, therefore falls outside the scope of taxi transport regulations.<sup>39</sup> In addition,



## ALMOST IMPOSSIBLE REGULATORY DEMANDS ON THOSE RENTING OUT APARTMENTS VIA PLATFORMS SUCH AS AIRBNB

tion, *hopintaxi.com* – a Slovak passenger transport online platform – entered the Slovenian market in 2016. Lastly, *CONDA*, a crowdfund investing platform, entered the Slovenian market after overcoming several regulatory obstacles.<sup>40</sup>

When it comes to the collaborative economy in transport, Uber is not yet operating in Slovenia. However, a letter of intent has been signed by Uber and the Slovenian Ministry of Public Administration<sup>41</sup>, establishing a dialogue with the intent to explore the social, environmental and economic potential of the growing collaborative and digital economy. Such efforts are tied to the vision of Slovenia as being a Green reference state in digital Europe. Despite the letter, Uber has not yet decided to

Republic of Slovenia) No. 69/03 with amendments.

<sup>37</sup> Uradni list Republike Slovenije (Official Gazette of the Republic of Slovenia) No. 117/06 with amendments.

<sup>38</sup> Tanja Smrekar, 2017. *Airbnb: Prihajajo poenostavitve, a le, če stanovanje oddajate en mesec v letu*, <https://www.finance.si/8855599> (30.04.2017); *Do poletja prva poenostavitev pri oddajanju prek Airbnbja!*, <https://pro.finance.si/MF/8857532/Do-poletja-prva-poenostavitev-pri-oddajanju-prek-Airbnbja>.

<sup>39</sup> However, if the car-pooling platform is used for business purposes, such profit-oriented activities would

be regulated under the Road Transport Act (*Zakon o prevozu v cestnem prometu*).

<sup>40</sup> MMC - RTV Slovenija, 2016. *Successful start of first crowdfund investing company in Slovenia*, <http://www.rtvlo.si/news-in-english/successful-start-of-first-crowdfund-investing-company-in-slovenia/408444>

<sup>41</sup> Government of Slovenia, 2016. *Press Release: Slovenia and Uber signed a letter of intent to promote cooperation*, 23.09.2016, [http://www.vlada.si/en/media-room/government\\_press\\_releases/press\\_release\\_article/slovenia\\_and\\_uber\\_signed\\_a\\_letter\\_of\\_intent\\_to\\_promote\\_cooperation\\_58676/](http://www.vlada.si/en/media-room/government_press_releases/press_release_article/slovenia_and_uber_signed_a_letter_of_intent_to_promote_cooperation_58676/) (29.04.2017).

start operating in Slovenia, primarily due to the regulatory requirements which would have to be met by Uber drivers pursuant to the Road Transport Act (*Zakon o prevozih v cestnem prometu*)<sup>42</sup>. All drivers would need to obtain taxi licences by fulfilling the following conditions:

- have a good reputation;
- have professional competence, proved by successfully passing an exam;
- have adequate financial standing;
- own at least one vehicle registered in Slovenia, or have the legal right to use such vehicle;
- have no outstanding tax obligations; and
- meet the establishment criteria in line with Regulation (EC) No 1071/2009<sup>43</sup>.

In Slovenia, taxi drivers are required to use taximeters, with the price of the ride being calculated based on the distance and duration of the journey. In addition, taxi drivers in Ljubljana, Slovenia's capital, need to pass an exam on the knowledge of the Municipality of Ljubljana and must pay a special City Fee of EUR 200.<sup>44</sup>

To sum up, the regulatory framework in Slovenia is not yet compatible with the Commission's guidelines on the market access requirements, especially when it comes to short-term accommodation and passenger transport services. However, considering that the Slovenian government has taken note of the Commission's guidelines, it may be expected that future regulatory and legislative changes will guarantee decreased market access requirements for collaborative economy participants and will allow the collaborative economy to operate efficiently.

### 2.1.2 Consumer Protection

While collaborative economy platforms provide a greater choice for consumers and improve the quality of services as a result of increased competition, the regulatory requirements for service providers aim to protect consumers.

One of the problems with the regulatory requirements in Slovenia is that different service providers are classified in the same group, even though consumers of services provided by the collaborative platforms have different expectations. This renders some regulatory requirements redundant, as they were adopted for traditional service providers. For example, the Rules on Categorisation of Accommodation Facilities (*Pravilnik o kategorizaciji nastanitvenih obratov*)<sup>45</sup> mandate the categorisation of a room or an apartment using the relevant number of stars (two, three or four stars). This categorisation provides little added value to consumers of the Airbnb platform, since the platform itself is based on the reputation system, whereby potential consumers can check user reviews, photos and other relevant information prior to booking accommodation. The asymmetry of information – often a reason for regulatory consumer protection – is therefore diminished, or even eliminated.<sup>46</sup>

In addition, in some cases, regulation in Slovenia imposes disproportionate obligations (information obligations, technical requirements, etc.) and other administrative burdens on individuals who are not traders, despite providing services on an occasional basis. The fact is that consumers of such services are aware that the services they receive are provided by private entities. Therefore, an introduction of thresholds (annual income or number of services) is needed, to separate *peer-to-peer* transactions from *business-to-consumer* transactions.

<sup>42</sup> Uradni list Republike Slovenije (Official Gazette of the Republic of Slovenia) No. 131/06 with amendments.

<sup>43</sup> Regulation (EC) No 1071/2009 of the European Parliament and of the Council of 21 October 2009 establishing common rules concerning the conditions to be complied with to pursue the occupation of road transport operator and repealing Council Directive 96/26/EC.

<sup>44</sup> Ordinance on taxi transportation (*Odlok o avtotaksi prevozih*), issued by Municipality of Ljubljana (Official Gazette of Republic of Slovenia no. 33/2008 with amendments).

<sup>45</sup> Uradni list Republike Slovenije (Official Gazette of the Republic of Slovenia) No. 62/08 with amendments.

<sup>46</sup> Robert Chovanculiak et al., 2016. *Less regulation, more reputation!, Case study: The sharing economy in transportation and accommodation*, pp. 12-13.

### 2.1.3 Employment

The Slovenian Employment Relationship Act<sup>47</sup> defines the employment relationship as a “relationship between the worker and the employer in which a worker voluntarily engages in an organised work process of an employer, in which a worker for payment, personally and continuously carries out the work under the direction and supervision of the employer.”<sup>48</sup> The Act defines an “economically dependent person” as “a self-employed person who, on the basis of a Civil Law contract, personally, for payment, independently and for a longer period performs work in circumstances of economic dependence and itself does not employ any workers”. The Act further clarifies “economic dependence” as a situation whereby a person receives at least 80 % of annual income from the same client.<sup>49</sup>

Generally, people offering services on collaborative platforms are contractors and/or registered as sole entrepreneurs (*samostojni podjetnik*)<sup>50</sup>, instead of being employed. Nevertheless, based on the above-mentioned definition of a worker in the Slovenian legal system, it is likely that such a relationship qualifies as an employment relationship. This applies in particular when elements of an employment relationship, such as a subordination link between an individual and the platform, can clearly be established. Furthermore, such a relationship may also qualify as a relationship of economic dependence (the condition is that 80 % or more of the individual’s income derives from the same platform). In such a case, the platform may be required to grant the individual limited Labour Law protection (Article 214, Employment Relationship Act).

