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The State of the Sharing Economy in Croatia: Legal Framework and Impact on Various Economic Sectors

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Abstract

Since the sharing economy is a rather new phenomenon, there is still no official definition of it in the legal framework of Croatia. The continuous development of sharing economy started a few years after the 1998 global and domestic economic crisis stroked Croatia. Namely, a total of eight platforms in the sectors of transportation, accommodation, finance, and online skills could be identified. The total market share of these platforms amounts to estimated market revenue of roughly 106 million EUR. When compared to the other EU Member States, it could be noticed that Croatia falls within the group of countries with a below-average performance by a number of platforms per 1 million population, as well as in the level of revenues compared to national GDP. Figures that are more promising can be detected regarding the collaborative economy's contribution to national employment, which positions Croatia within the EU average. Future studies should explain in greater depth how the sharing economy poses several new challenges for regulators in Croatia and countries across the EU. In particular, policymakers must comprehend the big picture and provide regulatory guidelines to manage the long-term changes in job markets, public safety, competition, and digital trust.

Keywords: Digitalisation, Legal Framework, Collaborative Platform Economy, Croatia, Economic Sectors

Introduction

The sharing economy scene started its continuous development a few years after the global and domestic economic crisis hit Croatia. Airbnb came (to Europe and Croatia) in 2011, BlaBlaCar and Uber entered the Croatian market in 2015, Click and Boat in 2016, UberBOAT in 2017, Turo in 2018, etc. On the other hand, the first domestic companies started their operations a bit later. Croinvest.eu (crowdfunding platform) was launched in 2014, Locodels (courier delivery service) in 2015, SpinCity (car-sharing/rent-a-car) in 2016, etc. Most industries of the significant sharing economy in Croatia are accommodation, transportation, and finance.

Moreover, according to the European Commission final report (from February 23, 2018) of the Study to Monitor the Economic Development of the Collaborative Economy at sector level in the 28 European Union Member States, a total of eight platforms in the sectors of transportation, accommodation, finance, and online skills could be identified in Croatia. The total market share of these platforms amounts to estimated market revenue of roughly 106 million EUR. When compared to the other EU Member States, it could be noticed that Croatia falls within the group of countries with a below-average performance by a number of platforms per 1 million population (1.20), as well as in the level of revenues compared to national GDP (0.1%). Figures that are more promising can be noticed regarding the collaborative economy's contribution to national employment, which is at 0.19% and thereby falls within the EU average.

Definition

The sharing and collaborative economy is a rather new phenomenon in Croatia (we will use both "sharing economy" and "collaborative economy" as synonyms in this report); therefore, there is still no official definition of it in the legal framework of Croatia. Namely, the definition that is usually used is the official European Commission definition, or more precisely: "...business models where activities are facilitated by collaborative platforms that create an open marketplace for the temporary usage of goods or services often provided by private individuals. Collaborative economy transactions generally do not involve a change of ownership and can be carried out for-profit or not-for-profit." Furthermore, the term "collaborative" (translated in Croatian) is rarely used; this (socio)economic system is usually labelled as "sharing economy." As an illustration, Google Web Search offers only a couple of results on "collaborative economy" (translated in Croatian) and most of them are either translated official documents prepared by EU (European Commission) or news (in the Croatian language) reporting about EU recommendations regarding the collaborative economy in Europe.

The national sharing economy is often described (within public and professional discourse) as a system that accommodates a wide range of business practices, including practices that usually do not fall under the sharing but rental and/or on-demand economy. For example, a newly founded Croatian car-sharing company has all characteristics of a traditional rent-a-car company apart from the fact its customers cannot rent cars offline and can rent cars per minute instead of per day.

Besides these fundamentally "non-sharing" organizations within the national sharing economy, another issue lies in "non-sharing" parts of organizations or platforms that usually are considered as "true" elements of the global sharing economy. For example,

as a part of the Airbnb organization in Croatia, there are traditional accommodation providers who use the Airbnb platform solely to get more customers.

