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Negotiating the digital transformation of work:
non-standard workers' voice, collective rights and
mobilisation practices in the platform economy

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Abstract

This paper attempts to grapple with the collective dimension of the phenomenon of the digital transformation of work. In particular, it explores the relevant legal framework, as well as practical obstacles and concrete responses to the process of “platformisation” of labour. It questions why and for what collective bargaining may be a viable tool to “negotiate” the direction(s) of this paradigm shift. In particular, it focuses on institutional approaches that pursue inclusive and engaging strategies aimed at organising across labour market segments. It also discusses the extent to which trade unions are interested in the fate of non-standard workers, what strategies they follow and what tools they employ. At the same time, it maps other actions and initiatives carried out by self-organised groups. It focuses on the actors and factors which either hinder or facilitate the development of solidarity.

The topic of mobilisation has been a central interest of academics in the fields of industrial relations, labour sociology and social movement studies. By adopting an empirical approach and a cross-disciplinary analytical lens, this work places itself at the crossroads of these disciplines.

The paper is organised as follows. After providing an outline of the main implications of the spread of new technologies and its impacts on employment relationships, part 2 explores the legal framework regulating collective rights, by considering a number of supranational systems of regulation and discussing the potential impediments arising from a narrow interpretation of antitrust immunities and restrictions. However, practical, in addition to legal, obstacles hamper or make less attractive the exercise of fundamental freedoms for non-standard workers. Accordingly, after describing current difficulties, principal actors, key actions and success factors in a selection of European countries, part 3 assesses recent initiatives and achievements. Finally, part 4 sets out the paper’s key conclusions by estimating future developments and offering policy pointers.

Keywords

collective bargaining, gig-economy, social partners, platforms, digital transformation, mobilisation.

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Max Weber Fellow, 2018-2019

*“We cannot uninvent new technology,
but we can determine how it’s introduced,
and who it stands to benefit.”*

[Andrew Worth, bus driver, TUC Congress 2018]¹

1. Introduction

Scarcely a week goes by without a sensational news story regarding the fast-growing segment of technologically-distributed and -organised “casual work” (Adams et al., 2015; De Stefano, 2016), in sectors such as passenger transport, last-mile logistics, food-delivery or household services (cleaning, personal care, maintenance). There is indeed a deep interest in the social impact of the reshaping of organisational and working templates enabled or accelerated by the digital transformation (Cherry, 2016b; Estlund, 2017). This attention has further been heightened by the advent of the so-called platform-mediated labour where “gigs” (i.e. low-wage and one-off jobs made of small projects broken down into separate tasks and distributed to multiple engagers through online systems) are the norm (Aloisi, 2016). Although somehow overhyped, the relevance of the topic is amply justified since this emerging phenomenon epitomizes the effects of concomitant trends remodelling the labour market, including restructuring, outsourcing, decentralisation and freelance and tertiary work. To put it bluntly, the significance of platform work – whose exact proportions continue to be a matter of controversy – goes far beyond its current relevance as a source of employment.

However, in spite of significant recent advances (Johnston and Land-Kazlauskas, 2018; Vandaele, 2018), little or no consideration has been given to how to cope with the de-standardisation and digitalisation of work from a collective perspective, while other questions, such as the nature of the service provided by self-proclaimed “digital intermediaries”,² the scope of employment protection and the legal classification of platform workers,³ have been dealt with more extensively. In particular, the intense litigation over status of riders, couriers and drivers – whether they should be categorized as employees or self-employed – has been thoroughly chronicled in the media, and the legal dilemmas raised studied at length by scholars. But almost no emphasis has been put on the question of consequences arising from such characterisation when it comes to the exercise of collective rights. Interestingly though, collective autonomy and its voice mechanisms may well represent a swift and flexible solution to ensure fair and better conditions for non-standard workers (in the so-called “grey zone” between dependent employment and self-employment), while new legislation or legal claims might struggle to respond promptly and adequately to current challenges (OECD, 2019).

From long-distance transport to domestic work, from warehouses to retail and logistics, from subcontracted construction to hospitality and fast-food, from higher education to call centres: vulnerable workers’ attempts to mobilise with the aim of negotiating their terms and conditions have always been a major concern for social movement scholars, industrial relations experts and labour sociologists (Grote and Wagemann, 2018; Martínez Lucio et al., 2017; Standing, 2011; Webb and Webb, 1987). As argued elsewhere,⁴ without neglecting its elements of novelty, platform work is a form of ultra-flexible work. This currently miniscule group of workers, whatever the relevant sector or the contractual arrangement, share a common situation of vulnerability and have developed several forms of collective voice aimed at addressing precarious work and the inherent “race to the bottom” (Haake, 2017) in the wake of previous and various alternative forms of worker voice, representation and advocacy (Tapia et al., 2015).

¹ O’Connor S. (2018).

² Court of Justice of the European Union, Case C-434/15 *Asociación Profesional Elite Taxi v Uber Systems Spain*, 20 December 2017.

³ Representing a gateway to protections, the status of workers organized through digital platforms has been the subject of widespread litigation in the last few years. In several jurisdictions, from Brazil to Australia, from European countries to the USA, workers have sought to obtain reclassification as employees in court, with very dissimilar, sometimes contradictory, outcomes (Cherry, 2016b; De Stefano, 2018c).

⁴ See, for instance, De Stefano and Aloisi (2018b).

As a consequence, the theoretical frameworks describing collectively taken countermeasures in precarious employment contexts may offer a compass for assessing the most recent initiatives as long as the specific features of new forms of work are not overshadowed. Concomitantly, the points made about the difficulties experienced by “logged-in” workers could be stretched to some extent to other (more traditional) forms of non-standard and precarious employment (Kessler, 2018).

In particular, what “traditional” non-standard and platform workers have in common is that they face analogous obstacles to the effective exercise of collective rights. These impediments pertain to three major classes, which are strictly entwined. From a legal standpoint, as digitally-supplied workers, hired as self-employed workers, they are discouraged from bargaining collectively since the resulting agreement may be found in breach of competition law (about which more below); nor can they access formal structures of representation that, in several jurisdictions, are restricted only to workers in an employment relationship, as defined by national laws and practices.⁵ Despite that, these workers are in a subordinate position to their client, which may resemble an employment relationship in terms of the level of monopsony power and bargaining asymmetry (OECD, 2019). From a socio-economic point of view, these workers lack bargaining power, which is in turn exacerbated by the fact that the short-lived nature of assignments and the consequent fear of retaliation represent serious hindrances to their organisation. Lastly, from a more practical perspective, non-standard workers are barely in physical, temporal and linguistic proximity and may have multiple and conflicting agendas as well as opposite needs and preferences (Hyman, 1994), thus making the building of effective alliances over common demands hardly practicable.

Understandably, the list of hurdles is not exhaustive but can offer a broad-brush illustration of cumulative impediments. Delving deeper, it has to be noted that the categories of obstacles have a corresponding set of legal and practical responses. For instance, collective bargaining by workers who are falsely classified as self-employed could be exempted from the cartel prohibition restrictions thanks to a purposive judicial intervention by the Court of Justice of the European Union, since competition law has been concerned primarily with defending consumers from anti-competitive practices by sellers, but this is hardly the case of platform workers negotiating better fees and working conditions with the companies. At the same time, the fact that workers often execute their tasks independently, sometimes in a highly mobile way, in isolation, over large geographical areas, and in direct competition with one another, can be mitigated thanks to the use of technological tools facilitating information, interaction and the sharing of bad experiences and best practices (Wood, 2018). What is more, the fragmentation along different lines within the workforce, such as ethnic identity, self-perception, political views and even motivational aspects, may become a source of strength for “structured antagonism” (Wood and Lehdonvirta, 2019), if aptly combined with issue-based and cross-cutting campaign methods (Finkin, 2016, Keune, 2013).

Positive signs are indeed emerging all over Europe.⁶ In May 2018, a territorial collective agreement was signed in Bologna by institutional trade unions, workers’ autonomous collectives⁷ and the management of the food-delivery company “Sgnam-MyMenu” (later joined by “Domino’s Pizza Italia”). The “Charter” sets out a fixed hourly rate in line with the sector’s minimum wage – established by the collective agreement for the respective industry – and includes compensation for overtime, holidays, bad weather and bicycle maintenance compensation, accident and sickness insurance. It also guarantees trade union rights (De Stefano and Aloisi, 2018a). In July 2018, a “historic collective agreement” was signed between the Danish trade union 3F PSHR and “Hilfr.dk”, a platform providing cleaning services (Hale, 2018). Thanks to the agreement, domestic cleaners, who were formerly invariably classified as self-employed, will be considered employees after completing 100 hours of work, unless they explicitly opt out of this status. The single-employer agreement sets a significant hourly minimum wage, protection in case of dismissal, data protection rights and a system regulating the cancellation of shifts. In February 2019, the British courier company “Hermes” negotiated a new

⁵ For a commentary on the Deliveroo case, see Aloisi (forthcoming).

⁶ For the USA scenario, see <http://fortune.com/longform/unions-workplace-technology/>.

⁷ For a preliminary analysis, see Marrone (2019). See also <https://www.facebook.com/ridersunionbologna/>.

agreement with the GMB union, offering drivers guaranteed minimum wages and holiday pay in a deal to provide trade union recognition (Butler, 2019; Wright, 2019).

By considering only a narrow timeframe, these three landmark achievements demonstrate an unexpected vitality, if not even a revival (Clawson, 2003), in collective action and labour militancy in a fluid and atomised world of work. Whether these preliminary results will mark the start of an enhanced agenda for organised labour, leading to winning demands, remains to be seen. In any event, these agreements “debunk many myths about platform work” (De Stefano, 2018b). Broadly speaking, they represent a step forward in the slow process of “normalisation” of legal discourses around platform work. Contrary to the widespread rhetoric that innovation is incompatible with individual and collective employment protection legislation, the agreements corroborate the idea that social institutions are flexible enough to accommodate even innovative organisational formats (Aloisi, 2018b). Secondly, they dismiss the paternalistic account around the “unsustainability” of a business model based on direct employment in hyper volatile sectors of the labour market. In particular, the agreements also show that employment status is not at odds with flexible schedules in an on-demand organisation. Lastly, the short-term, task-based, and on-demand nature of platform work does not necessarily place gig workers in direct competition with each other: under certain conditions (van Doorn, 2018), solidarity is feasible.

More importantly, these episodes tell a clear and promising story of amalgamation between institutional unions and self-organised movements, notwithstanding the initial (sometimes persistent) mutual distrust. On closer inspection, successful examples of bargaining in the context of non-standard work, which emerged decades ago in the temporary work agency sector, or in sectors where non-standard work is widespread (Drahokoupil, 2015), such as the cultural, creative and media industries, have proven that “systems are able to adjust to cover different and new forms of work” (OECD, 2019). Since collective interests, structurally opposed to those of management, remain unchanged despite the major transformations (Kirk, 2018), hard times can stimulate new thinking and hence provide new opportunities for organised labour, as expected by Gumbrell-McCormick and Hyman (2013). In light of the above, the aim of the working paper is to generate insights into a representative portion of the growing range of initiatives aimed at mobilising “outsider” workers (Lindbeck and Snower, 2001) and developing novel tactics to ensure these workers enjoy adequate collective rights. These actions rely on both traditional protest formats and new technologies, including digital tools, online forums, social media and crowdfunding campaigns (Geelan, 2017).

1.1. Non-standard form of employment in the context of digital transformation of work

Non-standard forms of employment (NSFE) are on the rise, determining “the spread of socio-economic uncertainty and the deterioration of working conditions for many workers” (European Parliament, 2017). In addition, declining union power, falling union membership rates among all types of workers,⁸ decreasing collective bargaining coverage, the shift towards decentralised bargaining and the decollectivisation of the workforce have moulded a highly fragmented labour market by contributing to the spread of casual or irregular work in economies where “contingency is a defining feature” (Heery, 2009). In the USA the percentage of workers engaged in alternative arrangements – such as independent contractors, temporary agency workers, and on-call and gig workers – rose from 10.1 percent in 2005 to 15.8 percent in 2015 (Katz and Krueger, 2016). Non-standard work now makes up around one in three jobs in OECD countries (OECD, 2015) and 40% in the European Union (Rhein and Walwei, 2018). Moreover, several data collection exercises suggest that between 0.5% and 3% of the working age population in developed countries have earned income through online platforms (OECD, 2018c).⁹

Admittedly, however, criteria for identifying what the legal system recognises as a NSFE vary appreciably among jurisdictions or may be influenced by the constantly evolving socioeconomic context (Lo Faro, 2017; Cappelli and Keller, 2013). Although the contours continue to change, by using a broad

⁸ The proportion of employees in the OECD who are union members has steadily declined, from 30% in 1985 to 17% in 2015, and the proportion of workers covered by collective agreements has declined from 45% to 33% over the same time period (OECD, 2018b). The median density rate in the OECD is about 18%, down from a peak of more than 50% in the early 1980s (TheEconomist, 2018).

⁹ See European Commission (2015), International Labour Office (2016), OECD (2016 and 2014).

and inclusive definition based on spatial, temporal and employment protection legislation divergences (Davies, 2013a and 2013b), it could be said that non-standard forms of employment include temporary employment, part-time work, temporary agency work, self-employment, dependent self-employment, disguised employment relationships¹⁰ and other “new” forms of casual work such as platform-mediated arrangements.¹¹ For over decades now (Collins, 1990, Kalleberg, 2000), the vertical disintegration of the employing structures and the de-standardisation of the employment relationships have been undermining coordinated collective bargaining and the ability of unions to protect wages and working conditions across production chains (Murray, 2017). Nonetheless, at the European Union level, a set of non-standard forms of employment such as part-time, fixed-term or temporary agency work have already received growing political attention and consequent legislative intervention;¹² therefore, only some non-standard forms are legally outside the reach of collective agreements (Cella, 2012; Keune, 2015).

