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Working across Borders, Protected Nowhere: Applicable Law for Online Platform Work, with Lessons for Kazakhstan

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ABSTRACT

Online platform work lets Kazakh residents serve foreign platforms that fix the governing law. ILO Convention No. 193 of 2026 only "preferably" applies the law of the place of performance. Kazakh law lacks a conflict rule for work and protection against jurisdiction clauses in platform terms. Literature debates classification but not which legal order decides it. The study asks which law and court protect such workers and what Kazakhstan should adopt. Doctrinal analysis combines a literature review, comparison of six legal orders, a US counter-case and twelve episodes. Platform terms allocate law and forum at platform and task layers before any dispute. Protective systems converge on the habitual place of work but diverge on reaching foreign platforms. Kazakh procedural, arbitration and platform law contain tools capable of extension. The study proposes an anchor–notify–cooperate standard of five elements covering law, forum, representation, social payments and cooperation. Protection should follow the screen, not the server.

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I. Introduction

A freelancer in Almaty can deliver work to a client abroad through a platform incorporated in Delaware. Her place of work and the platform's seat then fall within different legal orders. The preamble of ILO Convention No. 193 of 12 June 2026 acknowledges that clients, workers and platforms may be located apart. Its definition of a digital labour platform applies whether work is performed online or at a specific location. Each ratifying Member must implement the Convention for platforms operating, and workers working, in its territory. Article 19 provides that terms of employment or engagement shall "preferably" follow the law of the place of performance. National law, international instruments and contractual arrangements may displace that preference. States, not platforms, are its addressees. Its practical force depends on national conflict rules, jurisdictional rules and the capacity to reach an absent counterpart. Labour law has long assumed that work and employer share a single territory (Mundlak, 2009).

Online work reached Kazakhstan late but expanded quickly. A 2023 study for the European Training Foundation (ETF) examined online freelancing and platform work in four Central Asian countries. Its Kazakh country report relies on the Online Labour Index (OLI), a tool designed to measure the online gig economy (Kässi & Lehdonvirta, 2018). The report records rapid growth from late 2019, a peak in mid-2022 and a substantial decline afterwards. It attributes the 2022 surge to freelancers relocating from Russia. A press estimate placed Kazakh freelancers above one million in 2021, without separating online from offline work. The State already captures the resulting earnings through a separate foreign-income line in the individual income tax return. Global platforms operate as an offshoring institution enabling emerging-economy microproviders to serve clients in high-income countries (Lehdonvirta et al., 2019). The work generating the income remains in Kazakhstan, while the platform organising it does not. Legal consequences of that division remain unexamined.

Kazakh law leaves the cross-border relation without a clear anchor. The Labour Code reaches employees and employers located in Kazakhstan, including registered branches of foreign entities (Article 8(2)). Laws or ratified treaties may extend that reach. Its remote-work rules in Articles 1 and 138 presuppose an employer within the Code's reach. Section 7 of the Civil Code refers, absent choice, to the law most closely connected with a civil relation (Article 1084). No conflict rule written for employment contracts was identified. Kazakh doctrine attributes the gap partly to the dispersal of private international law across codes (Eshniyazov, 2022). Article 466(2)(6) of the Civil Procedure Code admits claims on contracts performed wholly or partly in Kazakhstan. Yet it offers no protection against a jurisdiction clause. Platform terms occupy the resulting space at two layers, governing the account and the task separately. Upwork's user agreement subjects the account and any claims to Delaware law. Amazon Mechanical Turk disclaims being a party to tasks and designates

Washington law and arbitration. The study terms the combined effect contractual offshoring of protection: shifting claims away from the mandatory rules and courts of the place of work.

Legal writing has addressed the problem mainly from a European perspective. Research on web-based employment relations with international elements proposes applicable-law and jurisdiction rules drawn from EU principles (Carinci & Henke, 2021). Cross-border telework has been analysed under the Rome I Regulation and the Posting of Workers Directive (Bruurs, 2023). Both strands treat the habitual place of work as the protective connecting factor. Mapping of the European private international law of employment confirms its extension to remote work. Analysis of crowdwork argues that its trilateral and international structure requires the criteria of jurisdiction and applicable law to be rethought. Agreement therefore exists on two propositions. Protective conflict rules should favour the weaker party, and the place of performance supplies the strongest connection. The leading explanation identifies a mismatch between territorial employment rules and deterritorialised work. Digital intermediation, on that account, separates the organiser from the worker and weakens inherited connecting factors.

The literature diverges, however, on how the problem should be framed. European writing assumes an EU court applying Rome I and Brussels I bis, an assumption that fails outside the Union. Its conflict rules, moreover, address employment contracts and leave self-employed platform workers largely uncovered. Economic and sociological research documents effects on livelihoods and algorithmic control in emerging economies. The ILO has examined how decent work can be secured on digital labour platforms. Kazakh writing treats platform work chiefly as a domestic question of legal status (Tailakov & Bekezhanov, 2026). Another strand concentrates on fiscal regulation and the search for a domestic regulatory model (Tomashevskiy & Khasenov, 2025). The literature thus establishes the protective value of the place of work and the vulnerability of emerging-economy workers. It does not resolve how a non-EU State should give effect to that connection. Nor does it explain how a worker can reach a platform lacking any local presence.