Key Questions

The key questions worth asking that might reveal to which extent is Croatia approaching (or hoping to approach) the collaborative economy are the following:

- Is the collaborative economy, including platforms activity, positively or negatively contributing to the labour market and total Croatian economy?
- Is a legal framework for P2P networks (e.g., distributed ledger technologies) necessary?
- How should Croatian consumers be protected in the collaborative economy epoch?

Since according to De Groen and Maselli (2016), digitalisation has broad implications for many workers, and in the past couple of decades, it has primarily changed the way people work, with online communications and information-sharing as well as a mechanical support for information processing. Additionally, the way in which work is allocated has remained the same as before digitalisation. Therefore, human interaction still plays an important role in distributing work, and most people still work inside organizations. That is the case in Croatia as well.

In a situation where there is a P2P relationship, there is no competence of the national consumer protection authorities since, according to the EU law, a consumer is a weaker part in B2C relationships, which in the P2P relationship does not exist. In potential disputes, the civil law rules apply in the P2P situation, and the case in that situation must be brought before civil courts of the Member States. Usually, civil claims are rare due to the high costs and length of civil proceedings compared to the low average value of C2C contracts on online platforms. The enforcement of C2C legislation is also hindered by the scarce collaboration between online P2P platforms and competent authorities (“Exploratory study of consumer issues in online peer-to-peer platform markets, Final Report 2017”).

Some authors (“Exploratory study of consumer issues in online peer-to-peer platform markets, Final Report 2017”) suggest the division between “commercial” peers and “private” peers. Some of the largest platforms allow commercial peer providers to operate alongside private peers without distinguishing between them—while others do require them to indicate the commercial or professional nature of their activity. In this case, the application of the consumer protection rules is possible.

The Legal Analysis also found that most platforms set minimal identification requirements for registration and access (e.g., name and email address) and usually do not adopt adequate measures to verify users’ identity. In Croatia, there is no established mechanism for the control of the authenticity of the comments. It can proceed only on the basis of the private offence.

Examples

In Croatia, the transport sector has the most platforms. More precisely, BlaBlaCar and Uber can be categorised as a P2P transaction model, while Spin City is a transport

platform that is characterised by a B2B structure. Also, some more differences can be perceived according to their geographic origin. Namely, while BlaBlaCar and Uber are internationally operating platforms, which entered Croatia in recent years, Spin City is a domestically originated and operating platform. The transport sector in Croatia is the most popular platform of the collaborative economy that provides the most jobs (according to the European Commission study, that sector supplies 1528 jobs). Even so, in this sector total estimated revenue in 2016 was (only) 19.8 million EUR. Moreover, in these figures, Uber has clearly the most impact on employment. According to data from a 2016 study on Uber, for 35% of drivers in Croatia, Uber is the only source of income, and for 64% of surveyed drivers, Uber provides an additional source of income.

In comparison with the tourist season in 2017, Uber reported 50% business growth for the same period in 2018 (Tremac 2019). While at the beginning of 2018, the company reported having more than 3000 drivers (service providers), a year later, the reported number was around 4000 (Uber 2018; Tremac 2019). Apart from providing a fruitful business ground for Uber road services, Croatia was the first country/market worldwide where UberBOAT (sea transportation) was made available and still is the only market where the service is available throughout the entire year (Tremac 2019). Among the car-sharing platforms, while, for example, Drivy and Getaround are not at all available in Croatia—Turo is available, but in a different form in comparison with the original. Namely, since the regulatory framework cannot accommodate the activity of renting cars among peers (e.g., car insurance obstacles), the only way to share your car through the platform is to open/use a company and make it the rent-a-car (Luzar 2018).

Airbnb exclusively shaped Croatia's collaborative accommodation sector, and this platform provides 1900 jobs and relies on a P2P transaction model. When considering the accommodation sector, the total revenue in 2016 was nearly 85 million EUR, making it the most important collaborative economy sector. These figures probably have to do with the fact Croatia is one of Europe's preferred travel destinations. Also, many Croats live out of tourism, so this P2P transaction model is one more way of earning extra income. Skehan, an Airbnb PR, reported in 2017 that the number of Airbnb guests (who visited Croatia) got increased by 59% over the last year (Crnjak 2017). Furthermore, again based on their own data and calculations, in late 2017, the company predicted a 175% increase in bookings for Zagreb in 2018, which placed the national capital, in this category, among the top twenty cities worldwide (Airbnb 2017).