In addition, the global labour market is currently experiencing a profound “platformisation” process redesigning the way people work (Crouch, 2019; Dachs, 2018; Eichhorst et al., 2016). In this respect, although tech-enabled or digitally-mediated jobs represent a relatively small proportion of the labour market for the time being, the policy challenges they pose are part of a much broader set of trends that we cannot disregard. These formats blatantly exclude workers from the employment protections and social security benefits, traditionally afforded to employees, which becomes increasingly relevant as more workers rely on platforms as their primary source of income (Forde et al., 2017; Berg, 2016). They are also excluded from fundamental principles and rights at work, such as freedom of association, collective bargaining or protection against discrimination (De Stefano, 2016). Labour platforms have the potential to be a critical channel for the creation and dissemination of these alternative – and often unstable, unpredictable, and risky from the point of view of the worker – arrangements. With this important caveat in mind, it could be emphasised that the platform business model allows for the creation of *non-standardness by design*, “a form of extreme outsourcing that could lead [...] ultimately to further erosion of workers’ rights and benefits” (Cherry, 2016a).¹³

1.2. Outline: from atomisation to revitalisation, from precarisation to negotiation

At the moment, public debate on the “future of work” is poorly focused on how technology alters power relationships (Rogers, 2017; Davies, 2014). Yet, understanding the direction and the shape the changing world of work will take in the coming years must necessarily involve a closer examination of non-standard arrangements as well as their collective voice mechanisms (Lang et al., 2013),¹⁴ since the interrelation between innovation and jobs is necessarily mediated by how labour is concretely organised and negotiated (Hendrickx, 2010). While it is probably true that technology will be able to displace some routine and menial tasks (Autor, 2015), it will also increase the possibility of hierarchical management and digital surveillance to continually organise, monitor and discipline workers in their performance of tasks in a way that is unprecedented, tighter than before and not even desirable (Moore et al., 2018; Ivanova et al., 2018). Faced with a “genetic variation” of strategies of managerial control (Lehdonvirta,

¹⁰ This fraudulent situation occurs when a company manipulates employment contracts in order to misrepresent the reality, thus nullifying or attenuating legal responsibilities and protection afforded by the law (Heyes and Hastings, 2017).

¹¹ Eurofound has conducted a “mapping exercise” resulting in the identification of nine distinct forms of employment as new forms (or, better, ways) of work since 2000, namely employee sharing, job sharing, interim management, casual work, ICT-based work, voucher-based work, portfolio work, crowd and collaborative employment (Eurofound, 2015a).

¹² Council Directive 97/81/EC of 15 December 1997 concerning the Framework Agreement on Part-time work concluded by UNICE, CEEP and the ETUC, OJ [1999] L14/9; Council Directive 1999/70/EC of 28 June 1999 concerning the Framework Agreement on Fixed-term work concluded by ETUC, UNICE and CEEP, OJ [1999] L175/43; Directive 2008/14/EC of the European Parliament and the Council of 19 November 2008 on temporary agency work OJ [2008] L327/9. At a high level, they were underpinned by the assumption workers engaged in non-standard employment should not see their working conditions limited by barriers erected on the basis of the form of employment (Bell, 2012).

¹³ See also Ruckelshaus et al. (2014).

¹⁴ “Contingent work” is an Anglo-Saxon definition, firstly coined to describe “a management technique of employing workers only when there was an immediate and direct demand for their services” (Befort, 2003; Freedman, 1996; Polivka, 1996).

2016), now exercised through powerful and insidious devices, collective bargaining may well represent an effective way to “negotiate” the digital transformation of work, independently of the legal status of workers. At the same time, it could represent a way to expand protection by reclassifying workers by mutual agreement with platforms.

Needless to say, the most critical features of non-standard forms of employment and platform work cannot be addressed without examining their collective implications; namely, power relations, oppositional roles, emerging conflict and negotiation. Accordingly, the main trajectory of this research deals with the collectively taken countermeasures against the trend towards the erosion of social rights. The questions to be addressed are whether and to what extent non-standard workers can put in place impactful strategies aimed at exercising the right to organise and bargain collectively thus revitalising organised labour and industrial relations (Ibsen and Tapia, 2017). Moreover, how can traditional unions, galvanised by the resurgence of labour militancy, benefit from this renewed mobilisation (Kelly, 1998), resist the trend towards precariousness and support innovative actions? In order to grapple with a constant evolution, these two strands of analysis run intertwined. This paper appraises whether, and to what extent, initiatives led by platform workers constitute new modes of exercising collective rights. It examines the actors and/or factors which either hinder or foment the development of solidarity connections in order to evaluate the implications of this paradigm shift.

A pluralist frame of reference will be used to briefly outline the supranational legal framework regulating collective action and describe mobilising strategies aimed at bargaining collectively. This is still a relatively less developed area of research, and somewhat outside of the mainstream of employment relations scholarship. However, the issue of mobilising and representing NSFEE, together with the analysis of the unions’ approach towards transformation of work, has always been a central interest of academics in the fields of industrial relations, labour sociology, social movement studies and human resources management. As a result, by adopting an empirical approach and a cross-disciplinary analytical lens, this paper places itself at the crossroads of these disciplines. Building on the results of previous investigations into working conditions in selected subsectors of the platform economy (Aloisi, 2018a), secondary data from academic sources and non-structured interviews will be combined with publicly available information, grey literature¹⁵ and media reports. This paper, which is largely exploratory, has a comparative component providing a preliminary mapping exercise of initiatives in a set of European countries. It is organized as follows.

The Introduction provides an outline of the main directions being taken by digital transformation and sheds light on the legal determinants underpinning the growth of non-standard forms of employment, including those channelled through platforms and apps. Part 2 offers a working definition for collective rights with a focus on collective bargaining, which should be seen as a scheme “enabling” the other collective functions such as representation and industrial action. By considering a number of supranational systems of regulation, the section explores legal frameworks regulating industrial relations and collective bargaining. In a multilevel scenario, several international legal instruments guarantee the right to collective bargaining to “every worker”, irrespective of the legal status. In many jurisdictions, however, a strict interpretation and consequent enforcement of competition law prevent self-employed and non-standard workers from bargaining collectively, on the grounds this could be considered illegal cartel action (Syrpis and McCrystal, 2014). By stressing the widespread presence of bogus or economically dependent self-employment, it can be argued that a larger number of workers than expected may be entitled to bargain collectively. Alternative judicial pathways to obtain access to collective rights must be developed.

Practical, not only regulatory or legal, hurdles make it difficult to build solidarity amongst non-standard workers. In this vein, after describing current problems, principal actors and success factors in a selection of European countries over a period of time from 2014 to 2019, Part 3 provides examples of recent campaigns and successful achievements. It focuses on institutional approaches that pursue inclusive and engaging strategies, by discussing the extent to which trade unions are interested in the fate of NSFEE, what strategies they follow and what tools they employ. Findings are clustered in line with Heery’s model (2009) reviewing trade union response to a more insecure, precarious workforce

¹⁵ On the role of Twitter, see Conway et al. (2019).

and encompassing four different approaches: (i) exclusion, (ii) subordination, (iii) inclusion, (iv) engagement. Moreover, this section assesses the extent to which attempts to promote the “security” of standard workers complement or conflict with attempts to represent non-core workers and regulate their pay and terms and conditions (Lindvall and Rueda, 2014; Middleton, 1996). To complete the picture, inventive and spontaneous initiatives carried out by informal or self-organised collectives representing non-standard workers (mainly in the sector of services at household’s premises) are listed. Having identified common trends in the dynamics of mobilisation, part 4 draws some preliminary conclusions by estimating future developments and offering policy pointers.

2. The current legal framework, between fundamental rights recognition and antitrust exemptions

2.1. A working definition of collective autonomy, with a focus on collective bargaining

This part provides a definition for the “imprecise” notion of collective bargaining – a process typically associated with workers in standard employment (Rodríguez Piñero and Ferrer, 2006).¹⁶ A broad definition of collective autonomy is used in the remainder of this paper, including initiatives of all types, regardless of the formal requirements for legal recognition. In contrast with rulings holding unions to be criminal conspiracies, whose intent was to raise prices (or, better, wages) and to inhibit trade, collective bargaining is “a collective voice mechanism expressly based on a rationale which can be construed as ‘anti-competitive’ – that labour is not a commodity and individual workers should not be required to compete over the terms and conditions on which they sell their labour” (Syrpis and McCrystal, 2014).¹⁷ A major immunity is recognised accordingly. Needless to say, collective agreements and other expressions of collective voice and interests have been essential vehicles for securing decent working conditions for workers. Collective labour rights, together with corporate governance, active labour market policy and work-life balance laws may play a crucial role for mitigating dualism and rebalancing bargaining powers (Adams and Deakin, 2014). Notably, it has been demonstrated that in those areas of the economy where collective agreements apply and work representatives are active, workers enjoy far better conditions and protection (OECD, 2016).

From the worker’s perspective, the organisation of common interests along collective lines has traditionally proved to be the most effective way to achieve a “countervailing power” to the employer and re-establish a balance of forces in the employment relationship (Galbraith, 1952; Liebman, 1993).¹⁸ As a consequence, unionisation and even organisation are aimed at levelling the playing field between management and labour. Because of the ever-present threat of a withdrawal of labour power, collective bargaining tends to be far more effective than individualised bargaining done by solitary and fragmented workers. Understandably, “while the individual worker might be dispensable from the employer’s standpoint, the whole workforce is not” (Shamir, 2016). This is particularly true for non-standard workers. Therefore, the exercise of collective rights should be understood “as institutionalised forms of capabilities which provide individuals with the means to realise the potential of their resource endowments and thereby achieve a higher level of economic functioning” (Deakin and Wilkinson, 2005).¹⁹ Kelly (1998) illustrated how the formation of collective claims involves moving from a sense of injustice towards collective interests, a crucial process being attributed to agency. As a consequence, agency is critical when it comes to organising labour: both institutional unions and spontaneous movements can be entrusted with a delegated power.

Turning now to collective actors, it is worth noting that “labor movements are fundamental social formations whose effects on society run deep and reverberate broadly” (Fantasia and Stepan-

¹⁶ Understood as the legal tool (i) “determining working conditions”, (ii) “regulating relations between employer and workers”, (iii) “regulating relations between employers’ and workers’ associations” (ILO Convention No. 154).

¹⁷ As such, it is susceptible to a critique based in competition principles that a free market for labour produces optimal outcomes, maximising society’s scarce resources.

¹⁸ For a complete overview, see Dukes (2014).

¹⁹ At the international and European level, “information and consultation are now formally recognized as ‘new fundamental social rights’” (Ryan, 2003; Blanke, 2002).

Norris, 2004). In brief, trade unions are an organised expression of the recognition of the antagonistic nature of the employment relationship, that the unequal nature of that relationship augurs the need for collective association, and the realisation of sufficient interest in common to make collective association feasible and desirable (Noon and Blyton, 2007), “for the purpose of maintaining or improving the conditions of their employment” (Webb and Webb, 1984). More specifically, unions can be seen, as scholars often do, both as interest groups defending members’ interests (this is why non-standard workers and their priorities might not figure high in their agendas) and “institutionally embedded” actors fighting for the realisation of a more universalistic “common good” to the benefit of a broader constituency (by representing the interests of non-members as a way to avoid a decline in labour standards for all in a given sector) (Hyman, 2001). Different unions may choose different approaches, according to their traditional membership, ideology, internal organisation or final goals (Hyman, 2001; Keune, 2015; Pernicka, 2006).

To conclude, collective bargaining operates as a machinery for rationalising and humanising the exercise of managerial prerogatives, making it possible to speed up the gradual shift in the balance of power between management and labour. In traditional industrial relations, the formation of unions and other workers’ organisations enables a balance of power in the employment relationship (Hobden, 2015). Needless to say, grievance and disciplinary procedures were developed to protect workers from intrusive managerial prerogatives and to counter unilateral, and potentially autocratic, management control (Freeman and Medoff, 1984). This “contentious form of labour relations was tempered somewhat by collective negotiations and agreements”, which gave workers and employers the opportunity to advocate their collective interests, and come to agreement on specific working conditions such as wages, working time, means of control, and other terms and conditions of employment (Aidt and Tzannatos, 2002). It is debatable whether the subject of negotiations, as well as the bargaining timeline, match the reality of technological change. Indeed, the impact of digitalisation on jobs and skills is hard to anticipate, and the consequences can vary depending on the sector at stake (Jolly, 2018). After presenting the positive implications of instruments regulating collective dismissals, De Stefano (2018a) argues that “[t]he involvement of workers’ representatives can also prove particularly beneficial to the aim of governing other implications of new technologies at the workplace.”

2.2. *The supranational legal framework: a brief overview*

By providing a short summary of legal standards applicable to the protection of collective bargaining (Lo Faro, 2000; OECD, 2017; Rubiano, 2011), this paragraph sketches out the relevant legal framework and attempts to clarify its limits. Undeniably, workers can express their complaints through mechanisms other than collective bargaining, for example, through systems of workplace consultation and codetermination, by means of collective work stoppages or even through various forms of participation in the governance of economic activities (Lamine and Prassl, 2018). However, it is important to remark that, by operating as foundational or instrumental rights, freedom of association and the complementary right to bargaining collectively can make collective labour rights (more) effective for both employees and non-standard workers without the need to rely on onerous and intimidating individual protection and enforcement mechanisms, such as grievance procedures or unpredictable lawsuits (De Stefano and Aloisi, 2019). Accordingly, given the persistent “centrality” of collective bargaining in many of the European Union member states, the main focus of the following paragraph will be on the implications of competition law for the operation of collective agreements (Syrpis and McCrystal, 2014).