Kazakh research has identified the transnational character of online labour and its jurisdictional challenges (Sartaeva et al., 2026). Proposals have also addressed Kazakh citizens who move abroad to work (Myktybayeva & Davletgildeev, 2026). No study identified asks which law and court protect a person working from Kazakhstan, without moving, for a platform absent there. The research question follows from that gap. Which law and which court protect a person working from Kazakhstan through a foreign digital labour platform? A related enquiry asks how legal orders allocate applicable law and jurisdiction for such work, and what their experience implies for Kazakhstan. The aim is to identify a workable protective standard for Kazakh law. The study shows how platform terms allocate law and forum at the platform and task layers. A comparison of six legal orders and one counter-case against Convention No. 193 follows. An assessment of Kazakh law then yields amendments to current instruments.

The argument rests on one premise. The place where a person works is the strongest connection the relation has, not an accident of contract. The study introduces a second working concept, the screen anchor. Online work is located where the worker is physically present, unless most of it is habitually performed from another State. The debate on whether platforms are employers presupposes an answer to the prior question of which legal order classifies (Prassl & Risak, 2016). Academically, the study offers a typology of how legal orders reach, or fail to reach, a foreign platform. Practically, it proposes an anchor–notify–cooperate standard implemented through current Kazakh instruments rather than a new statute. The Labour Code, Civil Code, Civil Procedure Code, Law on Online Platforms and Online Advertising and Social Code supply the vehicles. Socially, it addresses taxpayers whose foreign earnings are declared but whose working relation lacks legal protection.

II. Methodology

The title frames a question of applicable law rather than worker status, and the research design follows from that choice. A qualitative doctrinal approach suits a question about which rules govern, which court hears and which reforms fit (Hutchinson & Duncan, 2012). Four methods serve the three objectives. A structured literature review supports the analysis of how platform terms allocate law and forum. Functional comparison asks what each legal order does when a person on its territory works for a foreign platform. It avoids matching institutions merely because they share a name. Doctrinal analysis of Kazakh law and normative reconstruction convert the findings into amendments to identified provisions. Six legal orders were chosen for maximum variation in regulatory form. The EU acts through regulations and a directive, and Switzerland through the Federal Act on Private International Law (PILA). Chinese statute fixes the law of the place of work. The United Kingdom (UK) combines the Civil Jurisdiction and Judgments Act 1982 (CJJA) with case law on territorial reach. Russia confines labour law territorially and imposes presence duties on large internet companies. Uzbekistan, a neighbouring order, has a recent Labour Code. The United States serves as a counter-case, since most large platforms are established there. Germany and Spain supply episodes rather than separate comparators. Convention No. 193 and Articles 7 and 9 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) act as benchmarks. Because the Convention binds only ratifying Members, it functions as a yardstick. Kazakh sources comprise the Constitution, the Labour, Civil and Civil Procedure Codes, and the Law on Arbitration. The platform law, the Digital Code and the Social and Tax Codes complete the corpus. "Worker" covers employees and self-employed persons alike, following the Convention's status-neutral definition.

Literature was identified through a search reported under the PRISMA extension for scoping reviews (Tricco et al., 2018). OpenAlex was queried on 21 October 2026 for titles and abstracts published from 2015 to 2026. One English and one Russian Boolean string returned 491 records, 487 in English and 4 in Russian, without overlap. Screening retained

359 and 2 records naming a legal concept, then 136 and 2 referring to Kazakhstan, a comparator or the ILO. Russian- and Kazakh-language law journals, thinly indexed in OpenAlex, were searched directly, and references were traced. Nineteen works were charted: fifteen peer-reviewed publications, two working papers and two reports. Each legal order was coded, as in force on 21 October 2026, against eight variables. They cover scope, connecting factor, limits on choice, the worker's forum and limits on pre-dispute clauses. Social security attachment, enforcement and reach, and legal force complete the set. A cell remains uncoded where no provision was located. Twelve episodes comprise eight judicial decisions, two platform instruments and two governmental acts. Each was coded by body, date, category, arrangement, right affected, outcome and safeguard. Kazakh law is measured against five safeguards: a protective applicable law, an accessible forum and limits on pre-dispute clauses. Social security attachment and a reachable counterpart with cross-border cooperation complete them. The reach test asks whether a safeguard protects a worker whose platform lacks a Kazakh establishment. Whether Kazakh provisions already supply the safeguard forms the baseline question. Under the constitutional test, each proposal is weighed against treaty operation, labour protection and entrepreneurial freedom (Constitution, Articles 5(3), 27(2), 29(4)). Inclusion in the standard requires support from two comparators or one benchmark, constitutional compliance and an available enacting instrument. Legal statements rest on primary or consolidated texts, while press reports document only statistics and episodes. The study uses public documents, involves no human participants and discloses AI assistance under COPE guidance. A single coder re-checked all coding against the primary texts. Taxation of foreign income, cross-border data transfers, sanctions and physical labour migration fall outside the scope. With no Kazakh case law and mostly European episodes, the conclusions concern the legal framework rather than its application.

III. Results

The findings follow the three objectives and the coding variables. They fall under five themes: the Convention's benchmark, the two-layer allocation in platform terms, the comparison of legal orders, the coded episodes and the Kazakh baseline. Convention No. 193 supplies the starting point. It covers digital platform workers regardless of their classification of status in employment (Article 1(b)(iii)). Article 19 extends its preference beyond employment to "engagement" and therefore reaches self-employed workers. Four further provisions frame the rule. Members must ensure easy access to safe, fair and effective dispute resolution and remedies (Article 21). Compliance and enforcement mechanisms are mandatory (Article 22). Platform workers must receive protection no less favourable than other workers of the same status (Article 23). Entry into force requires two ratifications followed by twelve months (Article 27(2)). The adopted text contains no provision on cooperation between Members, although a Eurofound summary refers to one.