When considering finance platforms, three of them are present in Croatia, and they altogether produced a turnover of more than 1.4 million EUR in 2016. Even though the finance sector has a pronounced perspective in Croatia, accommodation and tourism sector platforms play still a bigger role.

The national crowdfunding scene, which includes both international (e.g., Kickstarter and Indiegogo) and domestic platforms (e.g., Croinvest.eu), was very successful in doing business in the year 2015. Namely, 36.5% of the projects initiated were successfully completed, the projects were backed by 7673 supporters in total (the most represented platform was Indiegogo), and the average amount of money raised per project or campaign was 10 000 USD (Hafner 2016). Two years later, in 2017, the scene attracted more supporters (13531), but the share of successfully completed projects was roughly the same (33.3%) (Hafner 2018). Finally, in the field of crowdfunding, the Crowdfunding Academy—one of the first comprehensive training programs established in Southeast Europe is worth mentioning.

Within the inclusive definition or approach, there are two types of models in Croatia: for-profit sharing and non-profit sharing. Namely, in the for-profit sharing category, there are a) Cars (e.g., BlaBlaCar, Uber, and SpinCity); b) Travel arrangements (Ajmoskupa.hr); c) Living spaces (Airbnb); d) Boats (UberBoat, Click Boat); e) Different kinds of services and goods (Njuškalo), and f) Working spaces (about fifteen organizations provide co-working spaces). On the contrary, in the non-profit sharing category, there are a) Living spaces (e.g., Couchsurfing and HomeExchange) and b) Travel arrangements (Ajmoskupa.hr).

Context

There are different relationships between the actors participating in the sharing economy. Law does not regulate most of them. Since there are a platform that enables the communication and (business) operations between the actors, the still “traditional” legal framework applies concerning these relationships as relationships between services of goods provider-platform-consumer. The legal questions that arise are consumer protection, labour law, data protection, obligation law, competition law, taxation, and others. In Croatia, there is no special legislation that applies to platforms or sharing economy in general.

Generally speaking, there is no specific definition of the collaborative economy in the Croatian legal framework. There is a sector approach driven by the provision of services in different sectors provided by the platforms.

In 2018, after the decision of the European Court of Justice in Cases C-434/15 *Asociación Profesional Elite Taxi v Uber Systems Spain* ECLI:EU:C:2017:981, C-526/15 *Uber Belgium BVA v Taxi Radio Bruxellois NV* and others, Croatian Parliament enacted amendments to the Law on road transport (Official Gazzette, (Narodne novine) No.41/2018). These amendments introduced the possibility to provide taxi services ordering it by the digital platform. The auto-taxi transport, according to the Law, is “an activity of public passenger transport carried out by an M1 passenger car, if one passenger or a related group of passengers embarks at one or more places and disembarks at only one other place, and such transportation is performed on the basis of one order and with one payment of the total fee for the transport performed determined by a taximeter or an electronic application from which the maximum price and the planned route of travel are known to the passenger in advance, in which case the transport order is realised by a call, an electronic application or directly at the driver and which has no features of other forms transportation of passengers.” There is also a definition of the rent-a-car with a driver. The Uber drivers are regarded as taxi drivers, and they have to be aligned with regulation that regulates taxi services.

The platforms develop a parallel labour market that is flexible and individual, where employment is not governed by any form of contractual employment relationship. The SE is based on the mediation of the digital platform between the provider and the recipient, with no employment contract between the provider and the platform or the provider and the recipient. In addition, other rights exist in the standard employment relationships where national labour legislation applies (right to pay, fixed hours, prescribed workplace, and work environment, right to training, access to trade unions or collective action, health and social security, annual leave etc.) (Vara Arribas, G., Steible, B., Bondt, A.: Cost of non-Europe in the sharing economy: legal aspects, European Institute of Public Administration (EIPA-Barcelona) 2016,

www.researchgate.net/publication/312086162_Cost_of_non-Europe_in_the_sharing_economy_legal_aspects). The worker, or the provider, is actually a self-employed person who must take care of their work and social status independently, and pay unemployment, retirement benefits, and manage their health and safety protection. In Croatia, there is no specific legislation regarding the labour law regulating the collaborative economy. Regarding, for example, Uber drivers should be registered as taxi drivers. Usually, they rent cars and use them for driving, and they pay a fee to the car owners. They are registered as small companies or as traders and craftsmen (according to the Companies Act or according to the Law on Crafts). Actually, they are self-employed, or they are acting as workers for small companies.