Controversial though it is, freedom of association and the right to collective bargaining are recognized in numerous international treaties, as well as incorporated into the universal catalogue of human rights (Fudge, 2007; Mantouvalou, 2012a and 2012b). Within the Council of Europe legal order, the freedom of association and the right to collective bargaining were initially recognized by the Community Charter of the Fundamental Social Rights of Workers of 1989.²⁰ Moreover, the European Convention on Human Rights (ECHR) guarantees the freedom of association (Article 11). The European

²⁰ Since the adoption of the Lisbon Treaty, the Community Charter has the same legal status as the European Treaties (Article 6 TEU).

Court of Human Rights extended protection of freedom of association to self-employed persons²¹ and the Grand Chamber held that the right to bargain collectively and to enter into collective agreements does constitute an essential element of Article 11.²² Article 5 of the European Social Charter (Revised) (ESC) sets out the right to form, join and actively participate in associations designed to protect their members' professional interests. Article 6 of the ESC illustrates the content of the right "to bargain collectively" by listing the actions parties can undertake in order to ensure "its effective exercise". Article 28 of the Charter of the Fundamental Rights of the European Union (so called "Nice Charter") protects the right to collective bargaining, by specifically referring to "national laws and practices".²³

The ILO classifies four categories of Fundamental Principles and Rights at Work including the freedom of association and the effective recognition of the right to collective bargaining. In addition to this, according to ILO principles, the right to strike – an intrinsic corollary to the right to organise protected by Convention No. 87 – is one of the essential means through which workers and their organisations may promote and defend their economic and social interests. Outside restricted situations (public servants, essential services and in case of acute national emergency), non-standard workers are entitled to the right to strike, including the right to strike in solidarity. Article 2 of ILO Convention No. 87 provides that workers and employers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organisation concerned, to join organisations of their own choosing without previous authorisation (Hodges-Aeberhard, 1989).²⁴ Article 4 of Convention No. 98 stipulates that measures appropriate to national conditions shall be taken, where necessary, to encourage and promote the full development and utilisation of machinery for voluntary negotiation between employers or employers' organizations and workers' organizations, with a view to regulating terms and conditions of employment by means of collective agreements.

While international law instruments on the right to organise and bargain refer to workers in general, without making a distinction between standard and non-standard workers, the right to collective bargaining for self-employed workers is the object of legal discussion, mostly related to the application of antitrust regulation. In fact, competition law may act as an impediment to the expression of collective voice by workers through collective bargaining. Where individual workers selling their labour are indeed seen as "undertaking", bargaining collectively over pay could constitute anti-competitive conduct. This could be avoided by providing that certain labour market transactions are exempted from anti-trust prohibitions. Such exemptions may be expressly enacted or created through judicial interpretation (McCrystal and Syrpis, 2014). In the EU framework, in spite of the recognition of collective bargaining rights beyond a strict definition of "employee",²⁵ the Court of Justice of the European Union's approach still falls short of a real enabling of collective bargaining as a universal right, i.e. recognised regardless of employment status. Article 101 TFEU, prohibits "all agreements between undertakings, decisions by associations of undertakings and concerted practices which may affect trade between Member States, and which have as their object or effect the prevention, restriction or distortion of competition".

Although scholars advocate a different interpretation or a total "reinvention" of such restrictions, which are no longer able to achieve their objectives (De Stefano, 2015; Garden, 2018), the Court of

²¹ ECtHR, 17/07/2010, *Vörður Ólafsson v Iceland*, No. 20161/06.

²² ECtHR, 12/11/2008 (GC), *Demir a. Bayjara v Turkey*, No. 34503/97, para. 153.

²³ The European Committee of Social Rights clarified that self-employed workers are protected under Article 6(2) of the European Social Charter. European Committee of Social Rights, *Irish Congress of Trade Unions (ICTU) v. Ireland*, Complaint No.123/2016, 12 September 2018.

²⁴ For a review of restriction on organising self-employed workers in some EU countries, see Fulton (2018).

²⁵ "The EU 'worker' concept is undoubtedly one that endorses a notion of subordination that includes 'control', but it also acknowledges more nuanced and loose concepts such as 'direction or supervision', that may include within its scope some domestic notions of quasi-subordinate work relations. However the extent to which the Court may be willing to bring under the EU concept of 'worker' national self-employed workers that are economically dependent from one main 'client' or user remains an open question" (Countouris, 2017). See Case C-66/85, *Lawrie-Blum*, Case C-256/01 *Allonby*, and Case C-216/15, *Betriebsrat der Ruhrländklinik*.

Justice of the European Union (CJEU) seems still attached to its *Albany* decision,²⁶ the key case discussing the applicability of what is now Article 101(1) TFEU to collective agreements, decided in 1999. In *Albany*, the question was whether a decision taken by the organisations representing employers and workers in a given sector, in the context of a collective negotiation, to set up a single pension fund responsible for managing a supplementary pension scheme, was contrary to Article 101(1) TFEU. The Court stated that the Treaties contain not only the goals of competitiveness, but also social policy objectives. Therefore, “*agreements concluded in the context of collective negotiations between management and labour in pursuit of such objectives must, by virtue of their nature and purpose, be regarded as falling outside the scope of [antitrust restrictions]*”. As regards its purposes, the Court exempted schemes “*seek[ing] generally to guarantee a certain level of pension for all workers*” thus “*contribut[ing] directly to improving one of their working conditions, namely their remuneration*”.

In accordance with the principles enshrined in *Albany*, in a breakthrough judgment on collective bargaining covering substitute orchestra players considered self-employed under domestic (Dutch) laws,²⁷ the CJEU stated that “*false self-employed*” workers, “*disguised [...] in order to avoid the application of some specific legislation (for example, labour or fiscal regulations) which is considered unfavourable by the employer*”, have access to the right to collective bargaining. The court was demanded to determine whether a minimum fee contained in a mixed collective agreement covering both employees and (substitute) self-employed workers would be exempted from art. 101(1) TFEU. The CJEU describes false self-employment as follows: “*self-employed service providers who [...] perform for an employer, under a works or service contract, the same activity as that employer’s employed workers, [...], in other words, service providers in a situation comparable to that of those workers*”.²⁸ As a consequence, only when the situation of self-employed workers is comparable to that of employees, collective bargaining agreements are exempted from EU legislation on cartels (anti-competitive horizontal price fixing) and are thus legal (Freedland and Kountouris, 2017).

By considering self-employed workers as “undertaking”, the CJEU has not moved forward from the European “binary divide”. In particular, the definition of worker, built on a relationship of command and control, is rather narrow and results in the exclusion of different non-standard forms of employment from the scope of landmark directives in the field of social law.²⁹ However, the Court exempted the collective agreement also covering workers in a situation “comparable” to that of employees from antitrust restrictions by introducing the (artificial) category of “false self-employed” workers. Unfortunately, the court provided no clear guidance on how to distinguish between “genuine” self-employment and what it called “bogus” self-employment (De Stefano, 2017a). Such a recognition would have protected employees from social dumping, which represents a danger to everyone, since the growing number of self-employed workers can incite competition potentially leading to lower salaries and decreased employee benefits. As a consequence, addressing misclassification before tribunal or labour inspectorates is a fundamental step to ensuring that all workers who are entitled to bargain collectively have access to it in practice.³⁰ However, the clashes between domestic definitions of employment, EU competition law and collective labour rights in the gig-economy may represent a further obstacle to “transnational” and local collective negotiation in the sector (Schiek and Gideon, 2018).

²⁶ Court of Justice of the European Union, Case C-67/96 *Albany International BV v Stichting Bedrijfspensioenfonds Textielindustrie*, 21 September 1999.

²⁷ Court of Justice of the European Union, Case C-413/13 *FNV Kunsten Informatie en Media v Staat der Nederlanden*, 4 December 2014.

²⁸ *FNV Kunsten*, para. 42.

²⁹ For a complete overview, see Risak M. and Dullinger T. (2018).

³⁰ Indeed, “the status of ‘worker’ within the meaning of EU law is not affected by the fact that a person has been hired as a self-employed person under national law, for tax, administrative or organisational reasons, as long as that person acts under the direction of his employer as regards, in particular, his freedom to choose the time, place and content of his work, does not share in the employer’s commercial risks, and, for the duration of that relationship, forms an integral part of that employer’s undertaking, so forming an economic unit with that undertaking”, *FNV Kunsten*, para 33.

The CJEU's posture seems problematic in a context of growing casualisation of labour. An increasing number of self-employed workers are not able to determine their conduct in the market independently, due to the nature of the commitments or to a situation of subordination and/or dependence on the client (Biasi, 2018; Daskalova, 2017). The clear implication of the judicial position is that for them it is not possible to bargain collectively without facing the risk that the outcome of such negotiation may be vulnerable from a legal point of view, thus undermining the actual exercise of this right. This system of narrow antitrust immunity deserves an update in light of the very goals of competition law, namely to avert abusive conduct such as market concentration, driven by network effects and a winner-takes-most market paradigm (Mason, 2019). As a matter of fact, the assumption that any form of coalition and collective bargaining process of self-employed workers would hamper the proper functioning of the free market, leaving space for unlawful cartels, could not be justified under any substantial equity and factual argument (Rubiano, 2011).³¹ Notably, the “exception-to-rule” approach does not seem consistent or even compatible with the jurisprudence of the Court of Strasbourg that considers the right to collective bargaining as an essential element of freedom of association and the importance assigned to the opinions of the ILO supervisory bodies when the Court determines the scope of the ECHR protection of collective rights (De Stefano and Aloisi, 2019; De Stefano, 2015).³²

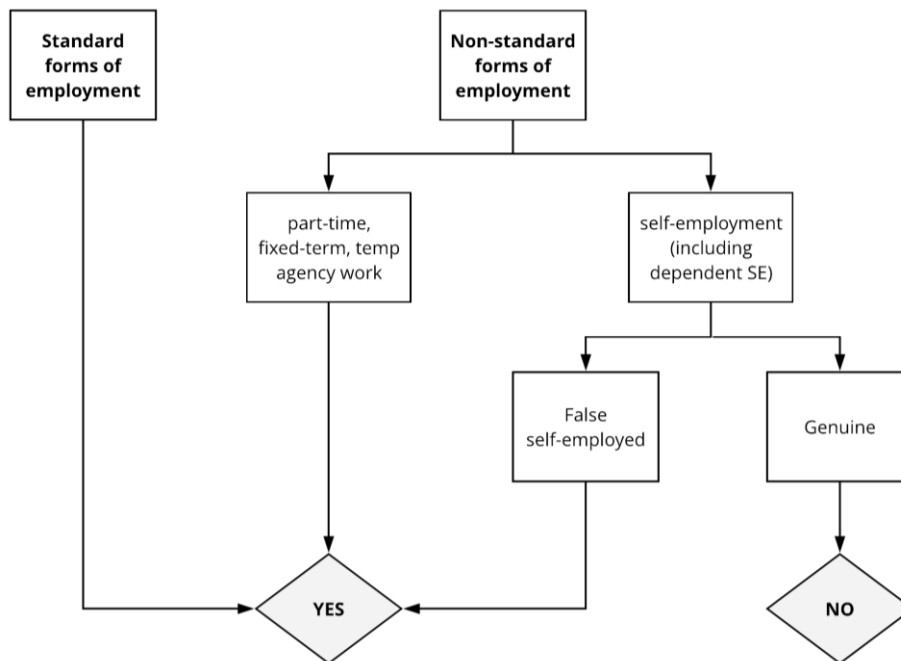
To conclude, the existence of an employment relationship is typically key to collective bargaining rights while private- or commercial-law contracts determine a potential reduction in salaries – turning the wage-setting issue into a mere contracting decision (Weil, 2014) – and, more in general, the failure to implement clauses laid down in the collective agreements. Particularly significant is the fact that the Court defined an unwritten exemption for collective agreements. However, this judicial interpretation is potentially vulnerable, relying on a particular understanding of the nature of the relationship between competition law and labour law. Therefore, its existence should not lead to complacency over the potential threat posed by competition law to worker voice expressed through collective bargaining. This is significant for two main reasons. Indeed, “the rising prevalence of atypical forms of labour market engagement takes ever larger numbers of workers outside the scope of the competition law exemptions, in particular those workers engaged as ‘independent contractors’, and thereby risks limiting access to meaningful collective bargaining” (Bogg and Novitz, 2014). As workers continue to move towards non-employment relationships, and as collective bargaining continues to fragment in many sectors of the economy, the protection afforded by the exemptions becomes ever narrower.

Moving now to the national level, legal systems have poorly addressed the issue of collective rights for non-standard workers. In some countries, collective bargaining is open to a wider range of workers encompassing some self-employed ones falling within the scope of intermediate categories of work such as: *arbeitnehmerähnliche Person*, literally “employee-like persons” (Germany), “economically dependent self-employed workers” (TRADE) (Spain), parasubordinate workers (“*collaboratori*”) in Italy or workers such as in the UK (Klebe and Heuschmid, 2017). In Denmark, for example, many atypical workers and self-employed workers are members of trade unions, thanks to an inclusive definition of employee and an unwritten labour law principle allowing for industrial action in support of a collective agreement for all types of work regardless of the existence of an employment contract. As a consequence, many collective agreements have been concluded on behalf of non-standard workers, especially those hired under an atypical contract (part-time, fixed-term, temporary agency work). In Spain collective agreements apply to employees only, although economically dependent self-employed workers can join specific trade unions and associations and conclude “professional interest agreements” (ELLN, 2009). In the Netherlands, social partners attempt to mitigate some of the negative effects (e.g. downward pressure on wages and the lack of social protection for certain groups) through adopting minimum fees for self-employed persons in collective bargaining agreements.