**Table 1: Tax Burden of an Employee, Slovenia**

Annual Gross Income	70 000.00 €
General Tax Relief	3 302.70 €
Worker’s Social Contributions (22.1%)	15 470.00 €
Taxable Base	51 227.30 €
Income Tax	15 262.68 €
<b>Net Annual Income</b>	<b>39 267.32 €</b>
Employer’s Social Contributions (16.1%)	11 270.00 €
Employer’s Gross Expenses	81 270.00 €

Source: Authors’ Calculations.

**Table 2: Tax Burden of a Sole Entrepreneur, Slovenia**

Annual taxable revenue	70 000.00 €
Costs (Lump Sum = 80%)	56 000.00 €
Taxable Base	14 000.00 €
Tax Rate (20%)	2 800.00 €
Social Contributions (Minimal Lump Sum = EUR* 355.36)	4 264.32 €
<b>Net Annual Income</b>	<b>62 935.68 €</b>

\*As of April 2017.

Source: Authors’ Calculations.

<sup>47</sup> Article 4, Employment Relationship Act (*Zakon o delovnih razmerjih*; ZDR-1; Official Gazette of Republic of Slovenia, No. 21/13 with subsequent changes).

<sup>48</sup> The Supreme Court of Slovenia has followed this definition in several cases, e.g. VIII Ips 129/2006 and VIII Ips 337/2006.

<sup>49</sup> See Paragraph 2, Article 213, Employment Relationship Act.

<sup>50</sup> A collaborative platform beeping.si, which provides cleaning services in Slovenia, tends to cooperate with individual providers who are registered as sole entrepreneurs.

More specifically, should the conditions of economic dependence be met, the platform would be required to comply with the provisions of the Labour Law in relation to:

prohibition of discrimination; providing minimum notice; prohibition of termination of the contract for unjustified reasons; ensuring the payment of contractually agreed work (as compared to the nature, extent and quality of the work undertaken, considering relevant collective agreements and general acts which bind the employer); complying with the obligation to pay taxes and social contributions; and liability for damages.

However, enforcing these rights may prove to be difficult in practice, as the Employment Relationship Act lists an additional condition. This is namely to be able to invoke the rights in relation to economic dependence, the individual is required to notify his contractor about the circumstances of economic dependence at the end of each (calendar or business) year. In practice, affected individuals do not tend to comply with this obligation, as they are often not aware of this requirement. In addition, for as long as the individual is satisfied with the working conditions, there is often no reasons for formally notifying the employer about economic dependence. Lastly, notification of economic dependence might have negative consequences for the individual, as the company could perceive such notification as a warning sign or a precursor to future legal claims from that individual, which may lead to the preventative termination of the working relationship.

#### 2.1.4 Taxation

To date, the Slovenian Parliament has not passed any collaborative economy related tax legislation. Also, the Slovenian Tax Administration (*Finančna uprava Republike Slovenije – FURS*) has not published any comprehensive guidelines for the application of the existing tax legislation to collaborative economy business models. However, FURS has provided partial explanations for the application of existing tax legislation. Unfortunately, no clear quantitative guidelines have been provided as to when an individual is deemed to perform an “economic activity” (and is consequently deemed a taxable person for the purposes of Value Added Tax (VAT) and as such is obliged to comply with VAT legislation, i.e. to charge VAT on services offered through online platforms registered in foreign countries, such as book-

ing.com or Airbnb). The threshold for when a person is generally liable to register for VAT (in the case of a person who is deemed to perform an economic activity, which is however not clear under the current guidelines) is an income of EUR 50 000 within the previous 12 months. The standard VAT rate is set at 22%, while the reduced rate is 9.5%. Lastly, no income threshold exists to exempt private individuals (*peers*) from paying taxes on earned income. At the same time, a sole entrepreneur status may provide substantial tax benefits. Choosing a lump-sum accounting scheme (*normiranec*), the entrepreneur is effectively taxed at a flat rate of 20% on 20% of the income (calculated as the business income minus lump-sum costs in the amount of 80% of that income).<sup>51</sup> Moreover, sole entrepreneurs may choose to pay only a minimum of EUR 355.36 in social contributions.

In addition, there are indications that FURS is missing out on the opportunity to effectively tax income from work performed through global online labour platforms (while it is unclear which rules would apply to tax on such an income) by programmers and other (in most cases, highly qualified) individual service providers, who – according to discussions on various Internet forums – remain largely non-compliant. The same applies to individuals renting out their apartments through platforms such as Airbnb.com, who also in many cases neither register their renting activities nor declare the income derived therefrom.<sup>52</sup>

## 2.2 CROATIA

In Croatia, the collaborative economy business model has seen important developments in the last few years. With a large and vibrant tourism sector, Croatia is an attractive country for various collaborative platforms. In 2017, Uber launched a brand new service, UberBoat, on the Croatian coast.<sup>53</sup> In

<sup>51</sup> Provided that his taxable income does not exceed EUR 50 000. See Articles 48, 59 and 135.a of Personal Income Tax Act (Zakon o dohodnini, ZDoh-2), Uradni list Republike Slovenije (Official Gazette of Republic of Slovenia) No. 13/11 with subsequent changes.

<sup>52</sup> Slotech, <https://slo-tech.com/forum/t641489> (27.04.2017).

<sup>53</sup> Lonely Planet, 2017. *You'll soon be able to channel your inner James Bond by travelling around Croatia*

addition to Airbnb, an “Airbnb for boats” platform, Click & Boat, is available, providing a new type of family holiday.<sup>54</sup>

As in other European countries, there is concern in Croatia, primarily raised by traditional business model entities, about the unfair competition from collaborative platforms. In addition, the Croatian Chamber of Trades and Crafts (HOK) has filed a lawsuit against Uber for alleged unlawful business practices.<sup>55</sup>

Opposition to Uber has taken various paths. While some taxi drivers in Zagreb protested against Uber by offering free rides for an entire day<sup>56</sup>, some people used physical violence against drivers who work with Uber.<sup>57</sup>

On the legislative level, a working group<sup>58</sup> at the Ministry of Transport is preparing a proposal for amendments to the Taxi Services regulations. However, Uber is relying on the existing legislation defining car rental together with a driver.

### 2.2.1 Market Access Requirements

No specific laws governing the collaborative economy are in place in Croatia. Therefore, the same regulations apply to the collaborative economy as to traditional business models.

In Croatia, Uber partners only with the drivers em-

ployed by other companies or with self-employed drivers. Hence, Uber's position is that their business partners in Croatia offer the services as defined in Article 60 of the Road Transportation Act<sup>59</sup> as renting out a car together with a driver, which renders Taxi Services regulations not applicable to them. Consequently, Uber merely serves as a platform to connect drivers and consumers. The Croatian Chamber of Trades and Crafts (HOK) has filed a lawsuit against Uber, alleging that Uber provides taxi services without adequate licences or other regulatory requirements. The Croatian government shares the opinion of the Chamber.<sup>60</sup>

Under Croatian Law, taxi drivers may provide transport services after obtaining a permit from the local authority, which is to be issued provided that the following requirements are met:

- The driver has obtained a licence for providing a taxi service under the Road Transportation Act (Road Transportation Act, Article 56). To obtain the licence, the driver must have a good reputation, pass the exam attesting professional qualification and own one vehicle or have the right to use one vehicle (Road Transportation Act, Article 15); and
- The driver has passed the knowledge examination on cultural, economic, tourist, traffic and other significant facilities and sights in the area in which the transport service will be provided (Road Transportation Act, Article 59).