Under Articles 7 and 9 of the ICESCR, everyone enjoys just and favourable conditions of work and social security.

Platform terms allocate law and forum at two layers. The platform layer governs disputes with the platform itself, including suspension, fees, payments and escrow. The choice-of-law and arbitration clauses of both platforms examined operate at that layer. At the task layer, the law governing the work is left to worker and client. Both platforms deny being parties to that relation, and Amazon Mechanical Turk characterises workers as independent contractors. Convention No. 193 nonetheless covers a platform that "organizes and/or facilitates" work (Article 1(a)(i)). Comparators answer each technique with a counter-rule. Rome I bars a choice that removes the mandatory protection of the habitual place of work. Brussels I bis and the CJJA permit forum departures only after the dispute or in the employee's favour. The Platform Work Directive defines platform work irrespective of any contract with the service recipient. Unilateral changes of access, such as closure to new customers from 30 July 2026, confront the Convention's guarantee of remedies. Every clause examined is fixed at registration, before any dispute can arise.

Six legal orders and a counter-case reach a foreign platform in different ways. The EU, Switzerland and the UK form a protective group that anchors the law at the place of work and gives the worker a court there. Under Rome I, the governing law is that of the country in which or from which work is habitually done (Article 8(2)). A chosen law cannot deprive the employee of that law's mandatory protection (Article 8(1)). Brussels I bis lets the employee sue where work is habitually performed, even against non-EU employers (Article 21). It admits jurisdiction agreements only after the dispute or where they add a forum (Article 23). The Platform Work Directive reaches platforms organising work in the Union irrespective of their establishment (Article 1). It also requires declaration of platform work to the authorities where it is performed (Article 16), with transposition due by 2 December 2026. Swiss law applies the law of the State of habitual work and restricts choice to the worker's residence or the employer's seat (PILA, Article 121). The worker may sue at home (Article 115(2)). British employees may sue where or from where they habitually work, regardless of the employer's domicile (CJJA 1982, s. 15C). Statutory rights, by contrast, follow a sufficiently strong connection test developed after the express territorial provision was repealed (British Council v Jeffery, 2018).

Other legal orders fix the anchor without comparable reach. Chinese law submits employment contracts to the law of the place where the employee works, without providing for choice (2010 Law, Article 43). PRC mandatory provisions apply directly (Article 4), but no forum rule was coded. Russia relies on territory. Its Ministry of Labour confines labour law to Russian territory and advises civil-law contracts for work abroad. Large foreign internet services with over 500,000 daily users must open a representative office, and intermediary platforms are registered. Access restriction under information law enforces those duties. A platform economy law in force from 1 October 2026 governs relations between operators and partner-performers. Uzbekistan applies its labour rules to relations

with foreign legal entities and regulates remote work separately (Labour Code 2022, Articles 11, 452–464). Its self-employed may earn service credit through voluntary social tax of at least one base calculation value (BRV) a year. No Uzbek rule limiting choice was identified. The United States forms the counter-case. In Epic Systems v Lewis (2018), the Supreme Court held that the Federal Arbitration Act requires enforcement of employment arbitration agreements as written. Individual proceedings and class waivers therefore bind workers. The State hosting most large platforms thus gives effect to the clauses the protective group restricts.

Twelve episodes test the rules in practice: eight judicial decisions, two platform instruments and two governmental acts. Courts define the habitual place of work by where work is organised from. In Koelzsch (2011), the Court of Justice of the European Union (CJEU) examined where tasks were performed and instructions received. The places where work was organised and tools were kept also counted. Nogueira (2017) applied the concept to mobile airline crew for forum purposes. In Roamler (2020), the German Federal Labour Court held a Munich crowdworker an employee of a Netherlands platform. Its tasks, however, were location-based rather than purely online. English law moved from defined categories in Lawson v Serco (2006) towards a connection test. Ravat v Halliburton (2012) admitted a British resident working abroad on rotation. A higher threshold applied in British Council v Jeffery (2018) where employees both lived and worked abroad. Limits appear at forum and reach. In Balbino (2013), a Madrid court disregarded a pre-dispute clause choosing British courts. Jurisdiction was still declined because the employer lacked a Spanish domicile. Russian officials diverged on remote employment abroad, with the Moscow Inspectorate contradicting the Ministry of Labour in 2024. An Uzbek draft of about 2018 addressed service credit for citizens working for foreign employers that were not tax agents.

Kazakh law records foreign income but contains no rule anchoring online work. Article 138 of the Labour Code, governing remote work, was recast in 2021. Kazakh courts hear cases against foreign persons located or resident in Kazakhstan (Civil Procedure Code, Article 466(1)). Further grounds cover personal-data claims by residents, and laws or ratified treaties may assign other cases (Article 466(2)(10), (3)). No provision addresses jurisdiction clauses in contracts with workers. The Law on Arbitration confines arbitration agreements to disputes arising from civil-law relations. In a contract of adhesion, such an agreement is valid only if concluded after the grounds for a claim arose (Article 8(4)–(5)). Platforms exceeding 100,000 average daily users in Kazakhstan must appoint a legal representative (Law on Online Platforms and Online Advertising, Article 9(1)). The representative deals with the authorised body and the State revenue body, and must ensure execution of final judicial acts (Article 9(4)(3)). The authorised body keeps a register of representatives, and pending amendments would require a registered branch or representative office. The Digital Code, in force since 12 July 2026, ranks below ratified treaties but above other laws in digital matters. No conflicting provision on platform representatives was identified. Pension contributions are withheld by agents, and the Social Code lists self-payers such as individual

entrepreneurs and private practitioners. No channel exists for an unregistered person paid by a foreign platform. Whether foreign non-employment income may be self-assessed under the Tax Code in force since 1 January 2026 has been formally queried.