General consumer law provisions apply to B2C relationships (e.g., platform-consumer or professional-consumer). On other obligations, General Law on obligations applies (Official Gazzete 35/2005, 41/2008, 78/2015, 29/2018).

General legislation on the provision of services in tourism and hospitality services applies. Last amendments were introduced into the legislation due to the need to implement EU legislation (Law on the provision of services in tourism Official Gazzete NN 130/17, 25/19). On the provision of Airbnb services Hospitality Industry Activities Act applies (Official Gazzete 85/2015, 121/2016, 99/2018, 25/2019). According to the law, Airbnb hosts are considered as private renters and taxation regulation, and another regulation on private renters applies. Airbnb hosts can be restarted as private persons or as companies.

At the moment, in Croatia, there are no parliamentary debates or off parliamentary initiatives to draft new laws to better address collaborative economy scenarios. Regarding the court decisions, there were cases at the Commercial Court in Zagreb before the new legislation on road transport was introduced, but all lawsuits were withdrawn after the Law on road transport was introduced.

As far as legislation and technological tools are concerned, the actors rely on themselves; there is no additional support for organizations of collaborative economy (apart from the official state support for all entrepreneurs, regardless of their business model). Websites and apps seem to be the major source of technology used.

Developments

Croats are, in general, in favour of collaborative economy platforms. A Eurobarometer survey from March 2016 indicates that more than 70% of the respondents have heard of one or more of the concerned platforms, with about 24% of the respondents have also used such platforms. Similar to most national markets, the popularity of these platforms is mostly grounded in their competitive pricing. Yet, obstacles remain, as some 30% of the respondents expressed a lack of trust in online transactions. Furthermore, it is evident that entrepreneurs repeatedly find it difficult to source venture or start-up capital, as the number of early-stage investors is highly limited.

The EU study conducted in 2018 reported that 27% of the respondents used some of the sharing/collaborative economy services. While the main reported advantages of using collaborative platforms remained unchanged in comparison with 2016, the most represented disadvantage in 2018 was not trust-related but “none, there are no significant issues.” It seems important to emphasise that this “none, there are no significant issues” the answer was spontaneously given, i.e., it was not offered to the

respondents through the predetermined list of options (as was the case with all other presented questionnaire items). Moreover, 88% of the SE users in 2018 would recommend using collaborative platforms to others (European Commission 2018).

The economic development of the accommodation sector of the collaborative economy, measured by the share of collaborative economy revenues in holiday and short-stay accommodation sector of GDP, puts Croatia among the countries with the highest shares of collaborative revenues to sectoral GDP in the tourist accommodation next to Finland, Bulgaria, Cyprus, the Czech Republic, and Hungary. All other countries had a share that was below the EU average of 0.5%.

The finance sector is quite well regulated, and these regulations also apply to the collaborative finance platforms, which have to meet all requirements set for financial institutions. While there have been many discussions about the legitimacy of the transport and accommodation sectors in the collaborative economy, discussions regarding the finance sector have been quite modest. This is believed to be because of the well-established regulatory framework—about 47% of platforms find the regulatory framework adequate and appropriate. However, Croatia is among countries that were below EU average in terms of collaborative economy business developments next to Lithuania, Romania, Malta, Slovenia, and Hungary. The underlying reasons why collaborative economy business models had not been adopted in the finance sector in these countries are likely to vary a lot.

Issues

The general public does not differentiate sharing economy from the collaborative economy and other “alternative” economies, so all different terms are used in the same meaning. In Croatia, there are now many private initiatives regarding the sharing economy (Gredica, private gardens, www.gredica.hr; Island hopping, available <https://hr-hr.facebook.com/groups/341491362697255/>).