³¹ See also Lougher and Kalmanowicz (2016).

³² This is all the more relevant since the Court of Strasbourg also recognises the freedom of association of the self-employed as protected under the Convention (Countouris, 2017).

Figure 1: collective bargaining according to form of employment in the EU Member States³³



3. Practical obstacles and positive solutions: a case study analysis on various initiatives in the platform economy

After describing uneven institutional avenues of collective voice,³⁴ this part focuses on concrete practices in emerging non-standard labour markets. In this respect, however, a historical perspective suggests that non-standard employment is neither unprecedented nor exceptional (Cobble and Vosko, 2000, Stone 2017). Moreover, the tradition of industrial relations provides many examples of unions organising workers in areas of casual, precarious or insecure employment such as coalitions of dockers, building workers, small traders, farmers and call-centre staff by leveraging on collective identity, community and especially mutual assistance (Doellgast, 2012; Saundry et al., 2006). Accordingly, the issue of mobilising, representing and negotiating on behalf of NSFEE, together with the analysis of the unions’ approach towards this rising segment of the workforce, has always been of central interest to scholars in the fields of industrial relations, labour sociology and social movement studies. In fact, this set of institutional relationships may require a holistic analytical lens. At the same time, an increase in labour organisation activism in recent years has been accompanied by a renewed academic curiosity, as envisaged by Fantasia and Stepan-Norris (2004). Analysing the state of the art and potential developments with a cross-disciplinary approach is the goal of this part.

³³ Author’s own elaboration. A key impediment is the classification of contractual arrangements for the purposes of falling within the scope of antitrust immunity and the extent to which competition law is engaged when seemingly self-employed persons collectivise. As a matter of fact, an increasing number of workers may fall outside the scope of the exemptions. In particular, while (traditional) non-standard forms of employment (part-time, fixed-term and temporary agency work), which are established under an employment relationship, currently face merely *practical* difficulties in exercising their collective rights, not only do self-employed workers face inherent difficulties due to their temporal, spatial, linguistic and motivational diverse nature, but they might not be entitled to collective bargaining in light of a narrow interpretation of antitrust principles, unless they are found to be falsely classified as self-employed.

³⁴ Labour organisations, indeed, “are not free agents when it comes to goal, methods and resources” (Kelly, 1998). As explained by Fantasia and Stepan-Norris (2004), “the character of the labor movement at any point in time is the result of a complex set of decisions, actions, and struggles both within the movement itself (often including struggles over questions of inclusion and exclusion) and between labor and employers and the organizations that represent them”.

To begin with, the structure of trade unions and nature of collective bargaining agreements reflect a particular system and historical context (Hayter, 2015). The “iconic” model (Newlands et al., 2018) “was based on the unities of place and work (work performed on the premises of the firm), of time and work (work carried out in a single temporal sequence), and of action and work (a single occupational activity)” (Veneziani, 2009). On the contrary, today, new decentralised formats somehow incompatible with the paradigm of industrial democracy are the norm (Kahn-Freund, 1977). This inconsistency is not only attributable to the decline in large manufacturing industries in which unions had a major stronghold (Visser, 2012). The current system of production is based on both high connectivity and spatial/architectural³⁵ isolation, time-porosity, task-based assignments, horizontal networks and the substitution of commercial contracts (such as contracting, subcontracting and non-standard templates) for employment relationships, in a context of *immaterial* subordination and socio-economic dependence (Eurofound and ILO, 2017). Moreover, emerging web-based organisational formats cause a departure from the traditional model of employment (seen as the “benchmark”), by establishing practical impediments to workers’ mobilisation and the possibility of engaging in meaningful collective agreements, as well as diluting occupational health and safety and, more generally, labour-related responsibilities on the part of the employer (De Stefano, 2018a; Prassl, 2018a).

While foundations, regulations and processes of industrial relations are rooted in the pre-digital society and designed around a prototype of the “mass-collective worker” (Murray, 1983), it is crucial to move beyond a monolithic understanding of the “core” workforce (blue-collars, male breadwinners, subordinate employees). Besides, the resurgence of highly standardised organisational patterns³⁶ encourages the activism of workers who have not previously been involved in social advocacy or have been out of the reach of unions’ mobilising campaigns. To some extent, platform work and logged-in jobs set back the clock for organised labor to the second half of the 19th century (Terranova, 2014). Understandably, organisations involving strong command-and-control and attenuated protective obligations may trigger or accelerate the rise of new attempts of collective voice and labour militancy (Rogers, 2016; Newlands, 2018).³⁷ In addition to this, it has been claimed that, as labour markets have reacquired characteristics that were prevalent in the industrial system (De Stefano and Aloisi, forthcoming), the union movement should engage to improve job quality and to give workers more of a say (Stone, 2017), by “return[ing] to forms of organization that were effective at that time” (Heery, 2009). For this to happen, and for organised labour not to be on the defensive, two basic pre-conditions need to be met: (i) structural conditions that make mobilisation feasible (successful insurgency), and (ii) the existence of a subjective view among participants that collective action is likely to succeed (expectation to win) (Sachs, 2017).

New movements – which have been labelled as “alt-labor” (Collier et al., 2017; Duff, 2013) – are arising to fight against tyrannical business practices in retail, food, cleaning, delivery, homecare and education sectors (Stone, 2017) with a view to developing alternative labour organisation.³⁸ Taken together, these developments corroborate the idea that a strong awareness, resistance and experimental solutions are emerging amongst “unrepresented” and “unorganised” workers. Contrary to catastrophic accounts on the decline of unionism, organised labour might well be “on the threshold of resurgence” (Kelly, 1998).³⁹ According to the most optimistic interpretations, “the institution of collective bargaining is changing and adapting to the multiple developments in the economy and in organizational practices”. Long-established unions seem focused on being part of this major shift too. Rather than creating rigidities and obstacles to innovation, indeed, industrial relations systems “have been robust and flexible and are evolving to meet rising demands for microeconomic adaptability” (Hayter et al., 2011). As a matter of fact, non-standard workers are increasingly involved in public advocacy and demonstrations.

³⁵ See Guyer (2016).

³⁶ This type of organisation should be labelled “digital Taylorism”, according to Méda (2016).

³⁷ For an overview of the economic implications, see Freeman and Medoff (1984).

³⁸ See <https://fightfor15.org/>.

³⁹ For a comprehensive list of examples in the USA, see Greenhouse (2019).

Although many platform companies have been reluctant to negotiate with worker representatives directly, established and self-organised groups currently pursue a number of alternative strategies to help workers to organise and effectively express individual and collective grievances, involving the use of social media or other forms of public protest (e.g. commercial hashtag hijacking, according to the “name-and-shame” culture),⁴⁰ and more traditional industrial action (e.g. mass disconnection from the staffing software during promotional initiatives or in peak periods or flyers inviting customers and restaurants to boycott unscrupulous platforms). What is more, independent unions are promoting strategic litigation in many countries in order to “externalise the solution of conflict” (López López, 2019) and overcome the constraints imposed by an unfavourable legal classification which makes more acute the inability to organise or bargain collectively,⁴¹ with remarkable yet symbolic results. Concomitantly, the international scholarly community is supporting the drafting of *Codes of Conduct*⁴² or *Guidelines*,⁴³ aimed at defining the minimum levels of payment, increasing the transparency of criteria applied in the operation of internal rating systems and promoting collective rights.⁴⁴ International media outlets and engaged researchers usually run extensive coverage of actions sparking public outrage (Cant, 2018; Tassinari and Maccarrone, 2017). While it is too early to point to concrete and systematic policy changes that resulted from these recent initiatives, unions, which have experienced difficulties trying to organise “new” workers, may benefit from this fresh wave of conflict (Greenhouse, 2019). New networks can be “the launchpad for successful activism” for workplace conflict, membership renewal and expanded negotiation (Wood, 2015).

The following paragraphs provide a cross-national overview and exemplary mapping of existing and nascent initiatives of workers’ organisations encompassing classical actions of unionisation (e.g. representation, strikes, collective agreements) and other tools (e.g. social media groups, guerrilla marketing or rating widgets) in a set of European countries. Roughly speaking, the former practices are carried out by institutional unions, while the latter and more inventive ones are implemented by informal and self-organised groups (Eurofound, 2018c). Therefore, what is of interest here are the answers to the following research question: has the conventional arsenal run out of weapons for mobilisation? Does organised labour need to go beyond the panoply of established approaches? To what extent are non-standard workers organising spontaneously in the forms of grassroots or rank-and-file movements?

3.1. “Being at the table, not on the menu”. Facing the collective challenges of platform-mediated labour

It is worth noting that the effective exercise of collective voice by non-standard workers is fraught with difficulties such as a lack of information, the weakness of the occupational, if not even social, identity or the challenges of organising a highly fragmented workforce (OECD, 2019). Before presenting a preliminary outline of strategies to reinvigorate workers’ contractual power and “from above and below” responses towards non-standard employment (Gumbrell-McCornmick, 2011), this paragraph addresses both socio-economic and practical obstacles to worker mobilisation and collective bargaining.⁴⁵ Needless to say, these concrete constraints might represent only the prototype of a more general trend of de-collectivisation⁴⁶ within the workforce, that “could threaten to undermine traditional views of

⁴⁰ For an overview on practices aimed at gaining public and political visibility, see Mattoni (2016).

⁴¹ For an analysis of this tool, see Duffy (2018).

⁴² See Austrian Chamber of Labour et al. (2016).

⁴³ See *OECD Guidelines for Multinational Enterprises*, available at: www.oecd.org/corporate/mne/.

⁴⁴ See *Paid Crowdsourcing for the Better, Guideline for a prosperous and fair cooperation between companies, clients and crowdworkers*, available at: <http://crowdsourcing-code.com/>. Labour advocacy groups and researchers have developed a browser extension called *Turkopticon* that allows workers to learn from “colleagues” about which requesters to avoid (Kelly, 2017; Silberman and Irani, 2016).

⁴⁵ For legal impediments, see Part 2 of this paper.

⁴⁶ When considering the scarce level of attractiveness of organised labour, it has to be kept in mind that unionisation rates have decreased globally and have always been particularly low among non-standard workers (Jaumotte and Buitron, 2015).

solidarity and trade union democracy” (Valkenburg, 1996).⁴⁷ In particular, while research has concentrated predominantly on explaining national differences in unions’ reactions to non-standard employment, the aim of this paper is to map the examples of collective voice in the context of digital transformation of work. In this vein, particular attention must be devoted to initiatives of mobilisation such as those carried out by longstanding unions (e.g. IG Metall and Ver.Di in Germany) as well as by new and newer formations (e.g. IWGB, a small base union,⁴⁸ and branches of the IWW across the UK).

The literature highlights several key barriers to the potential emergence of practices of collective voice among NSFE such as, in order of importance, lack of individual self-perception, open or surreptitious hostility on the part of platforms,⁴⁹ geographical and organisational dispersion, fear of retaliation or implicit threat of dismissal/account deactivation, opportunistic behaviours, authentic reluctance justified by the perceived absence of strong common interests⁵⁰ and the lack of access to formal structures of representation (Berg, 2017). Workers may have significantly diverse agendas: distribution of contracts over time and space inevitably leads to a fragmentation of motivations, needs and preferences (Johnston and Land-Kazlauskas, 2018),⁵¹ and the lack of reliable and solid “clearing house” make compromise hardly practicable. Mainstream media have contributed to the disclosure of the various attempts to dissuade platform workers from joining forces: from internal vocabulary purporting a relationship other than one of employment,⁵² to top-down initiatives of customer mobilisation against progressive reforms,⁵³ and even management’s opposition and intimidation.⁵⁴ In addition to this, technology may help employers to uncover and deter emerging conflictual initiatives or allow the exclusion of protest leaders and “troublemakers” (Vandaele, 2018), thus diluting the unity of the original core of protestors (Tassinari and Maccarrone, 2018). What is more, where reputation and ratings play a significant role in securing the relationship with a platform or access to better-paid jobs, workers may feel particularly reluctant to exercise any collective right as it could adversely have an impact on their reputation (De Stefano and Aloisi, 2019).

This unceasing sequence of challenges is compounded by the solitary structure of digital labour markets. The intermittent, short-term, task-based, and on-demand nature of platform work end up placing platform workers (especially in the “remote gig economy”) in direct rivalry with each other in a ruthless struggle for survival (Graham, 2016). A workforce tied to the same company may operate in multiple jurisdictions simultaneously, potentially on a global scale (De Stefano, 2017a). This is especially relevant for remote workers: many “crowd workers” do not see the convenience of unions since they do not even see themselves as workers (Pesole et al., 2018).⁵⁵ Concomitantly, there can be a system of relational or community outsourcing which makes the employing entity unapproachable (ILO, 2018).⁵⁶ Moreover, even in a different context, turn over reduces stable membership and an activist base. As a direct effect of the triangular arrangements in the service-based sector, the worker’s relationship with the final client can be a factor in the propensity to engage in collective action. While the extreme replaceability in some subsectors can trigger a sense of dissatisfaction towards the management, the

⁴⁷ See also Castell (1996).

⁴⁸ See 3.1.2.

⁴⁹ On the “constraints” imposed by employers to the terrain on which unions operate resulting in a reduction of their social power, see Fantasia and Stepan-Norris (2004). See also Donini et al. (2017).