Moreover, the usage of a taximeter is mandatory for taxi transport and the applicable tariffs are set by the local authority. The latter may also determine the criteria for deciding on the number of carriers or vehicles operating in their constituency.<sup>61</sup>

It remains to be seen how the Croatian courts rule in the case against Uber.<sup>62</sup> The company emphasises-

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by speedboat taxi, <http://www.lonelyplanet.com/news/2017/03/16/croatia-speedboat-taxi-uberboat/>.

<sup>54</sup> See <https://www.clickandboat.com/en>.

<sup>55</sup> EBL News. 2017. *Uber Croatia has no comment on lawsuit for illegal business practices*, <https://eblnews.com/news/croatia/uber-croatia-has-no-comment-lawsuit-illegal-business-practices-54481>.

<sup>56</sup> V. B. 2017. *Dio taksista u Zagrebu danas vozi besplatno*, 10.03.2017, <https://www.tportal.hr/vijesti/clanak/dio-taksista-u-zagrebu-danas-vozi-besplatno-20170310>.

<sup>57</sup> G. V. 2017. *Sve više napada na Uberove vozače! Tuku ih palicama, gadaju kamenjem*, 15.02.2017, <https://www.tportal.hr/tehnolo/sve-vise-napada-na-uberove-vozace-tuku-ih-palicama-gadaju-kamenjem-20170215>.

<sup>58</sup> Lucija Vranković, 2017. *Dok radna grupa ministra Butkovića smišlja model po kojem bi ubuduće trebao posloovati i Uber*, Hrvatska obrtnička komora tužila Uber Croatia sudu, 01.02.2017, <http://www.jutarnji.hr/biznis/tvrtke/dok-radna-grupa-ministra-butkovica-smislja-model-po-kojem-bi-ubuduce-trebao-poslovati-i-uber-hrvatska-obrtnicka-komora-tuzila-uber-croatia-sudu/5-578271/>.

<sup>59</sup> *Zakon o prijevozu u cestovnom prometu*, NN 82/13.

<sup>60</sup> Damjan Raknić, 2017. *Vlada RH odgovorila na pitanje u Uberu, Ministarstvo mora, prometa i infrastrukture utvrdilo je da Uber prijevoz putnika obavlja na nezakonit način*, <http://www.jutarnji.hr/vijesti/hrvatska/vlada-rh-odgovorila-na-pitanje-u-uberu-ministarstvo-mora-prometa-i-infrastrukture-utvrdilo-je-da-uber-prijevoz-putnika-obavlja-na-nezakonit-nacin/5742471/>.

<sup>61</sup> Road Transportation Act, Article 56.

<sup>62</sup> The court decision could to a large extent depend on the

es that renting out a car together with a driver is a practice widely used by rent-a-car providers and by hotels; Uber business partners also may not use taxi stations and the public transport road lanes and have no access to certain city zones. Should the court classify Uber as a taxi service, Uber and its drivers will be subject to the above regulatory requirements and potential monetary fines for non-compliance.

In the short-term accommodation sector, the Croatian Hospitality Activities Act refers to a specific service called Private Accommodation Service (*Ugostiteljske usluge u domaćinstvu*), which can be provided by private individuals.<sup>63</sup> With a large portion of the Croatian tourist accommodation provided in this manner, especially those on the Croatian coast, an individual offering private accommodation is obliged to fulfil several regulatory requirements, inter alia:<sup>64</sup>

- obtain official permission to provide private accommodation (*Rješenje o odobrenju za pružanje ugostiteljskih usluga u domaćinstvu*);
- the accommodation must meet technical requirements; and
- the accommodation must be categorised.

Compared to the regulatory requirements for standard accommodation services, the above listed private accommodation regulations are a simplified version. As such, for most of the hosts who qualify as private accommodation providers and offer these services permanently, the above-mentioned requirements are proportionate. However, this does not apply to all hosts. Such regulations are still unsuited to those individuals who, for example, would like to offer their accommodation only once a year via a collaborative platform, such as Airbnb, since they would still need to obtain official permission, categorisation of the accommodation and meet technical requirements.

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decision of the Court of Justice of the European Union in a pending case C-434/15 (*Asociacion Profesional Elite Taxi v Uber Systems Spain SL*, Request for a preliminary ruling from the Juzgado de lo Mercantil No 3 de Barcelona).

<sup>63</sup> See Article 30 of the Croatian Hospitality Activities Act (*Zakon o ugostiteljskoj djelatnosti*), NN 85/15, 121/16.

<sup>64</sup> Ibid.



## INADEQUATE ONE-FITS-ALL APPROACH BY THE TAX AUTHORITIES REGARDING VAT...

No specific law simplifying market access for collaborative platform users has been adopted in Croatia. Nevertheless, certain legislation, which was primarily not intended to cover the collaborative economy (e.g. renting out a car together with a driver), could prove to serve as such, if the courts decide to interpret it in this way.

### 2.2.2 Consumer Protection

Many of the above-mentioned regulatory requirements were adopted with the intention of protecting consumers. However, since these requirements were adopted before the increase in digitalisation, some of them are outdated and not adapted to the self-regulating features of collaborative economy platforms. In spite of this, the Croatian government has not yet made any legislative adjustments.

### 2.2.3 Employment

Pursuant to the Croatian Labour Act<sup>65</sup>, a worker is defined as an individual (natural person) performing certain tasks for the employer while in the employment relationship. Article 10, Paragraph 2 of the Law further specifies that if the employer, for the

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<sup>65</sup> *Zakon o radu*, NN 93/14, <https://zakon.hr/z/307/Zakon-o-radu> (30.04.2017).

purpose of performing work, concludes a contract that, having regard to the nature and type of work and the employer's authority, contains elements of the employment relationship, it shall be deemed that the employment contract has been concluded, unless the employer is able to prove otherwise. Therefore, in such cases the legal presumption exists that the worker and the employer have entered into an Employment Contract and not a Civil Law Work Contract.

To date, Croatian courts have not recognised the services facilitated by online collaborative platforms as an employment relationship. However, online collaborative platforms appear to be cautious in this regard. For example, Uber – which insists that its drivers are partners and not employees – only contracts with individual service providers who are registered as self-employed, or alternatively, concludes service agreements with intermediary legal entities (such as limited liability companies) which, in turn, employ individuals (actual drivers) as their employees.<sup>66</sup> Whether contracting with sole entrepreneurs, who only derive income from a single source, or using intermediary companies, such a scheme may be an abuse of the Croatian Labour Law (in particular, the above-mentioned Labour Act).

Lastly, governmental bodies in Croatia sometimes pursue contradictory ends when it comes to the collaborative economy. Namely, throughout the year of 2016, the Croatian Employment Agency provided public grants to self-employed persons who stated that their sole business was to drive for Uber. However, since December 2016, these same drivers have been issued administrative penalties in line with the provisions of the Road Transportation Act<sup>67</sup> for providing illegal passenger transport services.<sup>68</sup>

<sup>66</sup> Uber Zagreb. *Potrebni dokumenti*, <http://uberhrvatska.com/potrebni-dokumenti/> (30.04.2017).

<sup>67</sup> *Zakon o prijevozu u cestovnom prometu*, NN 82/13, <https://zakon.hr/z/245/Zakon-o-prijevozu-u-cestovnom-prometu> (30.04.2017).