The public debate started with the occurrence of the “profit” platforms and with the beginning of Uber and Airbnb. The mentality of sharing is still very poor compared to the other EU countries.

Other Major Players

The key stakeholders are individuals/organizations which either start and run their own business ventures (e.g., SpinCity, Njuškalo) or serve as Croatian branches of foreign/international companies (e.g., Uber, HomeExchange).

In general, Croats use all the above-mentioned services quite often; both non-profit and for-profit sharing economy ventures have been particularly welcomed in bigger cities and other tourist areas. In most cases, safety-related issues regarding the usage of often unregulated transportation and/or accommodation services do not represent a major concern. However, a widespread debate about unfair market competition created by collaborative economy organizations is currently on the scene. The state has started to look for a solution that would benefit the Croatian economy as a whole (see the Uber case study below).

The estimation made by Pesole et al. (2018) revealed that platform workers in Croatia (people who have ever done a single job via an online platform) make 8.1% of the total

workforce. The European Union (2018) analysis revealed similar results. In 2018, 7% of the respondents offered their services via collaborative platforms. Furthermore, according to Pesole et al. (2018: 5), 64.3% of platform workers (of all types) were active once per month or more, while 63.9% invested in it ten or more hours per week. This type of work provided at least 25% of income for 36.6% of them (which makes it significant, but not the main job) and at least 50% of income for 12.8% of platform workers (which makes it very significant or even a main job).

According to the study on exclusively P2P sharing economy, i.e., on business transactions between individuals facilitated by online platforms (Eurostat 2019), 7% of the respondents in 2017 and 12% in 2018 used an online platform to arrange accommodation from another individual while 4% of them in 2017 and 8% in 2018 used dedicated online platforms to do the same. Overall growth in popularity was also reported in the transport/mobility industry. Namely, 6% of the respondents in 2017 and 12% in 2018 used an online platform to arrange a transport service from another individual, while 5% of them in 2017 and 12% in 2018 opted for online platforms dedicated to it.

Future Directions of Research

Most sharing businesses in Croatia are still maturing. A comprehensive understanding of the sharing economy, its size and impact are still lacking. Future studies should explain in greater depth how the sharing economy poses several new challenges for regulators in Croatia and countries across the EU. In particular, policymakers must comprehend the big picture and provide regulatory guidelines to manage the long-term changes in job markets, public safety, competition, and digital trust. It is noteworthy to understand that regulating the sharing economy is essential to encourage competition for innovations, lower costs, and better-quality products and services.

Regulatory challenges are numerous; according to Yaraghi and Ravi (2017), they are presented as privacy and data ownership questions, price discrimination, security concerns. Regarding the regulation and the requests for new regulation for the collaborative economy, the question of self-regulation has been raised as the possible best way to regulate P2P relations (Cohen and Sundararajan 2015). Besides self-regulation, there is a need for public intervention in certain areas with the aim to protect the public interest and other protected values.

Since Croatia is part of the EU, intervention at the level of the EU is awaited. On the other hand, there is a possibility to regulate a certain topic at the national or/and local level as it was in the area of taxi transportation after the ECJ judgement in the Uber case.

The market definition in the collaborative economy raises as one of the potential topics of relevance. Is the “platform market” part of the market, or these are two or more markets (Koolhoven et al. 2016)?

According to the EU law, at the moment of writing this text, a key issue is the definition of the “information society service” according to the EU Directive and concrete service. Moreover, the Directive 2006/123/EC should be analysed from the perspective of the freedom to provide services in EU law as well as analysis of the Unfair Commercial Practice Directive and Consumers Rights Directive. The analysis should also comprise the ECJ case law decisions.

It is to be expected that the Croatian regulation will follow the guidelines of the EU once than they are established.

Summary

In this chapter, the state of the sharing economy in Croatia is analysed. In Croatia, we can distinguish platforms that are based on a non-profit basis from those that promote profit-based collaborative economics. Non-profit organizations function through advertising and networking, mostly through Facebook, while those for-profit are based on platforms developed solely for their needs, in the same way as they function globally. In Croatia, there is no official data about the impact or revenues of the collaborative economy and comparison with the other “traditional” or non-digital service provisions.

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Suggested Readings

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