⁵⁰ According to Akgüç et al. (2018), many platform workers mention that they “cannot afford to attend meetings and instead prefer completing another task to increase their earnings”. In addition, evidence suggests that most of them “consider this work as a temporary endeavour; therefore, joining a trade union is not attractive (...)” (Akgüç et al., 2018).

⁵¹ Roughly speaking, two groups are at the opposite sides of the spectrum, namely, those engaging in occasional work to top up their income and multiple job-holding workers trying to make a living from various commitments. See Bucher et al. (2016).

⁵² See De Stefano (2017b).

⁵³ See Griswold (2016).

⁵⁴ See Butler (2017).

⁵⁵ On the determinants of inaction, see Newlands et al. (2018).

⁵⁶ On the concept of “leaderless worker”, see Hay (2019).

personal attachment to a regular client may discourage any antagonistic approach (van Doorn, 2018).⁵⁷ Lastly, the legal status of the worker is a crucial element: undocumented workers – who are massively recruited in the food-delivery sector (Natale, 2019)⁵⁸ – tend to avoid public engagement in order to protect themselves from police checks.

Perhaps unsurprisingly, non-standard workers are often disinclined to join a union or even a grassroots organisation – but lower commitment is not necessarily an index of a lower desire for mobilisation (Newlands et al., 2018).⁵⁹

3.1.1. Focus on institutional unions’ practices addressing non-standard and platform workers

While acknowledging that unions are “formed and reproduced by individual actors and/or groups” (Pernicka, 2006), scholars tend to “diagnose unions as more part of the problem than a part of the solution” (Doellgast et al., 2018). However, an effective process of de-commodification of platform work must also incorporate a strong involvement of institutional social partners: it is common ground that fragmentation, including on the part of worker representatives, supports precariousness and perpetuates a situation of extreme vulnerability. In addition, unions could benefit from an exploration of “parallel universes” in terms of recruiting, cross-fertilisation and renewal. Since reciprocities and solidarities are central to any effective collective action (Laamanen et al., 2018), unions have sought “virtuous linkages” with spontaneous collectives among alternative strategies (Frege and Kelly, 2004). Among others, Keune (2013) stresses the need to integrate several actions. These include campaigns aimed at raising awareness, mobilisation in specific sectors, provision of much-needed services, collective agreements, legal action, policy lobbying and advocacy, training of new leaders and creative use of a range of media. In light of the above, this paragraph focuses on institutional approaches that pursue inclusive and engaging strategies aimed at organising across labour market segments (Grimshaw et al., 2016), by discussing the extent to which trade unions are interested in the fate of NSFE, what strategies they follow and what tools they employ.

The traditional lower unionisation among non-standard workers can be read as the result of unions historically focusing on standard workers’ needs,⁶⁰ rather than those of non-standard ones. As summarised by OECD (2019), insider-outsider theories explain that unions may not only neglect the claims of outsiders (e.g. the unemployed, low-skilled, youth, and those in NSFE) but may even accept the development of under-protected forms of employment as a buffer for their members, thereby increasing the duality of labour markets (Saint-Paul, 1996). Workers in entire sectors, from logistics through to consulting, from on-demand services through to consultancy, from fulfilment centres through to hospitality, from fast-food chains through to higher education, represent a new, growing constituency for trade unions. Unions’ membership is aging and increasingly concentrated in those sectors where secure jobs still dominate, which further challenge their vitality and survival (Simms et al., 2018). The institutional confederations seem displaced, in the face of this change of paradigm, undecided whether to invest in the safeguard of regular members or to embrace the fight started by a new generation of non-standard workers (Garden, 2017). At closer inspection, this alternative option may be a false dichotomy. The success of mobilisation strategies relies on the union’s “willingness and ability to mobilize power resources to challenge employers’ capacity to use precarious employment contracts to increase competition in the labour market” (Doellgast et al., 2018). The situation is rapidly changing, and unions face the fight of their lives.

Against this backdrop, structural, associational, organisational and institutional powers provide “responses to the challenge of ‘atypical’ work tak[ing] many forms, involving organising and recruitment, revisions to internal structures, and new industrial political and societal policies and

⁵⁷ The same can be said for the internal process of organizing and reviewing job performances.

⁵⁸ That is even more the case for migrant workers, see Bryan (2019).

⁵⁹ At the same time, militancy can remain dormant until some important or catalysing event (a new payment model, a reorganisation of the shift system) triggering the mobilisation.

⁶⁰ The so-called “core workforce” is associated with standard, secure and stable employment.

actions” (Gumbrell-McCormick and Hyman, 2013).⁶¹ Repertoires of strategies vary significantly across both unions and countries (Ewing, 2005). In many industrialised and post-industrial countries, union engagement with non-standard workers has concentrated on applying existing collective bargaining frameworks to NSFE. Many unions have sought to engage with non-standard and platform-mediated workers at times as part of a strategy to expand representation more broadly (ILO, 2016). This plan is not straightforward to implement, because of potential internal conflicts over priorities when it comes to extending the boundaries of the membership. When it comes to constituting an integrated movement, several issues remain to be addressed, from a practical point of view, whether non-standard workers should be treated the same way as employees, treated differently within existing union structures or whether autonomous unions of atypical workers should be created (Wynn, 2015). In the very first wave of non-standard employment, for instance, unions responded by creating specific representational venues for such workers (Pulignano et al., 2015).⁶² In Italy the three unions opened sections, “help-desks” or confederations dedicated to precarious, “new” and *freelance* workers (Bellardi, 2005, Regalia and Regini, 2018).⁶³ This strategy has not always proved to be successful (Burroni and Carrieri, 2011; Conrow, 1991).

At a high level, the unions’ approaches towards NSFE have undergone substantial change: from the refusal to organise non-standard workers on the grounds that this would have normalised or given legitimacy to these arrangements (Rubery et al., 2018), to the settlement of specific “one-stop” offices in order to assist NSFE. Pulignano et al. (2015) argue that the response of unions to atypical work arrangements has focused primarily on one of two strategies. The first has been to reject non-standard work arrangements, fighting instead for full-time stable employment. The second has been to “adopt strategies aimed at improving working conditions, social rights and wages of such workers” (ibid, 41). Moreover, instead of creating organisations specifically aimed at representing non-standard workers, current strategies can be summarised as follows: (i) improve working conditions, (ii) promote litigation about misclassification of NSFE, (iii) influence the legislative process, (iv) mobilise unorganised workers,⁶⁴ (v) lobbying social actors such as insurance companies (Boonstra et al., 2012). The ILO highlights a number of different possibilities including: (i) legislative reform, (ii) collective representation and bargaining, (iii) social protection policies, and (iv) programmes that support workers through labour market transitions (ILO, 2016). As for the American scenario, three different models of action have been classified by Collier et al. (2017): (i) contest contractor status, (ii) accept contractor status and organise workers for collective bargaining, (iii) accept contractor status and organise workers for workplace voice and market-based benefits.⁶⁵ Most of these tactics have always been present in labour movement’s arsenal.

However, a concrete disadvantage is that a strategy of representation at the workplace level in the form of a permanent decentralised organisation with leaders and chains of command is simply not plausible for many non-standard workers who are not tied to a particular workplace or particular employer (Ebisui, 2012; Gupta et al., 2018) and who, in many cases, work in far-flung areas or at small work-sites in industries without an established union tradition (Heery and Abbott, 2000). In areas where

⁶¹ For a taxonomy of unions’ powers, see Pulignano and Doerflinger (2018).

⁶² Pulignano et al (2015) argue that the response of unions to atypical work arrangements has focused primarily on one of two strategies. The first has been to reject non-standard work arrangements, fighting instead for full-time stable employment. The second has been to “adopt strategies aimed at improving working conditions, social rights and wages of such workers”.

⁶³ CGIL with *NiDIL*, CISL with *Alai* and *Clacs* and, more recently, *vIVAce* and *FeLSA*, UIL with *CpO*, *UILTemp* and, more recently, *SindacatoNetworkers*. This “units” are based on employment classification rather than on sectoral segmentation.

⁶⁴ Benassi and Dorigatti (2015) review the various factors that encourage unions to engage with agency workers. They determine that high union density and strong collective agreements are two conditions that enable unions to bargain for greater protection for NSFE.

⁶⁵ In the same vein, Kelly Ross, Deputy Policy Director of the AFL-CIO identifies “three major trends in union-spearheaded, gig and platform worker organizing”: (i) a legal strategy to address misclassification claims, (ii) the development of associations and alliances providing services to gig workers and lobby their behalf, and (iii) a push for legal and regulatory reform at municipal and state levels in order to promote organizing and bargaining rights (Johnston and Land-Kazlauskas, 2018).

hierarchical unions make little sense, networks (and social networks) may be a viable solution (Carneiro, 2018; Wood, 2015). In this vein, interconnected structures may be favoured by the more dispersed, occasional or individualistically-oriented workers (Saundry et al., 2006): they can rapidly converge towards a specific campaign and then reassemble when needed. Moreover, “[s]tructuring membership based on employment classification (rather than sectoral or occupational distinctions) [provides] a forum for workers to specifically address issues related to temporary contracts, low remuneration, inferior working conditions, and limited rights” (Johnston and Land-Kazlauskas, 2018). In addition, the modern organisation of work necessarily implies a shift in the locus of union representation beyond the traditional or physical workplace (Heery et al., 2004), and alternatives to traditional approaches and tools of engagement must be put in place. Despite that, this approach can be combined with a territorial logic of organisation and negotiation, at least at the urban level (Regalia, 2016).

By developing an evolutionary perspective on trade unionism, Heery classifies four different responses, “from exclusion through acceptance but in a subordinate position, acceptance on the basis of equal treatment with workers in permanent employment and ‘engagement’, characterized by union attempts to represent the specific and differentiated needs of contingent workers”.⁶⁶ In short, a preliminary attempt has commonly been based on exclusion, aimed at “driv[ing] these categories [of NSFE] from the labour market, either through legislation or direct pressure on employers”. In a subsequent moment, non-standard workers are accepted, “but on a secondary basis”.⁶⁷ The third approach implies not only acceptance, but also a fully legitimate and equal status for NSFE with a view to “securing equal treatment in employment law, collective agreements and systems of human resource management, usually on a pro rata basis”. The last attitude may be described as a genuine and distinctive representational challenge, “requiring a tailored system of representation”. Oversimplifying, “exclusion” and “inclusion” can represent opposite approaches, while “subordination” and “engagement” are seen as different strategies along a spectrum at increasing intensity. At a high level, it could be said that trade union strategies regarding membership are converging towards greater openness. However, approaches towards non-standard work itself may vary substantially as a result of investing primarily in symbolic actions or rather developing a consistent process of engagement.

For the time being, the level of interest is intense, and there are compelling reasons for optimism. Unions have reacted to the platformisation of work to various degree and in a variety of ways. As a result, the increasing diversity in strategies, approaches and tools complicates the cataloguing of recent initiatives.

In Germany, IG Metall (Industrial Union of Metal Workers) developed an interest in platform work when large and influential German companies began outsourcing small activities to platforms (Lenaert et al., 2018). The trade union changed its statute to allow the self-employed to become members, while Ver.di, one of the major German unions in the public sector, has always allowed it. GPA-DJP, the Austrian union of private sector employees, opened its membership to platform workers as of January 2019, by providing access to legal protection and advisory services by the trade union. In France, after launching a separate union section, the CFDT Transport Federation has campaigned for the rights of drivers working for Uber and for other self-employed drivers (Fulton, 2018),⁶⁸ while “*Force*

⁶⁶ See Heery (2009), adapted from Heery et al. (2004). Note that there have been various attempts to classify a number of basic trade union strategies towards workers in precarious employment. Kahancová and Martišková (2011) draw on Heery and Abbot (2000) and distinguish these strategies as follows: (i) inclusion, (ii) exclusion, (iii) separation, (iv) reduction, (v) elimination. According to the European Commission (2018), trade unions’ strategies for collective representation of non-standard workers fall into two main groups: “the servicing model, providing existing or developing tailored services for specific groups of workers, and the lobbying model, ensuring advocacy, lobbying, decision-makers and undertaking awareness-raising campaigns”.

⁶⁷ For example, temporary agency workers were “initially perceived as disruptive as the platforms of today”, but labour relations were improved through social dialogue and the sector was eventually regulated at the European level (OECD, 2018a).

⁶⁸ Note that with the 2016 revision of the labour code (Law 2016-1088 of 9 August 2016), the self-employed have the right to undertake collective action, even without the involvement or support of a trade union. This also applies to platform workers, who have explicitly been given the right to collective action, form or join a union, and have their collective interests defended. In addition to this, since January 2018, for those workers who have generated over €5,099 of sales revenue, platforms must bear the costs of the workers’ occupational accident insurance coverage and must cover the costs of “the

Ouvrière” (the third largest labour confederation) has a new branch to represent online platform drivers (*FO CAPA*). Moreover, the General Confederation of Labour (CGT) encouraged the creation of local unions with the aim to defend platform workers’ interests.⁶⁹ In Italy, three unions have set up sections dedicated to those workers in precarious and casual work, which can include platform workers. The rank-and-file independent union Si-Cobas⁷⁰ started representing the riders in the food delivery sector (De Stefano and Aloisi, 2018a). Swedish unions see it as their primary task to inform platform workers about their rights and the conditions of platform work, by building a “massive database of information on the union’s membership that informs a broader picture of the labor market and economy” (Maxwell, 2018), whereas organising these workers is a long-run goal.⁷¹ Also the Italian Workers’ Union in the Tourism, Trade and Service Sectors (UILTuCS) and the Italian Workers’ Federation for Trade, Hotel, Canteen and Service Sectors (Filcams) are promoting initiatives through their sectorial and territorial federation aimed at raising awareness about working conditions in platform work.