The findings answer the descriptive limb of the research question. Protective legal orders converge on the place of work, and the Convention points the same way, though softly. Their divergence concerns reach: some give the worker a home court, and fewer reach the platform itself. Platform terms neutralise that convergence by fixing law and forum at both layers in advance. Judicial practice construes the habitual place broadly, yet forum rules and territorial thresholds confine its effect. Kazakh law lacks a conflict rule for work, a limit on jurisdiction clauses and a social payment channel for foreign platform income. It nonetheless contains tools capable of extension in procedural, arbitration and online-platform law. The allocation and comparison objectives are thereby met, together with the descriptive part of the Kazakh assessment. Whether those tools can carry a protective standard, and on what constitutional terms, remains open for the Discussion.

IV. Discussion

A. The Governing Law Should Follow the Screen, Not the Server

Online platform work places the conflict-of-laws question before the classification question. Under Delaware law, an Almaty worker's status, pay and suspension are assessed, if they are assessed at all. The debate on platform employment cannot proceed until the classifying legal order is known. The two-layer structure deepens the difficulty. A worker faces two counterparts and potentially two governing laws. The platform's chosen law covers the account, while the task may carry another law or none. Crowdwork's trilateral form strains inherited connecting factors, and the strain falls hardest on workers in emerging economies (Graham et al., 2017). Contractual offshoring of protection names the legal side of that economic pattern. The platform locates its contracts where it is established, while the work remains where the worker sits. The guiding position follows: the law of the place of performance should govern, and choice should operate only above it.

Article 19 of Convention No. 193 supplies the normative benchmark. Its two qualifications, "preferably" and "taking into account the contractual arrangements", reveal a deliberate compromise. The drafters accepted party choice but refused to let choice decide alone. Article 7 of the ICESCR, guaranteeing just and favourable conditions to everyone, points in the same direction. For online work, the decisive question is where performance occurs. Applied to a freelancer, the Koelzsch factors yield a clear answer. Her tasks are carried out from her desk, instructions reach her there and her tools are kept there. The screen anchor translates those factors into a rule for online work. Rebuttability preserves accuracy, since a worker may habitually work from another State. The anchor attaches to the

place of performance rather than to nationality or residence. European proposals for web-based work reach a similar result through EU principles (Carinci & Henke, 2021).

Kazakh law does not supply the anchor. The Labour Code's scope rule is unilateral and tied to the employer's location. Its reservation for other laws and ratified treaties, however, marks where a new rule can be inserted. Section 7 of the Civil Code is designed for civil relations, while employment is regulated in a separate Code. Its residual rule of closest connection is not directed at protecting the weaker party. The outcome is a double gap. An online worker who is an employee in substance has no conflict rule reaching a foreign employer. A self-employed online worker holds a contract governed by general civil rules, under which the platform's choice prevails. Neither category receives the protection Article 19 envisages. A separate statute on private international law would end the dispersal of conflict rules (Eshniyazov, 2022). Its adoption remains uncertain, whereas both Codes can be amended now.

A rule turning on physical location must be workable in evidence. Platforms routinely record the location of account use, the bank and currency of payouts and the declared tax residence. Algorithmic management already generates records of that kind (Wood et al., 2019). The worker, for her part, can prove her residence, her equipment and the hours she logged. A presumption favouring the worker's location therefore places the burden on the party holding most of the data. The qualifier "habitually" excludes short stays. A foreign freelancer passing through Almaty for a few weeks does not become subject to Kazakh law. A person who settles in Kazakhstan and works from there for a sustained period does. The 2022 relocation of freelancers from Russia gives the distinction practical weight.

The strongest objection concerns fragmentation. A place-of-work rule would divide a platform's workforce among many legal orders. Compliance costs might then pass to workers or prompt withdrawal from the market. The objection carries force for small platforms but less for large ones. Large platforms already observe territorial rules at their seat and an EU directive applying regardless of establishment. A floor rule further contains the cost, since the chosen law continues to apply above the local minimum (Bruurs, 2023). A further objection doubts the anchor's substantive value. Kazakh law gives self-employed workers fewer protections than employees, so anchoring may change little. The anchor matters most, however, for safeguards that are procedural rather than substantive: the forum, the limit on clauses and the representative. Workers preferring the chosen law lose nothing, because a more favourable chosen law remains applicable above the floor.

Comparative experience confirms the direction. The EU, Switzerland and China all point to the place of work. They differ on choice, which the EU permits above a floor, Switzerland confines to a short list and China omits. The UK leaves statutory reach to the courts but fixes the forum by statute. American law, by enforcing the clauses others restrict, shows that an anchor protects only before a court willing to apply it. The anchoring element of the standard follows from that analysis. A new Article 8-1 of the Labour Code should

extend labour legislation to work habitually performed by a person located in Kazakhstan. Its scope should include online work through a digital labour platform, irrespective of the employer's establishment. For online work, the worker's physical location should be presumed the place of work. The platform could rebut the presumption by proving that most work is habitually performed from another State. A parallel article in Section 7 of the Civil Code should apply the same anchor and floor to platform engagement of natural persons. The parallel rule gives effect to the reference to engagement in Article 19. Both provisions should define a digital labour platform by reference to Article 1(a) of the Convention, since Kazakh law lacks the term.