<sup>68</sup> Tomislav Novak, 2016. Rat oko Ubera. Ministar Butković: Njihov rad nije legalan!; Zavod za zapošljavanje: Želite voziti za njih? Dat ćemo vam 25 tisuća kuna!, <http://www.jutarnji.hr/vijesti/hrvatska/rat-oko-ubera-ministar-butkovic-njihov-rad-nije-legalan-zavod-za-zaposljavanje-zelite-voziti-za-njih-dat-cemo-vam-25-tisuca-kuna/5393087/> (30.04.2017).

#### 2.2.4 Taxation

In Croatia, no special tax rules have yet been adopted for the purposes of the separate taxation treatment of collaborative business models. On the other hand, several guidelines on the treatment of the latter have already been published by the tax authorities.<sup>69</sup>

In practice, the most questions are raised in regard to the VAT compliance of individuals renting out their apartments with the aid of online collaborative platforms (such as Airbnb or booking.com). In a country in which tourism accounts for as much as 20% of national GDP<sup>70</sup>, it is not surprising that, among collaborative services, accommodation sharing receives by far the greatest attention from tax authorities, as well as from taxpayers.<sup>71</sup> What causes concern, however, is the fact that the application of VAT rules by the tax authorities seems to be rather arbitrary. This namely stems from the issued guidelines that any person renting out accommodation through online collaborative platforms is considered by the tax authorities to be acting as a taxable person for the purposes of VAT and is consequently required to account for VAT on services received from the online platforms registered in other EU member states. In other words, such a one-fits-all approach by the tax authorities does not recognise that, in some instances, an individual renting out accommodation on an occasional basis may not be regarded as a person subject to taxation, thus is also not liable for corresponding VAT obligations.

Nevertheless, in practice many accommodation renters seem to be non-compliant with the above-mentioned VAT requirements imposed on them.

<sup>69</sup> See, for example, documents 513-07-21-01/14-1 dated 01.04.2014 and 513.07-21-01/14-2 dated 09.06.2014.

<sup>70</sup> Vedran Pavlic, 2016. *Croatia Among Top Countries by Share of Tourism in GDP*, <http://www.total-croatia-news.com/item/14122-croatia-among-top-counties-by-share-of-tourism-in-gdp> (29.04.2017).

<sup>71</sup> See, for example, Darko Kontin, 2015. *Obveza obračuna i plaćanja PDVa na posredničke provizije. Za koje agencije i stranice je morate plaćati?*, <http://www.iznajmljivaci20.com/2015/06/obveza-obracuna-i-placanja-pdva-na-posrednicke-provizije-za-koga-je-morate-placati/>, or Antonia Dobrota, 2017. *PDV na proviziju stranih agencija za iznajmljivače*, <http://www.apartmanija.hr/zajednica/propisi-i-zakoni/pdv-na-proviziju-stranih-agencija> (29.04.2017).

However, on the positive side, FINA – the Public Financial Agency – offers individuals a wide range of support in regard to tax reporting and compliance.

The general registration threshold (above which small businesses are required to account for VAT, also on their renting services and not only on services received from the platforms registered in other member states) is set at HRK 230 000 (approx. EUR 30 600). The standard VAT rate is set at 25 %, while the reduced rates amount to 13 % and 5%.<sup>72</sup>

Besides VAT, individuals providing services through online collaborative platforms may also be liable to personal Income Tax (*porez na dohodak*), Surtaxes on Income Tax (*prirezi porezu na dohodak*; for renting a property) or Corporate Income Tax (*porez na dobit*; for performing services through a company and as an individual, whereby the Corporate Income Tax rate is 20 %). Depending on the status of the individual, Income Tax may be calculated as income from a dependent activity (e.g. when a person providing services for an online platform is employed by the platform or by an intermediate company), or as income from an independent activity (e.g. sole entrepreneurs).

In the sector of short-term accommodation renting, an important simplification is in place for small renters providing housing and catering services (*ugostiteljske usluge u domaćinstvu*), as defined by Article 30 of the Law on Catering (*Zakon o ugostiteljskoj djelatnosti*)<sup>73</sup>; under the condition that these renters do not provide more than 20 beds in a room, apartment or holiday house or, alternatively, more than 10 accommodation units in a campsite. Such small renter may, with the additional condition that he is under the general rules not obliged to register for VAT,<sup>74</sup> account for lump sum tax in an amount of HRK 300 per bed

or HRK 350 per accommodation unit in a campsite, respectively.

## 2.3 THE CZECH REPUBLIC

The current state of the collaborative economy in the Czech Republic is quite stormy. There have been several protests in opposition to collaborative platforms and the collaborative economy in general. Taxi drivers have protested the loudest, as they feel Uber and other collaborative platforms providing car-sharing services are not playing by the established rules. At one of those protests, the taxi drivers protesting against Uber, among other things, blocked two out of three lanes in one of the busiest Prague streets for eight hours.<sup>75</sup> Another contentious issue is an investigation by the Municipality of Prague into whether the providers of short-term accommodation through collaborative platforms, such as Airbnb, are paying the required fees to the Municipality.<sup>76</sup> Moreover, in April 2017, the County Courthouse in Brno City decided to ban the Uber platform in Brno as a tentative measure reflecting a complaint submitted by a taxi company and the Brno City Council. The pressure on collaborative platforms is increasing, although it is a relatively non-essential branch of the economy.

It is estimated that the collaborative economy in the Czech Republic represents 0.1 % of the gross domestic product (GDP) and is expected to increase to 0.5 % of GDP in 2020.<sup>77</sup> Because there is no widely accepted definition of the collaborative economy, there are several estimates which vary widely.

The most popular platforms of collaborative economy in the Czech Republic are Uber, that has been present on the market since 2014, and Airbnb, that has been present on the market in the Czech language since 2012, while the first offer of accommodation was already in September 2008 (a month after the

<sup>72</sup> European Commission, 2017. *VAT rates applied in the Member States of the European Union*, [http://ec.europa.eu/taxation\\_customs/sites/taxation/files/resources/documents/taxation/vat/how\\_vat\\_works/rates/vat\\_rates\\_en.pdf](http://ec.europa.eu/taxation_customs/sites/taxation/files/resources/documents/taxation/vat/how_vat_works/rates/vat_rates_en.pdf) (03.06.2017).

<sup>73</sup> *Zakon o ugostiteljskoj djelatnosti*, NN 85/15, 121/16, <https://zakon.hr/z/151/Zakon-o-ugostiteljskoj-djelatnosti> (29.04.2017).

<sup>74</sup> Article 82, Personal Income Tax Act («*Zakon o porezu na dohodak*»; NN 115/16), <https://zakon.hr/z/85/Zakon-o-porezu-na-dohodak> (02.05.2017).

<sup>75</sup> Michaela Bůnová and Eva Brendlová, 2016. *Taxikáři zablokovali pražskou magistrálu, Krnáčovou nepřilákali*. Prague, Czech Republic.

<sup>76</sup> Aleš Černý, 2017. *Praze přes Airbnb utíkají desítky milionů ročně. Jinde už poplatky vymohli*. Prague, Czech Republic.

<sup>77</sup> František Bostl, 2016. *Sdílím, šetřím, vydělávám*. Prague, Czech Republic.

official launch in San Francisco, USA.) through the English language site. Among other collaborative platforms operating in the Czech Republic are Bla Bla Car<sup>78</sup> and Liftago<sup>79</sup> in the passenger transport sector, and Startovač<sup>80</sup>, Fundlift<sup>81</sup> and Zonky<sup>82</sup> in the financial sector.