The tools of engagement may vary significantly across sectors. IG Metall has been exceptionally active in platform-based worker issues. The largest industrial trade union in Europe has engaged with platforms and large German firms with the aim of preventing a race to the bottom.⁷² In 2016, IG Metall launched “Fair Crowd Work”, an initiative aimed at collecting and sharing information on issues related to platform work (workers’ rights, working conditions and platform reviews). Fair Crowd Work has developed into a joint project of IG Metall, the Austrian Chamber of Labour, the Austrian Trade Union Confederation (ÖGB), and the Swedish union Unionen.⁷³ Fair Crowd Work collects data about platforms and produces a rating system based on the platforms’ terms and conditions and worker reviews of online platforms (Berg et al., 2018).⁷⁴ Ver.di has taken a proactive approach to platform work by focusing on physical platform-mediated labour rather than crowd work: from Ver.di’s perspective, these workers are a particularly pressing concern as physical platform work is much more likely to be done frequently, and much more likely to constitute a considerable portion of an individual’s income.

At the local level, the city of Bologna has launched a “Charter of fundamental digital workers’ rights within an urban setting”, signed on 31 May 2018 by the city’s Mayor, the Riders Union Bologna (a worker-organised initiative), the secretaries of the Italian General Confederation of Labour (CGIL), the Italian Confederation of Workers’ Trade Unions (CISL) and the Italian Labour Union (UIL) and by the managers of a food delivery company employing 200 workers in Bologna.⁷⁵ The Charter sets out a fixed hourly rate that equals or exceeds the minimum wage in the respective industry, compensation for overtime, public holidays, bad weather and bicycle maintenance, insurance to cover accident and

validation of academic credit due to work experience’, meaning to obtain professional certification for the work experience they have gained (Eurofound, 2018a)

⁶⁹ The CGT focused its 2016 annual congress on the unionisation of self-employed and platform workers.

⁷⁰ Inter-Sectoral Self-Organised Workers’ Union (“*Sindacato Intercategoriale Cobas Lavoratori Autorganizzati*”).

⁷¹ The Nordic region’s tripartite agreements and industry-labour partnerships boast a long history of success. For example, Sweden has no statutory minimum wage; instead, prevailing national wages are determined by collective bargaining agreements that cover more than 70 per cent of the population (Eurofound, 2015b).

⁷² Public and private firms often buy services from digital platforms (mostly crowd work) in Germany. Because of the scale of these contracts, German firms have a great amount of leverage over platforms. IG Metall tried to intervene on final clients in order to determine an upward convergence.

⁷³ Fair Crowd Work informs workers on their legal rights in an accessible language, and lists both available services or trade unions they can join. Fair Crowd Work has become a popular tool for verifying and certifying the quality and reliability of clients. So far, eight platforms agreed “to abide by a shared Code of Conduct and submit to an arbitration process overseen by an Ombudsman (*Verband*) made up of workers’ and platforms’ representatives and labour judges” (Beesley, 2018). Before joining IG Metall, Michael “Six” Silberman was a developer and moderator of *Turkopticon*, an online forum for Amazon Mechanical Turk workers.

⁷⁴ Similarly, the “FairWork Foundation” (established and supported by the Oxford Internet Institute) wants to certify the fairness of online labour platforms, covering issues such as minimum wages, regulation of non-payment, accident protection and much more. See <http://fair.work/principles/>.

⁷⁵ Platforms like Deliveroo, UberEats and JustEat refused to sign the charter. In March 2019, Domino’s Pizza Italia – an American pizza restaurant chain operating in Bologna and employing 200 couriers – signed the Charter.

sickness at work or on the way to and returning from work (covered by the platform). It also guarantees freedom of association and the right to strike (De Stefano and Aloisi, 2018a). According to Martelloni (2018), these initiatives define a new “metropolitan social unionism”. According to Regalia (2016), territorial pacts “may be particularly suitable for testing new procedures to deal with new problems, for innovating outmoded practices and routines, for remedying some of the failures in the traditional ways to deal with critical issues”.

In France, since 2015, a private drivers’ union (“*Syndicat des Chauffeurs Privés – véhicule de tourisme avec chauffeur*”, SCP-VTC) was affiliated with the National Union of Autonomous Trade Unions (“*Union Nationale des Syndicats Autonomes*”, UNSA). SCP-VTC – which intends to participate in negotiations with employer organisations and the public authorities – was officially recognised by the Mayor of Paris (Eurofound, 2018b). Notably, in 2017, Deliveroo riders in Cologne revealed that they were willing to establish a works council. Deliveroo’s management initially refused. However, with the support of the German Food, Beverages and Catering Union (NGG), Deliveroo riders elected their first works council in Cologne in February 2018. However, it is not certain if the works council will continue to exist (Eurofound, 2018b). Similarly, in 2017, Foodora riders, supported by the German Food, Beverages and Catering Union (NGG) elected a works council in Cologne and in Hamburg. Bicycle couriers working for the app-based food delivery service Foodora in Vienna founded a works council with the support of *Vida*, the Austrian union representing transport and service workers (Birgillito and Birgillito, 2018; Kuba, 2017).⁷⁶ The agreements specify that each country in which the company is active must have at least one employee representative in the “European Company” (SE) works council and the council must be provided with detailed information on the company’s strategies, on any investment or divestment plans and on plans which may have an impact on the work organisation and employee interests (Eurofound, 2018b).⁷⁷

In the UK, hybrid unions are supporting platform-organised workers in their claims before the courts that there is no real distinction between the content of work of those working via platforms and those who are employees. Some general unions such as Unite and FMB have concentrated on campaigns and lawsuits to have the independent contractors classified as “workers”. In the UK, several unions, notably the General Municipal and Boilermakers Union (GMB),⁷⁸ Unite, the Independent Workers Union of Great Britain (IWGB),⁷⁹ the United Voices of the World (UVW) and the Industrial Workers of the World Union (IWW) have been heavily involved in court cases clarifying the employment status of platform workers, industrial action or other initiatives of collective voice. An attempt by the IWGB, a small union not affiliated to the TUC, to get the food delivery company Deliveroo to recognise it for

⁷⁶ The creation of a works council is the first step in the self-representation of workers. The drawback of this trend is that a works council is not responsible for most workers’ claims, particularly for payment. Furthermore, a works council can represent only the interests of employees, but not those of self-employed riders (Kovács, 2017). According to Prassl (2018), “Austria is home to one of the longest traditions of works councils in the world, with worker representatives enjoying a wide variety of rights from information, consultation and participation, to special consultation rights in staff and economic matters, as well as to co-determination in social matters. Beyond the information and consultation obligations that are most frequently associated with works councils, in Austria these broad powers extend to the negotiation of (or co-determination through) works agreements”. Of notable importance is the mandatory role for a works council in the context of collective dismissal, like when Foodora reduced its workforce in Vienna by some 20 per cent.

⁷⁷ See also <http://www.effat.org/en/node/14740>.

⁷⁸ The GMB, the union for professional drivers, was successful in bringing, to date, one of the largest cases regarding worker misclassification against Uber. GMB argued that a more appropriate classification for drivers would be the “worker” status. The ruling provided 30,000 drivers across the UK access to basic employment provisions including holiday pay, minimum wage, and breaks (GMB, 2016).

⁷⁹ The Independent Workers Union of Great Britain (IWGB) provides one of the best-known examples of new union formation for gig workers. IWGB opens membership to “all employees, workers and any other persons who accept the principles, objectives, and rules of the union” (IWGB, 2017). However, it mainly recruits in these categories: couriers, private-hire drivers, security guards and receptionist, foster carers and cleaners and other outsourced workers (Fulton, 2018). In August 2016 when the platform Deliveroo informed on-demand, delivery workers via email that their pay rates would be decreased, workers self-organized and protested outside of the head office. IWGB attended the protests in support and has been organising alongside the workers. Worker leadership and strong rank-and-file involvement and community ties were seen as keys contributing to union success.

collective bargaining failed in November 2017. The Central Arbitration Committee (CAC), which decides on union recognition disputes, concluded that Deliveroo's riders were not workers because, following a recent change to their contracts, they were able to provide a substitute to do the work, if they wished.⁸⁰ More recently, the UK High Court upheld the decision (Bogg, 2019). Moreover, the UVW and the IWGB facilitated wildcat strikes and negotiations and brought claims against four courier companies: Excel, City Sprint, eCourier and Addison Lee. These entirely new trade unions were founded by activists working in NSFÉ "following dissatisfaction with the operations of conventional trade unions" (Juntunen, 2017).

Despite the low number of cases of unions negotiating on behalf of platform workers, partly due to the uncertain legal environment, this is a site of creativity and experimentation in the labour movement. In Denmark, Hilfr signed the "first ever collective agreement for the platform economy" in collaboration with trade union 3F (CPH Post Online, 2018). The platform's 450 self-employed workers will be reclassified as "employees" after completing 100 hours of work. By introducing a minimum wage, sick pay and holiday allowance and pension contributions for those working regularly for the platform, the agreement has been operating as a pilot for 12 months since August 2018 (Moore, 2018). Workers are paid at least €17.45 per hour and an additional €2.70 as welfare supplement, to be set aside by the worker for sickness, retirement, holidays and similar. Finally, the agreement also includes a provision for data protection, "which may serve as a blueprint, regardless of the sector" (De Stefano, 2018b).⁸¹ Interestingly enough, there will be a fluid information exchange between the platform and tax authorities. While the workers covered by the collective agreement will be more expensive for the final clients, the cleaning services will be tax-deductible. More recently, the British courier company "Hermes" negotiated with the GMB union an agreement offering drivers guaranteed minimum wages and holiday pay in a deal to provide trade union recognition. In Germany, IG BAU,⁸² the Free Workers Union and the Food, Beverages and Catering Union, facilitated negotiations between platforms and platform workers over pay and terms and conditions. According to Eurofound (2018), these negotiations have resulted in several collective agreements.⁸³ In the Netherlands, social partners are trying to mitigate some of the effects resulting from the rise of this in-between category of workers through adopting minimum fees for self-employed persons in collective bargaining agreements.⁸⁴ The new Italian national collective bargaining agreement for the logistics sector includes provisions for the "rider" job position (Casadei, 2017).⁸⁵

⁸⁰ While IWGB was successful in gaining "worker" status for traditional couriers, a recent ruling from the Central Arbitration Committee stated that Deliveroo couriers were not "workers" but self-employed (O'Connor, 2017). See Central Arbitration Committee, 14th November 2017, IWGB and RooFoods Limited T/A Deliveroo, Case Number: TUR1/985 (2016), holding that Deliveroo riders were not "workers" within the meaning of Section 296 TULR(C)A for the purposes of collective bargaining. See also Chapman (2018).

⁸¹ The consent of the workers is needed to post their data on the platform, and this consent should be specific and informed. Moreover, workers "may, at any time, request that derogatory, false and offensive comments, pictures or characters be removed from [their] profile and other places on the platform that can be associated- and clearly attributed to [them]." This kind of request "cannot adversely affect the employee's conditions of employment" (De Stefano, 2018b). The text of the agreement can be found here: <http://ow.ly/d/83Wv>.

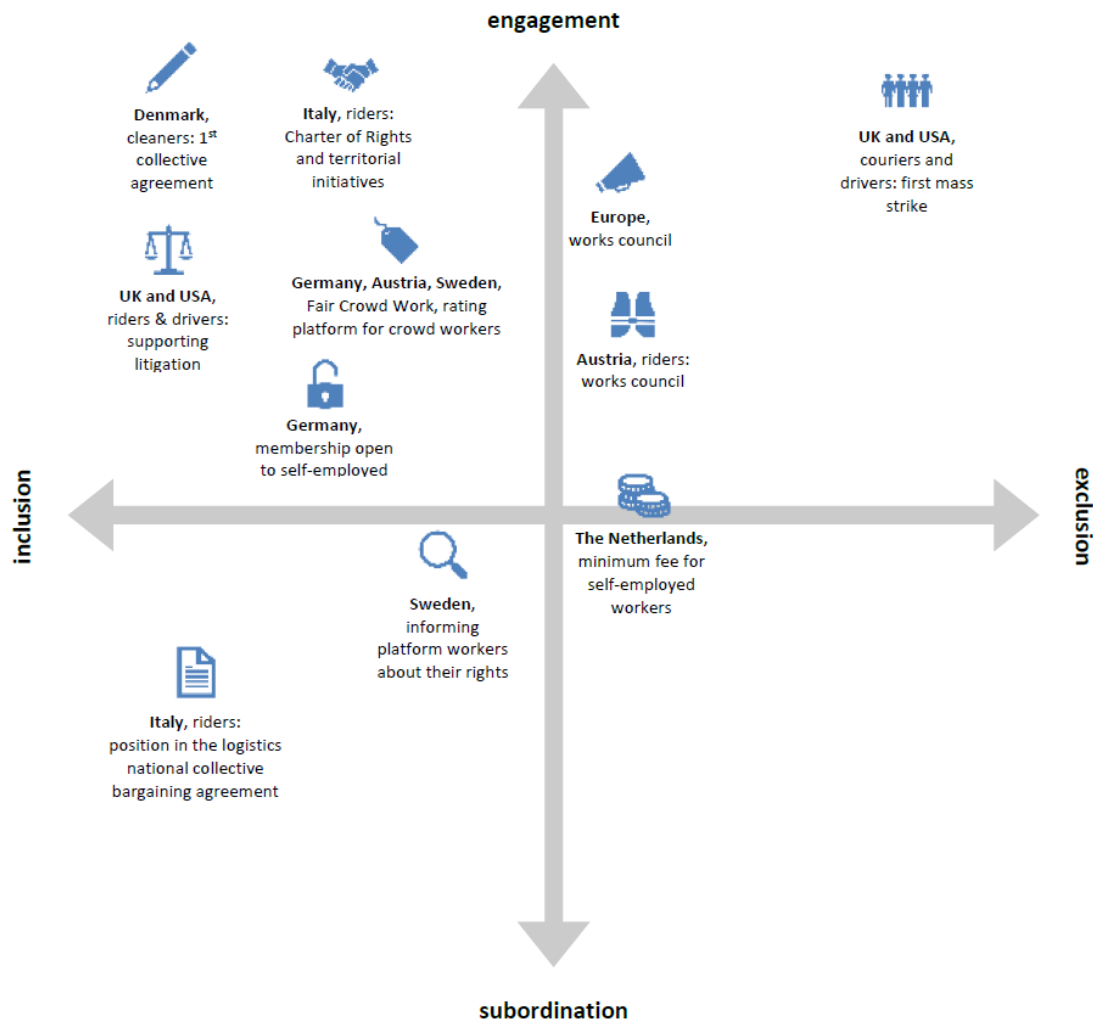
⁸² In 2018 they founded the International Labour Confederation, along with other militant unions across the world. These unions tend to prioritise their relationship with their members by engaging them directly in mobilisation campaigns.