B. A Conflict Rule Needs a Court Within Reach

A conflict rule protects only before a court that applies it. A foreign court chosen by the platform applies its own conflict rules, while a platform-chosen arbitrator may apply none. American enforcement of individual arbitration agreements makes the risk concrete. For a worker in Kazakhstan, the issue is therefore not only which law governs. It is also whether a Kazakh court will hear the claim despite a clause accepted at registration. Kazakh writing already identifies jurisdiction as the weakest point of transnational online labour (Sartaeva et al., 2026). Article 21 of the Convention sets the benchmark through its demand for easy access to dispute resolution and remedies. Access cannot be easy where the platform fixed a foreign court or arbitral seat before any dispute existed. The protective group answers with two rules operating together: a forum at the place of work and a limit on pre-dispute agreements. Balbino reveals the cost of the limit without the forum, since the clause fell but no home court remained.

Kazakh law contains more of both rules than is usually noticed. The contract-performance ground of the Civil Procedure Code already reaches foreign defendants. The arbitration statute's restriction on pre-dispute agreements in contracts of adhesion supplies the protective logic. Platform user agreements qualify as contracts of adhesion, because their standard terms can only be accepted as a whole. The logic, however, has neither been extended to jurisdiction clauses nor applied to platform work. Two interpretive questions decide whether the ground suffices. One asks whether online work is performed in Kazakhstan when the worker types in Almaty and delivers abroad. The EU formula "in which or from which" and the Koelzsch factors favour the worker's location. Article 466(2)(6), by contrast, speaks only of performance in Kazakhstan, and no court has applied it to online work. The other asks whether the ground survives a jurisdiction clause. A platform worker currently enjoys more protection against arbitration than against a foreign court, an outcome nobody designed. Statute, not the first court seised, should resolve both questions.

The strongest objection holds that a judgment against a foreign platform without Kazakh assets may prove unenforceable. The objection is partly right, and it explains why the forum cannot stand alone without a reachable counterpart. Recognition abroad is not

excluded in principle. Swiss law recognises foreign employment judgments rendered at the place of work where the employee is not domiciled in Switzerland (PILA, Article 149(2)(c)). A related objection treats a forum available irrespective of the defendant's location as exorbitant and liable to refusal abroad. The answer lies in building the rule on performance in Kazakhstan rather than on the claimant's residence alone. The personal-data ground of Article 466(2)(10) offers a drafting model already accepted in Kazakh procedure. Comparative practice supports both rules, since the EU, the UK and Switzerland all open courts where the worker is based.

The forum element of the standard follows. Article 466(2) of the Civil Procedure Code should deem online work through a digital labour platform performed where the worker is physically located. The contract-performance ground would then apply without further interpretation. A new procedural provision should govern jurisdiction agreements in contracts of adhesion with platform workers. Such an agreement should bind the worker only if concluded after the dispute arose or if it adds a forum. The provision would extend the logic of Article 8(4) of the Law on Arbitration to jurisdiction clauses. The Law on Arbitration should, in turn, confirm that the same protection covers arbitration agreements in platform terms, whatever seat they designate.

C. A Platform should be Reachable Where its Workers are

A forum and a governing law matter only if the defendant can be served and a judgment executed. A foreign platform without a Kazakh establishment is difficult to serve and may hold no local assets. The Convention demands compliance and enforcement mechanisms but leaves the means to Members. Kazakhstan already deploys one suitable means for another purpose. The legal representative required of large online platforms must ensure execution of final judicial acts, and that duty is not confined to content. The missing element is a link between the representative and the persons working through the platform. Its interlocutors sit in the information field, not the labour inspectorate, and no rule addresses service in labour disputes. The reach test is therefore met for large platforms in principle but failed in practice. Comparators show two models of reach. Russia connects the platform to the territory through presence, whereas the EU does so through information declared where work is performed.

The strongest objection views a labour-related representative duty as a market barrier and an instrument of pressure. Russian enforcement through access restriction lends the concern weight. Blocking, however, would harm the very workers the duty protects by cutting off their income. The duty should rest on service of documents and fines, and should attach to the current user threshold so that small platforms remain unaffected. A competence objection notes that the authority under the platform law is not a labour body. Naming the labour inspectorate and the courts as addressees answers it without transferring labour competence to the information authority. The proposed function remains narrow. It neither makes the platform an employer nor imposes substantive obligations; it creates an

address. It would also yield data no public body holds: how many persons in Kazakhstan work through each platform. Demand-side indices cannot supply that national figure (Kässi & Lehdonvirta, 2018). Competence should follow subject matter, avoiding overlapping powers that breed administrative discretion.

The reach element of the standard follows. Article 9(1) of the Law on Online Platforms and Online Advertising should add the labour inspectorate and the courts as bodies with which the representative interacts. The extension should cover platforms organising or facilitating work performed by persons in Kazakhstan. The Civil Procedure Code should permit service of documents on the representative in disputes arising from such work. Non-compliance should attract a fine under a specified article of the Code of Administrative Offences. Restriction of access should be expressly excluded as a sanction for the duty. The register of representatives would then serve the inspectorate and the courts in identifying the person to be served.

D. Social Security Attachment Requires a Default Channel

Kazakhstan records foreign platform income yet offers no route by which social contributions follow it. Agents withhold contributions, a foreign platform is no agent, and the self-payment categories omit persons paid from abroad. The 2026 tax query shows that uncertainty extends to classification of the income itself. Domestic writing has examined fiscal treatment of platform work without addressing foreign payers (Tomashevskiy & Khasenov, 2025). Article 23 of the Convention requires comparison with workers of the same status. A self-employed online worker should therefore be compared with self-employed performers on domestic platforms. For them, the platform operator withholds social payments (Social Code, Article 102-1). Article 9 of the ICESCR adds a universal right to social security. A person whose income the State records but who cannot enter social insurance is treated less favourably than the domestic comparator. Uzbek experience suggests that voluntariness alone fails. Only 13% of more than 2.5 million self-employed persons paid the voluntary social tax. The figure covers all self-employed persons, not online workers alone, but it shows how little reliance on individual initiative achieves.