The Czech Republic has a vague legal framework for the collaborative economy. Furthermore, there are no specific regulations for the collaborative economy. Only general rules, laws and regulations such as the Trade Act, Income Tax Act, and Road Transport Act, are applied, leaving many sectors in the system uncovered. Changes are not expected in the near future, as elections are approaching in 2017 (parliamentary) and 2018 (presidential). The only exception could be the Road Transport Act, an amendment to which is right now in the Lower Chamber of Parliament. Simply put, there are two proposals – special conditions for online transport platforms (e.g. Uber), to allow these business models to operate without taximeter, paper-form contracts between customer and provider, etc. on the one hand, and, on the other hand, a tough ruling putting Uber on the level of taxi regulations. It is difficult to estimate whether Parliament will manage to discuss this legal amendment before the elections and in what shape the legislation will be passed.

The legal system in the Czech Republic does not comply with all the recommendations by the *European Agenda for the Collaborative Economy*. While the system complies when it comes to low barriers to market entry, it complies only partly when it comes to providing occasional services without being considered as being professional, and when applying consumer protection in peer-to-peer relations. The rating system based on the quality of experience, whereby it is possible to rate on a scale of 1-5 stars other users of the platform, can be used as such by everybody even though it is not prescribed by the legal framework. On the contrary, the system does not comply when it comes to providing a manual to participants in this new sector and to exchanging information online between the tax authorities and service providers.

<sup>78</sup> Blabla Car, <https://www.blablacar.cz>.

<sup>79</sup> Liftago, <https://www.liftago.com/cs>.

<sup>80</sup> Startovač, <https://www.startovac.cz>.

<sup>81</sup> Fundlift, <https://www.fundlift.cz>.

<sup>82</sup> Zonky, <https://zonky.cz>.



VAGUENESS  
OF THE LEGAL  
FRAMEWORK FOR  
THE COLLABORATIVE  
ECONOMY, WHICH  
CAUSES AN UNEVEN  
PLAYING FIELD FOR  
ACTORS OPERATING  
IN THE SAME MARKET.

### 2.3.1 Market Access Requirements

Collaborative platforms are not regulated, as they are only a connecting point for producers and customers. The only exception are the collaborative financial platforms, which are regulated and supervised (e.g. in the form of audits) by the Czech National Bank<sup>83</sup>. As such, they must acquire licences as traditional investment platforms and fulfil other requirements, such as regular reporting, regular training and compliance with several other regulations, e.g. the Anti-Money-laundering procedure, to which all existing and potential users are subject.<sup>84</sup>

Occasional income, which is rarely used by collaborative economy participants, is defined in the Income Tax Act<sup>85</sup> as an income from a one-time activity and is not tax liable if not exceeding the amount of EUR 1200 per year. In addition, occasional income can not be generated under a Trade Licence in the

<sup>83</sup> Lumír Schejbal, 2016. *Regulace crowdfundingu z pohledu zákona o platebním styku*, Prague, Czech Republic.

<sup>84</sup> Act Against Money Laundering (Zákon proti praní špinavých peněz, NN 253/2008), <https://www.mesec.cz/zakony/zakon-proti-prani-spinavych-penez/> (31.05.2017).

<sup>85</sup> Income Tax Act (Zákon o daních z příjmu, NN 586/1992), <http://www.pracepropravniky.cz/zakony/zakon-o-danich-z-prijmu-uplne-zneni> (31.05.2017).

same industry.<sup>86</sup> An example is the one-time sale of products from a garden. The reason for collaborative economy participants not to use the reporting of an income as occasional is that most of them provide the service repeatedly and have a Trade Licence (e.g. Uber drivers).

The biggest disputes in the Czech Republic are in the transportation sector, where taxi drivers provide services under the Road Transport Act (*Zákon o silniční dopravě*)<sup>87</sup> and with a concession (*Taxi Koncese*).<sup>88</sup> To become a taxi driver, a person is required to obtain a taxi driver's ID, pass a taxi driver's exam, register the car as a taxi and acquire a Trade Licence in the form of a taxi concession.<sup>89</sup> Taxis must be marked accordingly and equipped with a taximeter.<sup>90</sup> In addition, the Municipality of Prague also applies a maximum price cap of EUR 1 per km.<sup>91</sup>

Car-pooling is a contract between a buyer (e.g. customer) and a seller (e.g. Uber driver) and is regulated by the Civil Code.<sup>92</sup> In car-pooling, the driver satisfies his own needs to travel from one place to another (e.g. driving to work), while another individual joins the ride and shares the cost with the driver.<sup>93</sup> As such, car-pooling is a cost-sharing activity and not a profit-seeking one. UberPop defines itself as a car-pooling provider and, consequently, is not subject to the requirements that apply to taxi drivers (mentioned above).<sup>94</sup>

The Municipality of Prague fined a driver operating through UberPOP<sup>95</sup> EUR 600 for providing a transportation service, after which the court ruled that the driver operating through Uber had not violated any law, and cancelled the fine.<sup>96</sup> On the other hand, the Municipality of Brno, which is the second largest city in the Czech Republic, banned the UberPop service, unless the same regulations for taxi drivers are followed: obtaining a taxi driver's ID, passing a taxi driver's exam, registering the car as a taxi, acquiring a Trade Licence for a taxi concession, marking the car as a taxi, and installing a taximeter in the car.<sup>97</sup>

The Czech Republic faces the vagueness of the legal framework for the collaborative economy, which causes an uneven playing field for actors operating in the same market. The solution could be the reduction of entrance barriers to the market, e.g. for taxi drivers.

### 2.3.2 Consumer Protection

The legislation in the Czech Republic equates Consumer-to-Consumer (C2C)<sup>98</sup> interactions with Business-to-Consumer (B2C)<sup>99</sup> interactions, where the provider of a service is considered as a business (B), which lowers the risk of potential legal disputes.<sup>100</sup> Czech and EU regulations and laws on consumer protection are used to resolve aforementioned legal disputes. Details are often specified in contracts (e.g. Cancellation Policy).

A significant advantage of the collaborative economy are publicly available customer ratings, which tran-

<sup>86</sup> Article 10, Income Tax Act (*Zákon o daních z příjmu*, NN 586/1992), <http://www.pracepropravniky.cz/zakony/zakon-o-danich-z-prijmu-uplne-zneni> (31.05.2017).

<sup>87</sup> The Road Transport Act (*Zákon o silniční dopravě*, 111/1994), <https://www.zakonyprolidi.cz/cs/1994-111> (31.05.2017).

<sup>88</sup> Česká tisková kancelář - ČTK, 2016. *První spor s řidičem Uberu pražský magistrát prohrál. Pokutu pro řidiče soud zrušil*. Prague, Czech Republic.

<sup>89</sup> Article 21, The Road Transport Act (*Zákon o silniční dopravě*, 111/1994), <https://www.zakonyprolidi.cz/cs/1994-111> (31.05.2017).

<sup>90</sup> Private car repair firms mark the car and install taximeters.

<sup>91</sup> The Prague Transport Department, 2017, <http://www.praha.eu/jnp/cz/doprava/taxi/> (31.05.2017).

<sup>92</sup> Civil Code (Občanský zákoník, NN 89/2012), <http://www.cak.cz/assets/pro-advokaty/mezinarodni-vztahy/civil-code.pdf> (31.05.2017).

