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## **Policy Brief**

# **Relation Between Labour and Immigration Policies in the Production of Irregular Migrant Work in Spain. The Case of Food Delivery**

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## Relation Between Labour and Immigration Policies in the Production of Irregular Migrant Work in Spain. The Case of Food Delivery.

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The food delivery sector in Spain has undergone a significant transformation since the emergence of digital platforms such as Glovo, Uber Eats, and Just Eat. These platforms have redefined the organisation of a specific labour market sector, introducing algorithmic management, flexible scheduling, and low entry barriers. While these features have facilitated rapid sectoral growth, they have also exposed critical regulatory blind spots, particularly at the intersection of labour and immigration policies.

Spain's legislative response—most notably the Riders Law (Royal Decree-Law 9/2021 and Law 12/2021)—has been internationally recognised for its attempt to reclassify riders as employees and mandate algorithmic transparency. However, the implementation of this law has been uneven, and its impact

limited by platform resistance, legal ambiguity, and enforcement deficits. Crucially, the law operates within a fragmented regulatory framework that overlooks the specific legal and administrative constraints faced by migrant workers, many of whom are unable to access formal employment due to restrictions on residence and/or work authorisation.

The intersection of labour and migration policies (including asylum regulation) plays a critical role in shaping Spain's food delivery sector. Migrants, often excluded from formal employment due to administrative constraints, are absorbed into the workforce through informal mechanisms, making irregular work a structural feature of platform-based delivery.

## Systemic gaps and institutional limitations

### Migrant Labour as Structural Necessity of the Food Delivery Sector

The composition of the food delivery workforce in Spain has evolved substantially over the past decade. Initially populated by young Spanish nationals seeking supplementary income, the sector has become increasingly reliant on migrant workers, particularly from Latin America and South Asia. Estimates suggest that the majority of riders are foreign nationals, particularly from Latin America (e.g., Venezuela, Colombia) and South Asia (e.g., Pakistan, Bangladesh, India), with regional concentrations in Madrid and Barcelona. This shift is not merely demographic but structural: the nature of the work has evolved from flexible, part-time activity to a precarious primary labour market for migrants.

For many migrant workers, food delivery represents the “best of the worst options”, a survival strategy in the absence of viable alternatives. It has become a primary channel for labour market entry, especially for those facing legal and administrative barriers to formal employment.

This transformation reflects broader dynamics of labour market segmentation and the entanglement of migration governance with digital capitalism. The sector’s low entry

thresholds and minimal oversight have made it a magnet for legally vulnerable populations. At the same time, such transformation highlights how – when not properly aligned – labour and immigration policies can jointly produce conditions of irregular work.

### Policy Misalignment and the Production of Irregular Work

The persistence of irregular migrant labour in Spain’s food delivery sector is not an incidental outcome but the result of a complex and restrictive legal architecture. The intersection of labour regulation – particularly the Riders Law – with immigration and asylum legislation (Law 4/2000; Royal Decree 557/2011; 629/2022 Royal Decree; Law 12/2009; Royal Decree 220/2022) creates a fragmented regulatory environment. While the Riders Law presumes an employment relationship between riders and platforms, it does not address the legal and administrative barriers that prevent many migrants from accessing formal employment.

Although recent reforms have aimed to improve access to the labour market for non-EU migrants, critical implementation gaps persist. Migrants applying for temporary residence under exceptional circumstances, such as asylum seekers, face significant delays and bureaucratic hurdles. The result is a spectrum of semi-legality, where migrants are practically residing in the country – and even formally authorised, as in the case of asylum

seekers – but excluded from formal employment. The result is a segmented labour market in which migrants are differentially included: economically integrated through informal work, yet socially and legally excluded from full rights and protections. This condition is not adequately captured by binary distinctions between documented and undocumented status. Instead, it reflects a continuum of legal precarity shaped by the overlapping and often contradictory logics of migration control and labour market deregulation.

At the heart of this configuration lies the intersection between labour and immigration policies, where the irregularity of migrant riders is produced. Spain's immigration and asylum laws generate legal grey zones that exclude many migrants from formal employment, even when they possess temporary residence permits. Labour regulation—while presuming employment—fails to address the legal and administrative barriers that prevent migrants from entering formal labour markets. This intersection produces a system of differential inclusion, in which migrants are essential to the functioning of the food delivery sector but are denied full legal recognition and labour protections. Rather than being an anomaly, this configuration reflects a broader structural entanglement between digital capitalism and migration governance.