The strongest objection warns that attaching social payments to the tax return will discourage declaration and encourage informal payment. The concern is serious, because the incentive to declare depends on its cost. Careful design reduces the risk. The rate should match that for domestic self-employed platform performers, not employees. Contributions paid abroad should be credited. A closed list of documents proving equivalent coverage, decided within a fixed period, would keep the exemption free of discretion. A further objection claims that the element strays into taxation, which lies outside the study. The tax treatment of the income remains unchanged; the return merely triggers payments belonging to social security law. No comparator attaches social security to foreign platform income by default, so the element rests on the benchmarks, as the inclusion rule permits. Registration as an individual entrepreneur would remain available. The default targets unregistered persons,

whom the return identifies but social insurance misses. Crediting entrepreneur contributions on the same income would prevent double payment, and administration should run through the electronic return.

The social security element of the standard follows. The Social Code should subject foreign digital labour platform income declared in the individual income tax return to social payments. The applicable rates should be those for performers under the special tax regime for the self-employed. The obligation should lapse where the person proves coverage of the same income under another State's social security system. Proof should come from a closed list of documents, and the authority should decide on the exemption within a fixed period. The Tax Code's rules on the return should be aligned so that such income appears on the same line.

Administrative detail decides whether the default channel works. The obligation should attach to income received by a resident, matching the foreign-income line of Form 270.00. The authority should decide on any exemption within fifteen working days of receiving the proof. The Government, rather than case-by-case assessment, should fix the closed list of qualifying documents. Uzbek practice offers only a partial precedent. Its voluntary social tax of at least one base calculation value a year earns service credit but imposes no obligation. An Uzbek draft of about 2018 also sought rules for citizens working for foreign employers that were not tax agents. Neither instrument created a default, which is why the Kazakh element rests on the benchmarks. Precarious livelihoods among emerging-economy platform workers give that default real significance (Graham et al., 2017). Against the three tests, the element reaches residents who declare foreign income. The baseline test is not met, since no channel exists for persons paid by a foreign platform. Constitutionally, a rate equal to that of domestic self-employed performers and a closed exemption list keep the burden proportionate.

E. Enforcement across Borders Requires a Statutory Mandate to Cooperate

The anchor, forum, representative and social payment elements all operate within Kazakhstan. A judgment may nonetheless require enforcement abroad, and information on local work may sit with a foreign platform. Convention No. 193 lacks a cooperation provision, so the general enforcement duty in Article 22 becomes the benchmark. The EU meets the information need through a duty to declare platform work where it is performed. Information thus links the platform to the place of work without any local establishment. Kazakhstan has no equivalent. Its treaty practice on legal assistance and social security, including within the Eurasian Economic Union, remains unexamined for platform work. A recent proposal to ratify ILO Convention No. 181 on private employment agencies places ILO ratification within the national debate (Myktybayeva & Davletgildeev, 2026). Because treaties operate through statute, cooperation cannot rest on an administrative decision alone. A statutory mandate gives the Government a basis to negotiate and a duty to report. The strongest objection stresses that cooperation is slow and that the United States enforces the

very clauses Kazakhstan would restrict. The objection explains why cooperation completes rather than replaces the domestic elements. A declaration duty and a representative operate without the consent of the State of establishment, and cooperation becomes indispensable only against assets abroad.

Sequencing determines whether ratification changes anything for workers. The Digital Code ranks ratified treaties above it, while the Constitution leaves treaty operation to statute. Ratification before implementing amendments would create obligations that Kazakh courts could not apply. Amending the Codes first would allow ratification to confirm rules already in force. Eurasian Economic Union agreements might later support information exchange and coordinated contributions, but their scope requires separate analysis. The cooperation element of the standard follows. A statute should mandate the Government to include platform-work provisions in treaties on legal assistance and social security. Those provisions should cover exchange of information on work performed in Kazakhstan. The labour inspectorate should gain power to request from the representative the number of persons in Kazakhstan working through the platform. Preparation for ratifying Convention No. 193 should proceed together with the implementing amendments, since ratification without statutory implementation leaves workers' position unchanged.

The mandate's legal home and scope also require precision. It could sit in the Law on International Treaties or in the Social Code, depending on whether information exchange or social security coordination predominates. Its application should be confined to treaties concluded after its entry into force, leaving current obligations undisturbed. The Eurofound summary's reference to cooperation finds no basis in the adopted text, so the Convention cannot supply the missing duty. The Convention's own entry into force requires two ratifications and a further twelve months, which counsels against waiting for it. Analysis of international legal regulation of online labour identifies the principles on which future treaty provisions could draw (Sartaeva et al., 2026). Against the three tests, the element reaches assets and information abroad, but only through treaties. The baseline test is not met, because no statute currently obliges the Government to negotiate on platform work. Constitutionally, the element respects Article 5(3) by routing cooperation through statute and treaty.