<sup>93</sup> Aleš Rod et al., 2016. *Less Regulation, More Reputation!*

<sup>94</sup> Dalibor Chvátal, 2017. *Uber a Taxify. Nehrají fér, ale lidé je přesto milují*. Prague, Czech Republic

<sup>95</sup> There are three types of UBER in the Czech Republic: UberPOP, UberSelect, and Uberblack. The main difference is in the quality of service and price. UberBLACK has the highest prices and the highest quality. UberBLACK drivers must possess a taxi driver's certificate, unlike UberPOP or UberSELECT drivers.

<sup>96</sup> Česká tisková kancelář - ČTK, 2016. *První spor s řidičem Uberu pražský magistrát prohrál. Pokutu pro řidiče soud zrušil*. Prague, Czech Republic.

<sup>97</sup> Česká tisková kancelář - ČTK, 2017. *Soud zakázal Uberu provozovat v Brně taxislužbu*. Prague, Czech Republic.

<sup>98</sup> Consumer-to-Consumer (C2C) is a business model that facilitates an environment, usually online, where customers can trade with each other.

<sup>99</sup> Business-to-Consumer (B2C) is business or transactions conducted directly between a company and consumers who are the end users of its products or services.

<sup>100</sup> Article 420, Civil Code (Občanský zákoník, NN 89/2012), <http://www.cak.cz/assets/pro-advokaty/mezinarodni-vztahy/civil-code.pdf> (31.05.2017).

scend into an online mechanism of trust. This mechanism has not yet been transferred to the legal system, as the European Commission has suggested in the *European Agenda for the Collaborative Economy*.<sup>101</sup>

### 2.3.3 Employment

The Czech labour market relies heavily on self-employed people who have Civil Law contracts. Most of the people providing collaborative services in the Czech Republic have Civil Law contracts. Interestingly, most of the taxi drivers in the Czech Republic also have Civil Law contracts. The difference between Civil Law contractors and employees is that contractors need a Trade Licence and operate within the Trade Act<sup>102</sup>. On the other hand, employees fall under the Labour Law.<sup>103</sup> The latter defines an employee as "an individual who is physically and mentally mature enough to be able to perform a dependent job, and so intellectually and freely as to be able to acquire rights and obligations arising from the employment relationship," with the employee/employer relationship being based on the employer superiority principle, as an employee performs the work in the name of and in accordance with the instructions of the employer.<sup>104</sup>

The Czech legal system is applicable to both employment and self-employment in the collaborative economy. However, fewer regulations apply to self-employed people than to the employee/employer relationship, resulting in most of the people in the collaborative economy working under Civil Law contracts.

No data are available on the impact of collaborative platforms on employment generation in the Czech Republic.

### 2.3.4 Taxation

The Income Tax Act requires service providers (e.g. an Uber driver) to pay Income Tax. The flat Income Tax rate of 15 % is not necessarily paid from the generated income, instead it can be paid from an amount with the generated income being reduced by the costs of doing business or by a standardised percentage.<sup>105</sup> Some service providers claim an occasional income, which is free of tax obligation if not exceeding EUR 1200.<sup>106</sup> An occasional income can be generated only from a one-time activity and can not be generated under a Trade Licence.

In addition to Income Tax, when performing services through platforms abroad (e.g. Uber – Netherlands), providers are obliged to pay Value Added Tax (VAT) for services rendered, similarly to people advertising through Google AdWords.<sup>107</sup> The standard VAT rate in the Czech Republic amounts to 21 %, while the reduced rates amount to 15 % and 10 % respectively. Paying VAT is mandatory in the Czech Republic if: a) an individual's income exceeds EUR 40 000 in 12 or fewer consecutive months; b) an individual is part of an association in which at least one member pays VAT; c) an individual acquires property, through privatisation or sale; or d) an individual continues the business of a deceased person who was subject to paying VAT.<sup>108</sup>

In the Czech Republic, there is no online system in place for exchanging information between the tax authorities and collaborative platforms/service providers. Such a system would decrease the costs of tax compliance, as well as more successfully combat tax evasion. If providers of a collaborative service engage in tax evasion, they create an unfair market advantage for themselves and, consequently, push

<sup>101</sup> European Commission, 2016. *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, European agenda for the collaborative economy*, COM(2016) 356 final, [http://ec.europa.eu/growth/single-market/services/collaborative-economy\\_cs](http://ec.europa.eu/growth/single-market/services/collaborative-economy_cs), (31.05.2017).

<sup>102</sup> Trade Act (Obchodní zákoník, NN 513/1991), <http://business.center.cz/business/pravo/zakony/obchzak> (31.05.2017).

<sup>103</sup> Labour Code (Zákoník práce, NN 262/2006), <http://business.center.cz/business/pravo/zakony/zakonik-prace/> (31.05.2017).

<sup>104</sup> Article 2, Labour Code (Zákoník práce, NN 262/2006), <http://business.center.cz/business/pravo/zakony/zakonik-prace/> (31.05.2017).

<sup>105</sup> Article 7, Income Tax Act (Zákon o daních z příjmu, NN 586/1992), <http://www.pracepropravniky.cz/zakony/zakon-o-danich-z-prijmu-uplne-zneni> (31.05.2017).

<sup>106</sup> Article 10, Income Tax Act (Zákon o daních z příjmu, NN 586/1992), <http://www.pracepropravniky.cz/zakony/zakon-o-danich-z-prijmu-uplne-zneni> (31.05.2017).

<sup>107</sup> Aleš Rod et al., 2016. *Less Regulation, More Reputation!*

<sup>108</sup> Value Added Tax Act (Zákon o dani z přidané hodnoty, NN 235/2004), <http://business.center.cz/business/pravo/zakony/dph/> (31.05.2017).

out of the market those individuals who do comply with tax obligations. The State budget is also on the losing side of tax evasion, collecting less tax revenue than expected.<sup>109</sup>

## 2.4 SLOVAKIA

The collaborative economy in Slovakia is still in the early stages of development. For this reason also, the term “collaborative economy” is not yet included in any legislation in Slovakia.

August 2015 marked the presence of the first collaborative platform offering passenger transport by the arrival of Uber in Bratislava, Slovakia’s capital city. Already in September 2015, taxi drivers organised the very first protest against Uber, when approximately 500 drivers blocked traffic in the city centre for several hours. The Ministry of Transportation did not react to the protest. On the other hand, Uber reacted by lowering their prices by 50% for that day.<sup>110</sup> In March 2017, taxi drivers organised the second protest, which had a more aggressive tone. A few days before the protest, approximately 50 taxi drivers surrounded Uber drivers and pasted stickers all over their cars that read “Stop Illegal Uber Transport”. Moreover, the organisers of the second protest started a petition, the purpose of which was to ban Uber in Bratislava.<sup>111</sup> Meanwhile, Taxify, a new collaborative platform, appeared in Bratislava, offering lower fees for drivers than its competitor and lower prices to consumers.<sup>112</sup>

The situation is calmer in the accommodation sector. The only collaborative platform providing these services is Airbnb. To date, there has not been any reaction from the government or from traditional



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businesses. More attention came from NGOs in Slovakia, which published several articles on the excessive regulations imposed on individuals who wish to rent out their property officially. They concluded that the government should liberalise accommodation regulations.<sup>113</sup>

Apart from the well-known Uber and Airbnb, several local collaborative platforms have recently been launched. One of the local platforms is YuVE, which provides household services.<sup>114</sup> Another is Hodinová dielňa (Eng. hourly workroom), providing workrooms.<sup>115</sup> The last one is Sharilo, providing equipment, premises and transport.<sup>116</sup>

<sup>109</sup> Tomasz Kaspruwicz et al., 2016. *Sharing Economy: The Emergence and Development of a Sharing Economy*, 4liberty.eu, p: 11.

