Status „niezależnego” usługodawcy a trójpodmiotowy model świadczenia usług w *gig economy* — cz. 1

The status of 'independent contractor' in the light of three-party model of providing services in the *gig economy* — part 1

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Streszczenie Praca za pośrednictwem aplikacji i platform internetowych przeformułowała paradygmat funkcjonowania rynku pracy oraz zmieniła typowy cykl modelu życia zawodowego. Od lat zauważa się stały zwrot ku tzw. niestandardowym formom zatrudnienia, które z jednej strony stanowią wyraz rozwoju, a z drugiej prowadzą do promowania niestabilnych relacji pracowniczych, które nie korespondują z typowym stosunkiem pracy. Wraz ze wzrostem liczby osób, które pracują, ale nie są typowymi pracownikami, pojawia się potrzeba znalezienia nowych źródeł niezbędnych środków ochrony zatrudnienia. Stawiane są pytania o metodę przełożenia klasycznych instytucji prawa pracy na dynamicznie rozwijający się sektor *gig economy* — a w konsekwencji pytania o przyszłość prawa pracy. Pierwsza część artykułu poświęcona jest szczegółowemu omówieniu problematyki związanej z zatrudnieniem w sektorze gospodarki „na żądanie”. W części drugiej zostanie przedstawiona kompleksowa analiza najważniejszych sporów sądowych dotyczących zatrudnienia w *gig economy*.

Słowa kluczowe: niezależny usługodawca, błędna klasyfikacja, *gig economy*, Uber, ukryte zatrudnienie, niestandardowe formy zatrudnienia, platforma internetowa, aplikacja, gospodarka na żądanie.

Summary Apps and internet platforms-based work reformulated the paradigm of functioning of the labour market and changed the typical cycle of the model of professional life. For years, there has been a constant turn towards so-called non-standard forms of employment that, on the one hand, are an expression of development, but on the other hand lead to the promotion of unstable employment relations that do not correspond with a typical employment relationship. With the growing number of people who work, but are not employees, there is a need to find new sources of the necessary means of employment protection. Questions are raised about the methods of application of classical labour law institutions into the rapidly growing *gig economy* sector — and consequently — questions about the future of labour law. This Paper constitutes an introduction and a detailed overview of the issues related to employment in the 'on demand' economy sector.

Keywords: independent contractor, misclassification, *gig economy*, Uber, disguised employment relationships, nonstandard employment, platform, app, on-demand economy.

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Str. 9-17

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