⁸³ In 2019, they signed a common agreement with the German Ministry of Labour and Social Affairs and launched a "Policy Lab Digital". Link: <https://www.bmas.de/DE/Presse/Pressemitteilungen/2019/plattformvermittelte-arbeit-gut-gestalten.html> (in German). See also <https://www.denkfabrik-bmas.de/en/the-policy-lab/what-we-do/>.

⁸⁴ Their aim is to dampen the downward pressure on wages as a consequence of intensified competition caused by (quasi or bogus) self-employed workers.

⁸⁵ A trade unionist stated that, "thanks to the new contract, we have given a name and a face to this job position. Giving a name to things means being able to start dealing with them. Riders have become a contractual position, and as such they will have the opportunity to negotiate their working conditions" (Baratta, 2017). The agreement covers working time, the requirement for notice and compensation for changes in working schedules and compensation in case of illness.

Figure 2: Strategies, approaches and tools of engagement aimed at addressing non-standard work and non-standard workers by traditional unions⁸⁶



3.1.2. Focus on alternative initiatives (in the work on-demand subsector)

Unions are not alone in taking a collective stand on the unintended consequences of digital disruption. Simultaneously, alternative and less institutionalised organising efforts are underway (Murray, 2017), including the formation of independent or radical coalitions of actors across the boundaries of firms or nations (Fine, 2015, Tapia et al., 2015). First of all, these efforts represent a way to reduce information asymmetries, compare clients, join forces, increase bargaining power and ultimately support litigations and class actions (Silberman et al., 2017; Silberman and Irani, 2016). So far, workers have also populated private groups on Facebook and WhatsApp chats to coordinate actions, in an attempt to avoid a roadblock that employers often throw down when they see an effort to mobilise. Notably, the solidarity of workers is generated by the professed common belonging to a transnational class, while collective action and forms of mobilisation are often expressed in the hyper-local context (Martelloni, 2018,

⁸⁶ Author's own elaboration. The matrix draws from Heery's rubric to describe the unions' approaches towards non-standard workers (Heery, 2009). Note that strategies may overlap and are combined in various ways. The examples, which are far from exhaustive, are illustrative of how far the organisation and representation of platform workers has progressed.

Forlivesi, 2018).⁸⁷ The two layers seem indeed inextricably linked. In fact, the most effective experiences combine strong supranational coordination with vibrant local activity in a fruitful manner. This transnational circulation of struggle provides an example of how the changing composition of the working class can provide new opportunities, even as it demolishes old certainties (Cant, 2017). This paragraph focuses primarily on the work on-demand services, a subsegment which is not susceptible to off-shoring. Many other equally valuable actions and practices fall outside of the scope of this paper: the choice of relatively narrow field of observation is justified on pragmatic grounds.

Several spontaneous initiatives have been developed with significant results at national level. In a few countries, examples of (traditional) industrial action have been identified, especially for time- and place-dependent on-demand work (e.g. transportation and food delivery platforms). The ease with which such workers can be replaced emphasises insecurity, but close proximity makes organising more feasible (Woodcock, 2016). Moreover, public spaces help to foster social connections and promote collective engagement. According to Vandaele (2018), “[t]heir disruptive capacity stems from the delivery, transport and logistics system’s key importance in the interaction between producers and customers, enhanced by the near-monopolistic tendencies of the platforms in local markets due to their major economies of scale and network effects”. If the food-delivery couriers guide the mobilisation, it is because, as van Doorn (2018) discussed, the workers running on the roads are actually more inclined to activism, also by virtue of a certain immediate recognition, thanks to the bibs and branded backpacks. Moreover, the fact that they spend time waiting for calls together in some urban areas used as hotspots from which they leave to make deliveries stimulates embryonic forms of solidarity, as well as allowing for the sharing of experiences with the different clients or platforms. To the contrary, activities performed in private spaces (in the hospitality sector, cleaning, healthcare, childcare and homecare) may shape a strong sense of attachment to the client, who – in these subsectors – may not come and go as often as those in delivery trades (Eurofound, 2018a).

Thanks to a strong discontinuity in the concrete nature of oppositional practices and in combination with the generative possibilities of meeting in public spaces during work time, “couriers have forged grassroots and improvised modes of resistance that did not only capture the media’s attention but also spurred unions and other labor organizations to take a serious interest in a category of workers they previously considered to be by and large ‘unorganizable’” (van Doorn, 2018).⁸⁸ They have triggered off a popularisation of claims that until now had not been answered. These experiences benefit from the rediscovery of reinvention of the principle of active recruitment and representation (Gumbrell-McCormick, 2011). Informal movements take non-hierarchical forms of decision-making.⁸⁹ They also build broader alliances of cooperation with civil society organisations (CSOs) and pressure groups in an attempt to avoid the isolation where platform workers are often confined, to represent mutual interests at the local level, to stimulate public opinion and to gain attention from institutions (Forlivesi, 2018). Interestingly enough, since in the food-delivery sectors the social composition of the workforce is predominantly of North African origin, these self-organised collectives are often led by migrant leaders who are keen on designing internal democracy based on bottom up structures. They want to mobilise workers on the ground and sitting across a table to thrash out a deal.

Movements of interests based on distributed leadership, disconnection from or competition with traditional trade unions, and spontaneous protests and focused on sectorial issues are rising and becoming an effective advocate for decent work and even a tool for social emancipation. Several mobilisations have indeed been characterised by “digital” or “proto” strikes whereby workers log out *en masse* from apps that allocate work shifts in order to boycott and block the delivery service (Forsyth, forthcoming). The goal is to harm firms profit at the “point of realisation” or to put in place “brand shaming” – a practice coming from the sphere of alternative consumer activism pressure tactics (Cini and Tassinari, 2018). At the time of writing, gig-economy strikes have been organised in London, Leeds,

⁸⁷ See also Charhon (2018).

⁸⁸ See also Frymorgen (2016).

⁸⁹ See also Bureau and Corsani (2018).

Brighton, Birmingham (UK),⁹⁰ Turin, Bologna, Milan (Italy); Marseilles, Paris, Bordeaux, Lyon (France),⁹¹ Berlin, Frankfurt (Germany),⁹² Barcelona, Valencia, Madrid (Spain), Amsterdam (The Netherlands), Brussels, (Belgium).⁹³ As recalled by Vandaele (2018), the shift from a fixed hourly pay rate to a riskier payment-by-drop system (i.e. piecework) resulting in low wages and much competition for shifts “has fuelled a sense of grievance and injustice”. This rank and file organisation was conducted in similar manner against their platforms, thanks to a combination of mobile blockade/parade and other tactics aimed at leveraging discontent (Cant, 2017). More recently, food platform workers from 12 states and 34 organisations across Europe met in Brussels to launch the “Transnational Federation of Couriers” (NotesFromBelow, 2018). Although these efforts could be useful in generating a collective identity amongst non-standard workers, “they might not alone tip the balance of power in their favour” (Wood, 2015).

Turning now to new tools of mobilisation, digital technology, seen as a force multiplier, can enable innovative and “connected” organising techniques by offering the cohesiveness and leverage workers need to have an impact.⁹⁴ Needless to say, new technologies “have not proved to be a panacea but they are being integrated into a more complex blend of strategies” (Murray, 2017). Thanks to digital channels, workers are interacting with the different layers of the media environment in order to go public with cases that trigger public outcry. Interestingly enough, new strategies can be designed thanks to the mining of data while developing alternative systems for portable benefits or other valuable services (OECD, 2019). In terms of platforms for engagement, platforms such as “Coworker.org”⁹⁵ and “Organise”⁹⁶ are offering services and support to non-standard workers for campaigns at specific workplaces, while the platform “UnionConnect”⁹⁷ empowers labour organisations with the tools they need to communicate directly and instantly with their members through mobile devices. Workers who face the serious consequences of digital transformation are also voicing their opinions via online tools, enabling them to manifest their collective interests through, for example, circulating petitions, developing alternative systems for rating (good or bad) platforms or those placing orders and sharing positive and negative experiences (Upchurch and Grassman, 2015; Vandaele, 2018). As workers are increasingly adept at using tech, digital tools could also allow the sharing of best practices and emerging issues and could give access to experienced organisers and labour lawyers if needed (Diani, 2018).

More radical are plans to set up platform cooperatives, i.e. platforms owned by providers.⁹⁸ The idea is to combine platform technology with sustainable working conditions and the non-profit business

⁹⁰ They also publish “Rebel Roo”, a self-organised bulletin, and “Puncture/Punctura”, a bilingual English/Spanish journal.

⁹¹ In France, the strikers from Deliveroo, Foodora, Glovo and Stuart – mobilised by CLAP, the Independent Deliverymens’ Collective (*Collectif des Livreurs Autonomes de Paris*) – called for fixed pay for a guaranteed minimum number of hours’ work per rider, as well as bonuses for working evenings, weekends and during bad weather conditions (The Local, 2018). In the south-west region of Gironde (Bordeaux), the bike courier CGT union has been instituted, which represents around 700 food delivery riders for various platforms such as Foodora, Deliveroo and UberEats (Eurofound, 2018b).

⁹² Cant (2017) explains that in Berlin organisation began in April 2017 when the “Free Workers Union” (FAU) launched their food delivery platform organising campaign demanding transparency about hours worked, enough guaranteed hours to live on, €1 more per drop and one hour a week paid time for shift planning.

⁹³ In Germany, several protest actions took place on the initiative of the *Freie Arbeiter-Union*, an anarchist quasi-union organisation in Berlin. In Spain, *Riders x Derechos* conducted “log off” actions in early July in four Spanish cities in protest against the extreme precariousness of couriers. They asked for a decent salary (at least two deliveries per hour to reduce salary uncertainty) and a minimum working time of 20 hours per week. Traditional trade unions, such as CCOO and UGT, supported their demands, arguing that this kind of digital platform does not want to stick to the current labour legislation and may bring labour precariousness (Grégoire, 2018).

⁹⁴ For a critical perspective, see Martínez Lucio and Walker (2005). For an overview on virtual labour organising in the USA, see Zuckerman et al. (2015).

⁹⁵ See <https://www.coworker.org/>.

⁹⁶ See <https://www.organise.org.uk/>.

⁹⁷ See <http://www.unionconnect.com/>.

⁹⁸ See also Conaty et al. (2017).

model of a cooperative.⁹⁹ This is still a nascent alternative. However, despite their transformative potential, it seems that worker- or union-led cooperatives in the platform economy are more studied than actually founded (Vandaele, 2018). For instance, SMArt (“*Société Mutuelle pour les Artistes*”) – a Belgium-based cooperative operating throughout Europe – expanded its services (benefits such as shared workspaces, training and insurance) to Deliveroo and Take-Eat-Easy, and entered into negotiations with these two platforms.¹⁰⁰ More importantly, it used the cooperative scheme to create an employer where none existed, providing workers who would otherwise be classified as self-employed with the security of a standard employment relationship. As a result, SMArt, which used to associate typically self-employed persons such as artists and freelancers, was involved in a form of triangular protocol with Deliveroo and Take Eat Easy. Workers hired by SMArt under employment contracts were afforded some essential labour and social security protection, and dispatched to Deliveroo (with a minimum wage of €9.31 net per hour and minimum three-hour shifts) (Drahokoupil and Piasna, 2019).¹⁰¹ At the end of 2017, pending negotiations on a collective agreement between the unions BTB (ABVV), HORVAL (ABVV) and CNE (ACV) and Deliveroo, because of a legislative change, the platform terminated the partnership with SMArt and declared it wanted to engage food-delivery workers as self-employed persons (Kilhoffer and Lenaerts, 2017).

4. Recipe for success: getting the best of digital transformation

4.1. Summary and assessment

As shown in the mapping of a “purposive sample” of practices (Wood and Lehdonvirta, 2019), considering new working templates and inventive industrial action can afford powerful insight into the changing world of work. Indeed, several initiatives are demanding to address the special need for protection of platform workers, and design rules aimed at facing misclassification, improving pay and conditions, making shift allocation more transparent and predictable, contesting unjustified rejections of the work completed or capricious account deactivation. Both formal unions and informal groups are developing various strategies for the representation of workers involved in the most recent waves of restructuring that are the result of the introduction of advanced digital technology and new organisational patterns (Pulignano, 2019). However, given the changing panorama, this overview constitutes a non-exhaustive assignment, compounded by the current lack of systematic empirical material on account of the rapidly evolving and diverse scenario (Vandaele, 2018).