<sup>110</sup> Matej Dugovič, *V zahraničí taxikári prevracali autá, bratislavskí proti Uberu protestovali mierne*, <https://dennikn.sk/253442/v-zahranici-taxikari-prevracali-auta-bratislavski-proti-uberu-protestovali-mierne/> (31.05.2017).

<sup>111</sup> Lukáš Kosno, *Razantný zásah proti Uberu v Bratislave: Auto polepili nálepkami*, <http://www.zive.sk/clanok/123739/razantny-zasah-proti-uberu-v-bratislave-auto-polepili-nalepkami> (31.05.2017).

<sup>112</sup> Taxify, <https://taxify.eu/sk/>.

<sup>113</sup> Robert Chovanculiak, *Aj chceli platiť dane, no nemôžu*, <https://www.tyzden.sk/casopis/34176/aj-chceli-platit-dane-no-nemozu/> (31.05.2017).

<sup>114</sup> Yuve, <http://yuve.com/site/sk.html>.

<sup>115</sup> Hodinová dielňa, <http://www.hodinovadielna.sk/>.

<sup>116</sup> Sharilo, [www.sharilo.com/](http://www.sharilo.com/).

### 2.4.1 Market Access Requirements

There is no specific legislation in place in Slovakia to address the activities of the collaborative economy. There is, however, legislation which regulates those sectors in which the collaborative economy operates. These are mainly two sectors: passenger transport and accommodation.

Anyone providing services in these two sectors through the collaborative economy is classified as a professional and is obliged to fulfil all regulatory requirements applicable to full-time service providers, as the legislation does not distinguish between the occasional and professional providers of services. Providers of services are obliged to fulfil the following (personal) conditions:

- Obtain a taxi licence, if providing passenger transport in a city (for fewer than nine persons).
- In order to obtain a taxi licence, several tests and exams must be passed to verify his or her professional, health and psychological competence to drive a taxi.
- The total fee for all the above-mentioned exams and tests is approx. EUR 200.
- Be in possession of a regular driving licence for at least 3 years.
- Be a minimum of 21 years of age.

If a taxi driver has met all the above personal requirements, the equipment requirements are as follows:

- The vehicle used as a taxi must not be older than 8 years.
- Every driver must provide proof of the car ownership.
- The vehicle used as a taxi must pass a technical inspection and emission test every year.
- The vehicle used as a taxi must be marked with the trade name of the taxi company
- The vehicle used as a taxi must have a banner inscribed 'TAXI' on the rooftop.
- The taxi driver must install a transport schedule and taximeter in a visible place in the vehicle's interior.
- The vehicle must be insured against liability for damage.

If an owner wants to rent out a property which has passed an inspection for private use only, he or she must request a change in the use of the structure from the Building Control Office. To do this, it is

necessary to submit an application to the competent Building Control Office with the relevant documents, and subsequently to undergo a personal check of fire extinguishers and compliance with the hygiene standards.

Thereafter, the host must be familiarised in detail with the Decree of the Ministry of Economy of Slovakia No. 277/2008 Coll., which regulates the categorisation of accommodation facilities and the grading of their classification. When all hygienic requirements for the interior environment, spatial arrangement, and functional division are ensured, the host must write an operating agenda and submit it to the competent authority (Public Health Authority of Slovakia) for approval.

Although there have not been any measures adopted to protect the standard business models, the above-mentioned existing regulations are responsible for significant barriers to access by sectors of the collaborative economy.

Thus we can conclude that, to date, the Slovak government has not complied with the Commission's guidelines with regard to market access requirements. Slovak regulations were created long before the initiation of the collaborative economy and remain unchanged i.e. do not take into account the specific features of collaborative economy business models in transport and accommodation services. For example, Uber allows the use of vehicles which are a maximum of 10 years old, while public regulations require a maximum age of 8 years for vehicles. Hence the Slovak government should liberalise and remove all excessive regulations and officially legalise operations of the collaborative economy.

### 2.4.2 Consumer Protection

From a user's point of view, the collaborative economy in Slovakia has brought about more options for consumers and intensified the competition. The results in passenger transport in Bratislava include lower prices and better quality and transparency of services. This was a direct effect in the form of better services in the collaborative economy. However, there was also an indirect effect in the form of an improvement in the services provided by traditional taxi drivers themselves. Some taxi drivers even created their own mobile application with reputation mechanisms which enhance the quality of their

services. For example, Hopin, a Slovak application, which is “Uber for taxi drivers”, is very popular and has even expanded to the Czech Republic, Ukraine and Slovenia.

However, legislation has not reacted to these innovations in consumer protection. The same legislation is still in force, which was enacted long before self-regulation mechanisms emerged. There are some unofficial indications that the Ministry of Finance is working on new regulations regarding passenger transport, but nothing has yet been officially published. We can expect that new regulations will lower the burden of tests and exams, which are now the main market access barriers and offer poor added value in the form of consumer protection. On the contrary, several drivers from the collaborative economy were checked by trade inspection at the end of 2016. Taxi drivers together with inspectors ordered an Uber ride and then asked for a bill, a valid price list, a taxi licence and the proof of all tests and exams having been passed. Uber drivers were not able to fulfil these requests and received fines of EUR 5000. These drivers appealed, and now they are waiting for the ruling of the Central Inspectorate of the Slovak Trade Inspection.<sup>117</sup>

Despite incidents like these, the collaborative economy is quite popular among consumers (at least in Bratislava). In 2016, the TNS Aisa agency conducted a survey in Bratislava regarding experiences of passenger transport. According to their results, 67% of people in Bratislava have heard about Uber, and 21% have already used its services. Moreover, up to 60% of respondents want the collaborative economy to be welcomed in Bratislava, and about one-third has had a bad experience with traditional taxi drivers.<sup>118</sup>

### 2.4.3 Employment

There is no special legislation, nor any guidelines, in place in Slovakia regarding the employment of individuals providing services within the collaborative economy. To date, the precarisation of the

labour market caused by the collaborative economy's breakthrough is not of public concern in Slovakia, which could be because not that many people are as yet working in the collaborative economy.

Currently, anyone providing collaborative services is self-employed. Section 2 of the Slovak Commercial Code defines a self-employed individual as a person who conducts “systematic activities independently, in his own name and under his own responsibility with the purpose of making a profit.”<sup>119</sup> If self-employed in Slovakia, you are required to obtain a Trade Licence, which takes one to three days to be issued and costs about EUR 10.<sup>120</sup> However, the real cost is higher due to mandatory social and healthcare contributions and Income Tax. To sum up, regulations for employment and its classification in the collaborative economy are not a problem in Slovakia, but the problem does lie in the regulation of market access, as documented above, and taxation, as explained below.

