

Crowdworker 2.0 –

BAG on Works Councils in the Platform Economy

BAG, Judgment of 28 January 2026 – 7 ABR 23/24

It is well known that crowdworkers can be employees, including all individual employee rights ranging from protection against dismissal to vacation time. But what about works councils at the collective level? Given the borderless organizational structures of the platform economy, a confusing patchwork of works councils certainly did not seem unthinkable. The German Federal Labor Court (BAG) set initial limits on this potential problem on 28 January 2026.

Facts

The employer offered platform-based services, with so-called “Hub Cities” (main distribution centers) and “Remote Cities” (delivery areas) operating nationwide in addition to the human resources department located at the company headquarters. In the Remote Cities, only delivery drivers were employed, who primarily communicated with the employer via an app. In the

Hub Cities, employees were also entrusted with administrative and back-office tasks. In several Remote Cities, a works council was elected in each case, and the employer challenged these elections. The respective Regional Labor Courts upheld the challenges to the works council elections. (see BAG press release dated 28 January 2026)

Decision

The BAG has now ruled similarly (see its press release, loc. cit.): While a minimum degree of organizational autonomy from the main operation is sufficient for an operation unit to qualify for a works council election, this also applies even if the employment relationships are essentially managed “digitally” via an app. However, this was not the case here. Simply grouping them into a delivery area with its own schedule is not sufficient for this purpose. The Remote Cities lack a minimum degree of organizational autonomy, which cannot be achieved solely through the mutual interests of the delivery drivers.

Practical Guidance

Based on the established parameters of the concept of an “operation” the decision is consistent. The decisive factor is always the existence of an “organizational unit” with a unified “management structure” particularly in personnel matters. This will be lacking in most borderless organizational structures—especially in the platform economy. As usual, the same applies here—just as with the status question of a crowdworker—all of this remains a matter of the specific individual case.



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