From the above, it is clear that several forms of representation and mobilisation can co-exist and may come into healthy competition with each other (Eurofound, 2018a). Indeed, the combination of efforts from both established social partners and new actors is necessary to fully address the multiple challenges faced by non-standard workers, and should be encouraged since it represents a promising opportunity for organised labour’s revitalisation. On the one side, trade unions appear to support initiatives of platform workers rather than attempting to compete with their spontaneous initiatives. On the other, alternative movements are “better seen as complements rather than as substitutes to traditional labour unions” even because of their lack of ability to bargain collectively on behalf of their members (OECD, 2018b). As explained by Staunton (2018), informal, grassroots organisations can learn from more institutional unions about collective bargaining and social dialogue, while the latter can reproduce the mobilisation capacity of the former. This interdependency is shaped by factors such as the dynamics and strategies of the clients, including platform internal design, country-specific labour market institutions and national regulatory frameworks governing the platforms, union cultures and identities,

⁹⁹ For a complete overview, see <https://ioo.coop/directory/> and <https://platform.coop/>.

¹⁰⁰ SMArt has used their cooperatives to create an employer where none existed, providing workers who would otherwise be classified as self-employed with the security of a formal employment relationship. By May 2016, individuals who wanted to work as Deliveroo couriers had two options: either to opt for self-employment or to sign an employment contract with SMArt. As SMArt employees working via the Deliveroo app, couriers paid SMArt 6.5% fee of their income and received safety training, accident insurance, liability insurance, reimbursement for biking gear and cellular usage and a minimum shift duration, among other benefits (Kilhoffer and Lenaert, 2017).

¹⁰¹ Notably, when Take Eat Easy went bankrupt, leaving hundreds of riders unpaid, SMart disbursed €340,000 from its salary fund to pay its riders.

union leaders and their strategic choices, and, last but not least, platform workers' power resources and their ability to use them (Vandaele, 2018).

As a consequence, trade unionism will have to learn how to represent the interests and attract the membership of non-employees, by "discarding" the exclusionary distinction between employees and other categories of workers (Crouch, 2018) and by developing new engagement and negotiation techniques. In this respect, successful collective bargaining is the best means to increase the attractiveness of organisation (European Commission, 2018). As argued above, collective agreements can introduce measures to offset the imbalances that might result from the digital transformation of work in a way that is faster and more accurate than through legislative intervention. Needless to say, the future of trade unionism depends on a more inclusive strategy that accommodates the interest of previously marginalised categories of workers (Jiang and Korczynski, 2016). Indeed, established social partners might play an active role in representing workers and collective action has been instrumental in achieving the existing labour regulations both at domestic and international level (Sisson, 2008). Since the industrial revolution, and especially in the "Industrial Century" (Chandler, 2005), organised labour has been considered to be vital vector in obtaining betterment of work and living conditions of the workers. While unions are usually perceived to be mainly concerned with securing wage rises, individual and collective grievance handling, a conspicuous aspect of their work will become increasingly important with intensified and algorithmic managerial control, the growth of non-standard employment and the risk of technological displacement (De Stefano, 2018a).

On top of that, the share of non-standard workers can represent an opportunity for unions to attract a new generation of members (Machin, 2003).¹⁰² Core workers who do not show solidarity by including non-standard colleagues might end up undermining their own bargaining power through disempowering themselves and establishing a lower cost alternative (Doellgast et al., 2018). The same can be said for employers' organisations, which are reluctant to include platforms among their members.¹⁰³ Unions have indeed gradually come to realise that the growth of non-standard forms of work would weaken their power resources and their capacity to act, unless precarious workers become members (Gumbrell-McCormick and Hyman, 2013). Therefore, in order for collective bargaining, unions and business organisations to continue to be relevant in the new world of work, it may be urgent to adapt or rethink the way they currently operate (Wills, 2009). There may also be a need to adjust internal rules, processes and practices. In this respect, building alliances between the core membership of unions and workers engaged in new sectors or non-standard arrangements can represent a way to defend and magnify the unions' bargaining power, often undermined through the creation of lower cost competition (Doellgast et al., 2018). From a pragmatic point of view, effective trade union strategies properly brought into the "digital age" would be based on the negotiation of encompassing collective agreements, thus extending negotiated outcomes to non-negotiating parties (Ebisui, 2012). This practice may legitimate the role of social partners and foster impactful cooperation.

4.2. Closing remarks and policy pointers

Workers' initiatives can be seen as a necessary vehicle of social, economic and political transformation. In light of the above, this working paper has investigated inherent and structural impediments to collective voice and to the effective recognition of the right to collective bargaining for non-standard workers, both from a legal and practical perspective. Given the attractiveness of the phenomenon, it has concentrated in particular on the broad range of strategies that platform-mediated workers are using to develop agitational methods, shape collective agency and promote effective renegotiation of their work

¹⁰² For instance, the under-representation of the younger generation in trade union leadership structures may create a chasm between the political agenda concerning the organisation of unorganised workers and its actual implementation. Conversely, "new" members and activists could revamp membership but also reinforce unions' effectiveness, thanks to their transformative potential and experimentation (Tapia and Turner, 2018).

¹⁰³ Platform companies have established dedicated associations in some countries such as the Deutscher Crowdsourcing Verband in Germany, instead of becoming members of traditional employer organisations. In 2018, in Italy, a new organisation for "all digital platforms" was launched by an employer organisation in the trade sector (Confesercenti, 2018). In general, several platforms have avoided collective negotiation while offering solutions to emerging issues (e.g. discounts for bicycle repair or additional occupational insurance), also in order to limit the risks of re-classification.

arrangements (Johnston and Land-Kazlauskas, 2018). These initiatives can be either assisted, if not even led, by institutional unions or promoted by disconnected and self-organised movements. To date, several achievements, including local and single-employer collective agreements, are the palpable demonstration that, in spite of legal and factual difficulties, collective bargaining can represent an inherently flexible way to face the digital transformation of work. The abovementioned cases can also represent the model for the creation of a “sustainable model for union agreements” in the platform economy and beyond (Hay, 2019), providing proper wage and work conditions and still prompt workers to stand up for each other in solidarity. According to Hayter (2015), indeed, “the results achieved through collective bargaining are more equitable than those arrived at through individual bargaining or unilateral contracting”.

Despite that, most of the newer forms of employment suffer from a lack of representation, which comes at great social cost, according to the European Commission (2018). Considerable efforts need to be made in order to counterbalance the challenges non-standard forms of employment generate for the organisation of workers, to support the recognition of shared problems and common interests. In this respect, it is essential to identify ways to enable and strengthen collective action through unions, whether long-established or recently formed, and collective bargaining. For this to happen, two layers of intervention are required (Aloisi and Gramano, forthcoming). First and foremost, it is important to ensure that self-employed workers (with no employees) and other non-standard workers (i.e. platform workers) can effectively exercise the fundamental right to collective bargaining, and that they are considered as individual workers rather than “undertakings” for the purpose of anti-trust legislation, exempted from EU rules on anti-competitive practices if they act collectively. This can be achieved through an update of the current legal framework and, where appropriate, the development of a new interpretation – or a total reinvention – of the antitrust regulation, in order to allow larger segments of the labour market to increase pay and improve working conditions and, thereby, to help promote inclusive and sustainable growth.

However, a mere legislative reform can prove not to be enough (Tapia et al., 2015). On the one side, traditional unions must update their agendas and goals in order to include non-standard workers in their constituency. To do so, they need renew themselves in terms of organisational patterns, participatory models, leadership capabilities and campaigning repertoires with a view to extending existing protection standards for the digital economies, in such a way as to overcome the existing labour market segmentation (Emmenegger et al., 2012). On the other, self-organised groups should coalesce and join forces with the aim of promoting effective collective negotiation. In both cases, it is technology that could play a central role in supporting a revitalisation of organised labour (Pasquier and Wood, 2018; Rogers, forthcoming; Wood, 2018). Integrated tactics are strongly associated with success (Rodriguez 2018a and 2018b): the challenge is to develop both local and supranational campaigns, by recruiting new leaders and bridging relationship with experienced unionists. At the same time, inventive tactics, including flash-mobs and *en masse* disconnection, need to be part of an agenda culminating in more “ordinary” practices of collective voice. Employer organisations including platform companies can benefit from a process of smart social dialogue improving the value and legitimacy of decisions and strengthening commitment to their implementation (Mathers et al., 2019). Lastly, national governments and local authorities should enable information and consultation in order to avoid a social downward spiral, shifting unintended costs of digital disruption onto society as a whole.

On the basis of these observations, the primary and most promising strategy for ensuring fair work in the platform economy should be an embedding of platform workers, across the entire spectrum of practices: “from organising workers and engaging in information and consultation exchanges with platforms through to collective bargaining and co-determination” (Prassl, 2018b). Collective bargaining can also be essential in this respect, in an attempt to increase wages, reduce constant surveillance, restrain the pervasive command power, improve working conditions, contest rejections and deactivations and also by introducing new rights to disconnection and to lifelong training for workers to be better prepared to face the platformisation trend or the introduction of new machinery at the workplace and the need to move to other tasks or occupations, in case their jobs be “taskified” by

technology or displaced by automation.¹⁰⁴ If social partners want to be key players in the future world of work, they must embrace “what is an ever more connected and networked world”, by experimenting with new tools and campaigns.¹⁰⁵ At the same time, there is a need to increase the importance of organising the trans-border, if not even transnational, platform work, considering that in many cases there is no limitation of the physical location where the services are completed and consequently several national legal systems and jurisdictions may be involved.

Negotiating the digital transformation of work could, therefore, become a crucial objective of social dialogue and action for employers’ and workers’ organisation (European Commission, 2018) in order to create an environment where authentic innovation can flourish. At the transnational level, the European Trade Union Confederation (ETUC) and the UNI Global Union launched a series of initiatives to collect, compare and exchange policy ideas, experiences and knowledge, working together with the European Parliament and the European Economic and Social Committee to develop realistic solutions (Weber, 2018; UNI Global Union, 2017). In January 2018, the ETUC, in collaboration with its in-house research institute (ETUI) and the French “Sharers and Workers” network, took the first tentative steps towards launching an EU-level dialogue on platformisation of labour and its related collective challenges. The aim was “to bring workers and employers in the platform economy together, replace the current often tense relationship with a forum for a frank exchange of views and provide an opportunity for workers and trade unions to get answers to their serious concerns about workers’ rights” (Weber, 2018). More recently, the High-Level Expert Group on the Impact of the Digital Transformation on EU Labour Markets has recommended to “reinvigorate social dialogue through intensified and better organised dialogue of workers and social partners especially in the platform economy” and has invited “both unions and employers as well as platform operators to participate in an ongoing exchange for improved collective outcomes (Social Digilogue)” (European Commission, 2019).

To conclude, it is important to claim that, far from neutral, innovation takes the direction that firms, workers and regulators impose on it, through actions and omissions, and advances at the speed that is knowingly impressed upon it. Digital transformation and organisational restructuring are to be forged and challenged through socio-political dialogue and conflictual process. This task is a testament to the longevity of organised labour and the collective voice, as argued in the previous parts of this paper. Freedom of association and the right to collective bargaining and collective action can make labour rights effective for non-standard workers without the need to recur to onerous and overwhelming individual protection and enforcement mechanisms, such as grievance procedures or lawsuits. Encompassing agreements may also “substitute for or complement” legislative interventions (Doellgast et al., 2018) – as specific regulatory responses to these issues lag behind and can prove to be counterproductive. Collective voice can also be pivotal in making business practices such as “management by algorithms”, and managerial decisions based on customers’ rating, but also the allocation of work shifts to non-standard workers, more transparent and fairer (Aloisi et al., 2017). Lastly, demographic, environmental and other organisational paradigms shifts can be “pragmatically” tackled through collective negotiation and social dialogue, as explained by the OECD (2019).

Some commentators say the recent surge of social mobilisation could portend a new wave of labour activism, as long as workers see that collective action can pay off. Others argue that the recent revival is more likely a “one-time blip of militancy that will fade away” in a context of decline for the collective dimension of employment relationships (Greenhouse, 2019). For the future, the specific question that deserves to be addressed is whether preliminary collective efforts described in the previous parts will lead to the emergence of authentic sectorial or fully-fledged labour unions entitled to collectively bargain on behalf of non-standard workers (Martínez Lucio et al., 2017; Murgia and Selmi, 2012) or whether these embryonic efforts will be episodic initiatives, destined to remain confined to

¹⁰⁴ For instance, collective agreements might co-define policies that help workers to adapt their skills to the changing labour market demands, thanks to training and re-skilling. Among others, Moore (2018) reports about several collective agreements already in place in various countries that are aimed at regulating the use of technology not only in monitoring workers and directing their work, but also in an attempt to protect human dignity and occupational health and safety.

¹⁰⁵ According to Wood (2018), the “Fight for 15” movement in the United States provides an instructive example of some ways in which the Internet can benefit organised labour (Rolf, 2016).

fragmented subsectors in the platform-economy. Anyway, there is no one-size-fits-all recipe for success. Further research is needed to understand how to overcome the barriers to long-term sustainability for stable formal organisations (Jiang and Korczynski, 2016) and how to embrace the ongoing paradigm shift as a moment of opportunity for organised labour as a whole (O'Connor, 2018). Regardless of its size, the platform economy represents a unique laboratory for developing new models of worker representation, engagement and collective bargaining (Prassl, 2018b), with rich potential for applying to other models of work. It is to be hoped that successful solutions developed in “peripheral” contexts will form the basis for tackling a much broader range of issues emerging from the digital transformation of work.

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