### 2.4.4 Taxation

The Tax Office (*Finančná správa*) was the only branch of the Slovak government to officially react to the arrival of the collaborative economy (namely Uber). In September 2015, a document was published entitled *Information on the tax duties of transport service providers (Uber)* (Informácia k daňovému posúdeniu povinností poskytovateľov dopravných služieb (UBER)).<sup>121</sup> The document provided information about various taxes and requirements related to the collaborative economy, especially for transport services. Pursuant to the document, drivers in the collaborative economy are required to keep records of their sales through electronic or virtual cash registers; they are obliged to request the tax authority to register for Income Tax, to declare and

<sup>117</sup> Tomáš Nejedlý, *Uber dostal na Slovensku prvú pokutu*, <https://www.etrend.sk/ekonomika/uber-dostal-na-slovensku-prvu-pokutu.html> (31.05.2017).

<sup>118</sup> PC Revue, TNS Aisa: *Uber je najpopulárnejšia aplikácia pre zmluvnú prepravu osôb v Bratislave*, <https://www.pcrevue.sk/a/TNS-Aisa--Uber-je-najpopulárnejšia-aplikácia-pre-zmluvnu-prepravu-osob-v-Bratislave> (31.05.2017).

<sup>119</sup> Commercial Code (Obchodný zákonník, Zákon č. 513/1991 Zb.), <http://www.zakonypreludi.sk/zz/1991-513> (31.05.2017).

<sup>120</sup> Slovensko.sk, *Elektronické ohlásenie živnosti*, [https://www.slovensko.sk/sk/agendy/agenda/\\_elektronicke-ohlaseenie-zivnosti](https://www.slovensko.sk/sk/agendy/agenda/_elektronicke-ohlaseenie-zivnosti) (31.05.2017).

<sup>121</sup> Finančné riaditeľstvo SR, *Informácia k daňovému posúdeniu povinností poskytovateľov dopravných služieb (UBER)*, [https://www.financnasprava.sk/\\_img/pfsedit/Dokumenty\\_PFS/Profesionalna\\_zona/Dane/Metodicke\\_usmernenia/ERP/2015.09.04\\_UBER.pdf](https://www.financnasprava.sk/_img/pfsedit/Dokumenty_PFS/Profesionalna_zona/Dane/Metodicke_usmernenia/ERP/2015.09.04_UBER.pdf) (31.05.2017).

pay Value Added Tax (VAT)<sup>122</sup> for received services from Uber and to pay tax on their vehicle used for business purposes.<sup>123</sup>

However, these three types of taxes (Income Tax, VAT and Vehicle Tax) do not constitute the main taxation problem. Social security and healthcare contributions constitute a great financial challenge to individuals providing services through the collaborative economy. However, for the first year, a self-employed person is exempt from paying a social insurance contribution if his or her annual gross income is EUR 5298 or less. For the following years, the person is required to pay social insurance contributions, amounting to at least EUR 150.<sup>124</sup> Most importantly, the EUR 5298 threshold demotivates individuals from earning more, since every euro earned above the threshold means a higher marginal tax.<sup>125</sup>

To date, no instances of cooperation or exchange of information between the Tax Office and the collaborative platforms have been effected, or even proposed. Thus, there is room for the improvement of the existing tax collection system in the collaborative economy.

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<sup>122</sup> The standard VAT rate is 20 %, while reduced VAT is 10 %. The VAT registration threshold is set at EUR 49 790.

<sup>123</sup> Finančné riaditeľstvo SR, *Informácia k daňovému posúdeniu povinností poskytovateľov dopravných služieb (UBER)*, [https://www.financnasprava.sk/\\_img/pfsedit/Dokumenty\\_PFS/Profesionalna\\_zona/Dane/Metodicke\\_usmernenia/ERP/2015.09.04\\_UBER.pdf](https://www.financnasprava.sk/_img/pfsedit/Dokumenty_PFS/Profesionalna_zona/Dane/Metodicke_usmernenia/ERP/2015.09.04_UBER.pdf) (31.05.2017).

<sup>124</sup> Social Insurance Act («Zákon o sociálnom poistení»; Zákon č. 461/2003 Z. z.), <http://www.zakonypreludi.sk/zz/2003-461> (31.05.2017). While the minimum healthcare insurance contribution is approximately EUR 60 per month, the minimum social insurance contribution is approximately EUR 150 per month.

<sup>125</sup> Zuzana Varmusová, *Odvody SZČO (živnostníkov) do Sociálnej poisťovne a zdravotnej poisťovne od 1.1.2017*, <https://www.podnikajte.sk/dane-a-uctovnictvo/c/2879/category/socialne-a-zdravotne-odvody/article/odvody-szco-socialna-zdravotna-2017.xhtml> (31.05.2017).

# 3. Summary

In **Slovenia**, the collaborative economy is in the early stages of development. While some in Slovenia oppose the collaborative economy, asserting it will lead to “precarisation” and “uberisation” of the labour market, those taking part in the collaborative economy face an unfriendly regulatory environment, in which insurmountable legal obstacles prevent Uber from entering the Slovenian market. Legally compliant short-term rentals through Airbnb are fairly impossible. On a positive note, the Labour Law did foresee new types of employment and introduced an “economic dependent person” concept, as early as in 2013; while the Tax Law enables the largely beneficial treatment of sole entrepreneurs. As explained in the National Report, the inter-governmental working group’s attempt to regulate the collaborative sector in 2016 failed. It remains to be seen what the new initiatives propose and to what extent the resulting regulation will comply with the *European Agenda for the Collaborative Economy*.

In **Croatia**, the government’s position is that drivers who partner with Uber are providing unlawful taxi services. At the same time, the Croatian Chamber of Trades and Crafts (HOK) filed a lawsuit against Uber for the alleged unlawful business practices. The court’s decision will have significant implications for the transportation platforms in Croatia. In the meantime, however, it is possible that the working group created by the competent Ministry will succeed with a proposal for new regulatory solutions for passenger transport. Another challenging area is the VAT compliance for individuals renting out their apartments through online collaborative platforms. Due to the one-fits-all approach of the tax authorities in Croatia, whereby any person renting out accommodation through an online collaborative platform is considered as being a taxable person for the purposes of VAT, many accommodation providers choose not to comply with the VAT requirements. At the present time, no specific regulations solely addressing the collaborative economy are in place in Croatia.

In the **Czech Republic**, the current state of the collaborative economy is quite stormy. Several noticeable protests against certain collaborative platforms have been held by representatives of the traditional economy in the Czech Republic. Legislation in the Czech Republic does not define, or even mention, the collaborative economy. As such, this new sector is operating under the old legislation, which leaves some parts uncovered, creating a blurred line between car-pooling and a taxi service. Since the collaborative economy in the Czech Republic is still small and unimportant (approx. 0.1% of GDP), there is no political will for a change in the legislation. Changes are not expected in the near future, as the elections are approaching in 2017 (parliamentary) and 2018 (presidential).

In **Slovakia**, the collaborative economy is still in the early stages. Two collaborative economy sectors, which are debated from a policy point of view, are passenger transport and accommodation. These two sectors in Slovakia are highly regulated, resulting in excessive market access requirements for individuals engaged in the collaborative economy. To date, no legislation has attempted to change this situation. Anyone providing collaborative services in Slovakia is self-employed. On the positive side, this status minimises the bureaucratic and administrative burden on individuals, which follows from the Labour Code. On the negative side, it creates a high marginal tax for individuals wishing to earn more than EUR 5298. Currently, the Slovak government is not following the European Commission’s recommendations from the *European Agenda for the Collaborative Economy*. Fortunately, however, the government has not applied the least desired solution of all, the prohibition of economic activities within the collaborative economy.







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