### Subleased platform accounts

The misalignment between labour and immigration policies in Spain has produced a structurally irregular labour regime in the food delivery sector. Migrants who face legal or administrative barriers to formal employment are consistently excluded from standard labour protections. Yet they remain economically indispensable to platform operations.

One consequence of this regulatory gap is the widespread use of subleased accounts: a workaround that allows migrants without valid documentation to access platform work by informally renting accounts from registered users. While technically prohibited, this practice is tacitly tolerated and has become a routine entry point into the sector.

Empirical research identifies three main profiles of migrant riders operating under such arrangements, each shaped by the intersection of the mismatch between restrictive immigration controls and permissive labour market structures:

**Overstayers:** These are individuals who entered Spain on short-term visas, typically tourist visas, and remained after their legal stay expired. This group is particularly prevalent among migrants from South and Southeast Asia. Lacking both residence and work permits, they are excluded from formal employment and rely entirely on informal arrangements to access income-generating

opportunities. Their participation in the sector is often facilitated by kinship or community networks that provide access to subleased accounts and informal housing.

**Rejected Asylum Seekers:** Migrants whose applications for international protection have been denied fall into a state of administrative irregularity. Although they may have previously held temporary residence permits during the asylum process, the rejection of their claims renders them undocumented. Despite this, many continue to work through informal channels, often under exploitative conditions. Their legal vulnerability makes them particularly susceptible to abuse, including wage theft and arbitrary disconnection from platform accounts.

**Asylum Seekers with Residence but No Work Authorisation:** These individuals possess temporary residence permits – such as the “white card” issued upon initial registration of an asylum application, or the “red card” granted after six months, but face bureaucratic delays or restrictions that prevent them from accessing formal employment. Employers often refuse to recognise these documents, and the short duration of the permits further discourages formal hiring. As a result, many asylum seekers are pushed into informal work, including food delivery through subleased accounts, as a means of subsistence while awaiting the outcome of their applications.

These profiles illustrate how policy misalignment not only facilitates irregular work but also deepens precarity. Migrant riders often work long hours for low pay, without access to social protections, union representation, or legal recourse. Their exclusion from formal employment channels, combined with the operational flexibility of platforms, has entrenched a system of differential inclusion: migrants are essential to service delivery but denied full rights and recognition.

## Addressing the Mismatch of Labour–Immigration Policies

### Policy Recommendations

To tackle the structural production of irregular migrant labour in Spain’s food delivery sector, policy action must address not only sector-specific regulation but also the broader misalignment between labour and immigration frameworks.

**1. Reform Immigration and Asylum Regulation to Enable Legal Labour Market Access.** Spain’s immigration and asylum system must be reformed to ensure timely and equitable access to formal employment for migrants. This includes streamlining procedures for issuing work authorisations to asylum seekers and other migrants with temporary residence permits, and ensuring

that these permits are recognised by employers and institutions. Administrative delays, short-term documentation, and inconsistent enforcement currently prevent many migrants from entering the formal labour market, pushing them into informal and irregular work. Expanding pathways to regularisation and improving institutional awareness of valid migrant documentation would reduce dependency on informal arrangements and strengthen legal certainty for both workers and employers.

**2. Strengthen Labour Regulation to Protect Vulnerable Workers.** Labour regulation must be adapted to address the specific vulnerabilities of migrant workers in the platform economy. While the Riders Law has established a legal presumption of employment, its enforcement remains limited. Labour inspectorates should be equipped to monitor compliance more effectively, particularly in detecting subcontracting schemes and informal practices such as account subleasing. Regulatory reforms should also address the gaps in social protection, workplace safety, and collective representation for platform workers. Ensuring that labour law applies in practice, not just on paper, is essential to preventing exploitation and restoring minimum labour standards across the sector.

**3. Integrate Labour and Immigration Policy to Prevent Irregularity.** Finally, labour and immigration policy frameworks must be integrated into a coherent regulatory framework. A fragmented and uncoordinated governance perpetuates exclusion and undermines the effectiveness of both domains. Policymakers must adopt an integrated perspective that aligns labour market needs with migration policy objectives and ensures that digital labour regulation accounts for the realities of migrant workers. Only through such a comprehensive approach can the structural drivers of irregularity and precarity be addressed. Entry for work in Spain, as in other EU countries, is often regulated through mechanisms that presume formal recruitment from abroad; yet in practice, migrants already present in the country face significant barriers to legal employment. Bridging this gap requires coordinated reform across ministries and institutions.

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### **About DignityFIRM**

Towards becoming sustainable and resilient societies we must address the structural contradictions between our societies' exclusion of migrant workers and their substantive role in producing our food.

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