F. The Anchor–Notify–Cooperate Standard Passes the Constitutional Test if Each Element is Proportionate

The five elements form a single standard. Anchor fixes law and forum at the place of work. Notify makes the platform reachable through a representative and, prospectively, through information duties. Cooperate extends enforcement across borders. The standard's constitutional validity turns on proportionality. Each element pursues the protection of labour guaranteed by Article 27(2) of the Constitution. Freedom of entrepreneurship under Article 29(4) is restricted only so far as necessary. Choice survives above the floor of the screen anchor. Forum rules merely extend grounds and protections Kazakh law already

recognises. The representative duty applies only above the user threshold and excludes blocking. Social payments adopt a rate already borne by domestic performers. Cooperation proceeds through treaties, as Article 5(3) requires. No element imposes a burden heavier than its protective aim demands.

Indirect effects require attention. Platforms may respond to new duties by restricting access from Kazakhstan. One microtask platform has already closed to new customers for its own commercial reasons. The threshold and the exclusion of blocking reduce that risk without removing it. The rules would also apply symmetrically. Kazakh companies engaging remote workers abroad would face the law and courts of those workers' locations, consistently with the standard. Affected parties include employees, self-employed workers, marketplaces, organising platforms and clients at home and abroad. The labour inspectorate, the revenue and pension bodies and the courts would carry new functions. A regulatory impact assessment should test their positions before introduction. Four indicators would support later evaluation. They cover representatives registered with a labour function and claims brought on the performance ground for online work. Declared foreign platform income, the social payments made on it and treaties containing platform-work provisions complete the set. The transitional reporting duty gives the indicators a statutory basis. If platforms withdraw or declared income falls after three years, the standard should be revised rather than enforced more harshly.

The constitutional assessment rests on an unusually recent text. Kazakhstan's Constitution was adopted by referendum on 15 March 2026 and entered into force on 1 July 2026. No constitutional case law yet interprets the balance between Articles 27(2) and 29(4). Proportionality must therefore be argued from text and structure rather than precedent. The standard's timing anticipates that uncertainty. Each amendment enters into force twelve months after publication and applies only to later work and agreements. The Government must report to Parliament on their application within three years. The report would weigh the indicators against the risk of platform exit. Exit remains a credible response, because global platforms can source work from providers in many countries (Lehdonvirta et al., 2019). Parliament could then adjust the threshold or the rates on evidence rather than assumption. The standard aims to keep work within the reach of protection, not to drive it out of Kazakhstan.

G. Synthesis and Final Analytical Position

The analysis meets each objective. Platform terms were shown to export protection at both the platform and the task layer. Comparison revealed convergence on the place of work and divergence on reach. Assessment of Kazakh law identified clear gaps alongside tools capable of extension. The research question accordingly receives a qualified answer. A person working from Kazakhstan through a foreign platform is protected in practice by the platform's chosen law and forum. Kazakh law and Kazakh courts should protect her instead, through a rebuttable screen anchor and a home forum. A reachable representative and a

social payment channel would give that protection practical effect. The answer remains qualified in two respects. Enforcement against assets abroad depends on cooperation that Kazakhstan cannot secure unilaterally. The absence of Kazakh case law also leaves the standard's operation untested.

Alternative responses fare worse against the criteria of reach, legal certainty and proportionality. A separate private international law statute would offer coherence but remains uncertain in timing. Ratification alone would bind the State without giving courts applicable rules. Voluntary contributions, judged by Uzbek take-up, would leave most workers outside social insurance. Presence duties enforced by blocking would protect the market at the expense of workers' income. Judicial development on the British model presupposes case law Kazakhstan does not yet possess. Targeted amendments to current Codes and statutes offer the most defensible route. Labour law's territorial premise need not be abandoned but relocated from the employer's seat to the worker's screen (Mundlak, 2009). The anchor–notify–cooperate standard performs that relocation. Uncertainty persists over platform responses and foreign recognition, which only implementation can resolve.

The strength of the final position depends on the quality of its sources. Swiss and Chinese provisions were read in unofficial English translations that carry no legal force. Russian ministerial and inspectorate letters appear in no official register and were accessed through a legal information service. The wording of Article 8(2) of the Labour Code was verified against a consolidated commercial text, while the official version remains on the Adilet portal. None of these constraints alters the direction of the argument, because each comparator was used for its structure rather than its fine detail. They do, however, counsel caution before any foreign provision is copied verbatim. The ETF data also record a decline in online work after mid-2022, so the affected population may be shrinking. A smaller population would lower the cost of the standard without weakening its rationale. The preferred reform therefore remains justified, subject to verification of foreign texts against authoritative versions during drafting (Hutchinson & Duncan, 2012).

H. From Standard to Practice: Recommendations, Implications and Implementation Pathways

Legislative success will depend on how the amendments are packaged and introduced. A single amending law on platform work would keep the five elements coherent and prevent piecemeal adoption. Separate bills risk enacting the anchor without the forum, reproducing the Balbino problem in domestic form. Drafting should be led jointly by the labour, justice and digital development ministries. Each holds competence over one part of the package, and joint authorship reduces later conflicts of interpretation. The draft should be published for consultation on the open regulatory acts portal before submission to Parliament. Platforms, freelancer associations, the bar and trade unions should be invited to comment. Independent legal expertise should test the draft against the Constitution and the Digital Code. An explanatory note should link each provision to Convention No. 193, easing

eventual ratification. Kazakh writing on platform status supports coordinated treatment of labour and digital regulation (Tailakov & Bekezhanov, 2026).

