Is registering a sole trader sufficient for the relationship to be considered an independent business?

For: Platform work through a sole trader business

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Applicability: The legal presumption for platform work applies from 1 January 2024.

The contract title or the registered business name alone do not resolve the question of the actual relationship. The key features are the nature of the work and the powers of the platform or aggregator.

The actual performance of the work is being observed.

According to the official interpretation of Article 221(m), when work by its nature and the other party's powers bears the characteristics of an employment relationship, an employment contract is presumed until proven otherwise. Indicators include the personal performance of the work, instructions and supervision, restrictions on refusing tasks, determination of working methods and prohibitions on working for others.

MROSP emphasises an individual assessment. There is no reliable conclusion that the relationship is autonomous simply because one indicator is missing or because you have multiple apps on your phone. Record how the work actually operates and compare it with what is stated in the contract.

Prepare the facts before deciding on a change of direction.

Note who sets the price, whether you can genuinely refuse a task, what the consequences of refusal are, how the work is allocated, and whether you can provide services to others. Separate tax registration from employment law matters. If the answer is important for setting up a business or changing an existing engagement, seek professional advice before incurring any costs or signing a contract.

Contract title and practice

The contract is titled "business collaboration", but the individual must personally work according to pre-determined instructions and schedule. Such a relationship requires an examination of the actual characteristics, rather than a conclusion based solely on the document's title.

Specific next steps

1. Keep the contract and the platform's current rules.
2. Describe a practical way of assigning and supervising work.
3. Note the restrictions and possible sanctions for refusing tasks.
4. For an unclear relationship, request an individual legal and tax review.

Most common mistakes

• To set up a sole trader business just because someone promises that all employment law restrictions will then disappear.

• Using the number of platforms as the sole test of independence.

Limits of application

Neither an automated test nor a definitive determination of a disguised employment relationship. The tax test of self-employment is a separate matter.

Sources

MROSP · Legal presumption of the existence of an employment relationship

https://uznr.mrms.hr/pravna-pretpostavka-postojanja-radnog-odnosa-cl-221-m/

Original page

https://adriatrends.hr/poslovni-vodic/en/pitanja/platforme-obrt-samostalnost