Courts will need guidance before the first disputes arrive. The Supreme Court could issue a normative resolution on cross-border online work once the amendments take effect. The resolution should explain how judges identify the habitual place of online work and allocate the burden of proof. It should also confirm that clauses in platform terms cannot exclude the performance ground. Judicial training should cover digital evidence, including account logs, payout records and declared tax residence. Courts should be empowered to order platforms, through their representatives, to disclose location data relevant to a claim. Disclosure orders must respect personal data legislation and remain limited to what the dispute requires. Electronic filing and remote hearings would let workers litigate without travel or significant expense. Simplified procedures could suit disputes over unpaid fees, which may involve modest sums. Predictable judicial practice would itself discourage platforms from relying on clauses the law no longer honours.

The labour inspectorate requires new capacity to perform its expanded role. A dedicated unit for platform work could handle representatives, complaints and data requests. Staff would need training in platform business models, algorithmic management and cross-border service of documents. An online complaint channel would suit workers who never meet their counterpart in person. Data-sharing protocols should connect the inspectorate with the representative register and the revenue authorities. Each protocol should specify purpose, retention periods and access rights, preventing reuse of labour data for unrelated enforcement. Annual public reports could summarise complaints, responses and representative compliance by platform. Publication would create reputational incentives without relying on sanctions alone. Inspectors should also issue plain-language guidance explaining the rights a platform worker in Kazakhstan holds. Workers subject to algorithmic control frequently lack information about how decisions affecting them are made (Wood et al., 2019).

Platforms operating in Kazakhstan will need to revise their terms. A Kazakh addendum could disclose the applicable floor, the available forum and the representative's contact details. Disclosure at registration would let workers understand their position before accepting any task. Platforms should also give reasons for suspension and deactivation decisions affecting Kazakh accounts. The Platform Work Directive already requires transparency on automated monitoring and decision-making within the Union. Comparable transparency in Kazakhstan would prevent disputes rather than merely redirect them to court. Workers, for their part, should keep records of hours, payments and communications to support future claims. Freelancer associations could pool such knowledge and circulate model task contracts. Legal aid bodies and the bar could offer standard advice on platform disputes at modest cost. Collective organisation also strengthens bargaining power, which individual online workers rarely possess (Graham et al., 2017).

Litigation should not be the only route to a remedy. Convention No. 193 requires dispute resolution that is safe, fair and effective, not necessarily judicial. Mediation under Kazakhstan's mediation legislation could resolve fee and suspension disputes quickly and cheaply. Online dispute resolution would match the medium in which the work itself occurs. Platforms might be encouraged to offer internal review before external proceedings, within strict time limits. Internal review must never become a precondition that delays or blocks access to court. Any agreement to mediate should be concluded after the dispute arises, consistently with the forum element. Outcomes should be recorded in anonymised form to build guidance for later cases. Court approval could make mediated settlements enforceable, giving workers certainty. Alternative dispute resolution would thereby relieve courts of numerous low-value claims while preserving judicial oversight.

Reliable data must underpin both implementation and later review. The Bureau of National Statistics could add a module on online platform work to the labour force survey. Questions should distinguish online from location-based work and domestic from foreign platforms. Survey data would complement demand-side measures such as the OLI, which tracks projects rather than persons (Kässi & Lehdonvirta, 2018). Representatives could submit aggregated, anonymised counts of active Kazakh accounts each year. Aggregation protects privacy while still revealing the scale of the workforce. Revenue authorities could publish anonymised totals of declared foreign platform income. Combined, the three sources would allow progress to be measured rather than estimated. Data protection safeguards, including clear purpose limitation, should accompany every collection. Evidence gathered in that manner would also inform the timing of any ratification decision.

Regional coordination would multiply the standard's effect. Kazakhstan shares with its Central Asian neighbours a common exposure to foreign platforms. A model conflict rule for online work, agreed with Uzbekistan, could prevent workers falling between two legal orders. Joint positions would also strengthen negotiations with States where large platforms are established. Within the Eurasian Economic Union, a working group on cross-border platform work could be proposed. ILO technical assistance could support ratification planning and the drafting of implementing regulations. Once bound, Kazakhstan could share its experience through ILO supervisory reporting. Early adoption would allow the country to shape regional practice rather than follow it. Comparative analysis of the international regulation of online labour supports cooperative approaches of that kind (Sartaeva et al., 2026). Reform at home and coordination abroad should therefore proceed in parallel.

Conclusion

People in Kazakhstan increasingly earn their living at a screen, working for platforms that have no presence in the country. Their contracts point to Delaware or Washington, while their work, income and risks remain at home. The decisive question precedes classification: which legal order decides, and before which court. Protective systems answer

by locating work where it is performed, yet they differ sharply in their capacity to reach a foreign counterpart. Kazakh law records the income without anchoring the work. Its procedural, arbitration and platform rules nevertheless contain workable starting points for protection. The anchor–notify–cooperate standard converts them into five proportionate amendments to current instruments. Its originality lies in pairing a screen anchor with the local presence that large platforms already maintain for other regulatory ends. Protection can thus follow the worker without a new statute and without the consent of the platform's home State.

The implications extend beyond Kazakhstan. Many emerging economies supply online work abroad and will meet Article 19 without a conflict rule for work or a forum reaching foreign platforms. The two-layer analysis gives them a method for identifying where protection escapes. Legislators can adapt the standard wherever large platforms already maintain a local representative. Several questions remain open. Nobody has yet measured how many persons in Kazakhstan work through foreign platforms. The screen anchor awaits testing in the first disputes to reach Kazakh courts. Kazakhstan's treaty practice on legal assistance and social security, including Eurasian Economic Union agreements, requires focused examination. Further research should also observe how platforms respond once representative and declaration duties take effect. A worker at a screen deserves the law of the place where she works, not the place where the platform is registered.

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