Digital Age

Employment and working conditions of selected types of platform work

National context analysis

Italy

Employment and working conditions of selected types of platform work

Disclaimer: This working paper has not been subject to the full Eurofound evaluation, editorial and publication process.
Introduction

A recent development on European labour markets, platform work, has attracted significant attention in academic and policy circles (Eurofound, 2015). Still, much of the available evidence is anecdotal, and there is limited understanding of the implications of platform work for the labour market and for the workers.

There is no uniform definition for platform work or related concepts in Italy. For this report, platform work takes its definition from Eurofound (2018) as follows:

*Platform work refers to an employment form that uses an online platform to enable organisations or individuals (workers) to access other organisations or individuals (clients) to solve specific problems or to provide specific services in exchange for payment.*

Thus, the research focus is on online platforms matching supply and demand for paid labour. The main features of platform work, as understood in this report, are: Paid work organised through online platforms; three parties involved, including the online platform, client and worker; aim is to conduct specific tasks or solve specific problems; form of outsourcing/contracting out; break-down of ‘jobs’ into ‘tasks’; on-demand services.

This working paper is the country contribution for Italy for Eurofound’s research project ‘Digital age: Employment and working conditions of selected types of platform work’. It explores the context of platform work in Italy in terms of the applicable regulatory frameworks as well as the organisation and representation of platform workers in the country. The analysis is based on desk research and 7 semi-structured interviews with experts from academia (3), policymakers (1) and representatives of employee and employer organisations (3) between December 2017 and January 2018.

Overview

The development of platform work in Italy coincided with broader changes and challenges affecting the labour market at large (Däubler, 2017), namely automation and digitalisation, tertiarisation of economy, flexibilisation and ‘casualisation’ of work relationships, intensification of labour, as well as shifts in lifestyle and generational preferences (Degryse, 2016). Interviewed experts agreed that digital transformation of work, combined with the growing ubiquity of internet-enabled devices, contributed to the emergence and growth of platform work. In addition to this, the rise of this non-standard workforce is attributed to the increased demand for both numerical and functional flexibility on the part of employers (Eurofound, 2015), and, in some cases, the need or the desire for greater flexibility on the part of workers (De Stefano, 2016a). Experts agree that tasks are being increasingly performed outside conventional firms, for example, on a project basis by self-employed persons (Dachs, 2018).

One interviewed policymaker stated that the rise in unemployment associated with the ferocious impact of the economic crisis¹, particularly among young people, may also have been a factor that led to greater interest amongst Italians in working via platform or app, both online and locally, due to the lack of alternatives in the traditional labour market. In turn, the distressed economic condition also spurred the demand for cheaper services through platforms. However, the main customers of this sort of services belong to the upper middle class.

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¹ A large number of unemployed people is found in Italy (three million).
Almost 10 years ago platform work began in services delivered online, especially translations, editing and coding, but as of early 2018 physical work appears to be prevalent, according to several interviewees. Services executed in a specific location include delivery, maintenance, cleaning, and baby- and pet-sitting. Such services often require a large demand, therefore for the moment platform work mainly takes place in large cities where population density is high (Milan, Rome, Turin, Bologna, Naples). Accordingly, in the Northern part of Italy, platform work is currently more strongly represented.

There exists no official or formal definition and classification for platform work in Italy, and there is little terminological consistency across relevant literature. At a general level, platforms are often called ‘digital platforms’, ‘gig-economy platforms’, ‘crowd working platforms’, ‘labour platforms’. The activities are instead referred to as lavoretti (literally ‘odd jobs’), cottimo digitale (‘digital piece-work’) or, simply, ‘on-demand labour’. However, it is important to note that Italian authors frequently use the same words to refer to different ideas, or different words for the same concepts. Each definition derives from some of the perceived characteristics (for instance, ‘collaborative platform’ spreads a message of sharing, while ‘gig economy’ (economia dei lavoretti in Italian) implies a ‘sense of denial’ or ‘a surrender of the language of labour’) (Tullini, 2016a). For the sake of simplicity, focusing on the distribution channel (‘platform-mediated labour’), which is not a legal criterion for distinction, appears convenient for academic reasons (Voza 2017b; Aloisi, 2018a). These labels cover various kinds of economic activities that might have widely different normative basis and social implications, while sharing a significant number of features.

In Italy, the current debate is mostly driven by academics, social partners and both traditional and new media. However, media attention is mainly focused on delivery platform work, due to the increasing number of protests, thus neglecting other forms of platform work.

The rise of the platform economy has given birth to new forms of industrial action because it is at the risk of creating greater job and income insecurity for workers. More recently, the Labour Tribunal of Turin has rejected the claim of six Foodora couriers to be reclassified as employees. The court argued that the workers are free to decide when to work and to disregard previously agreed shifts. However, the last word has not been said on this subject.

The debate over platform work in Italy, in short, concerns the need for a balance between safeguarding social rights against a potential deterioration in the quality of jobs and unleashing authentic societal improvements (Aloisi et al, 2017). Recently, the idea that lawyers and scholars must seek to square this fast-evolving phenomenon with the existing legal framework before exploring reforms has reached a large support.

There is considerable agreement among interviewed experts on the platform work’s propensity to scale quickly across sector and borders. More importantly, potential risks and opportunities embodied by the work-related platform economy far outweigh its relevance as a current source of employment.

**Variety of platforms**

Looking more closely at the Italian situation, two main categories can be distinguished: online platform work (service completed remotely and delivered online) and platform work delivered locally (De Stefano, 2016a; 2016b; Dagnino, 2016). Moreover, these arrangements

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2 Many commentators have tried to demonstrate how the ‘tent definition’ is being used to lump together very different arrangements (Valenduc and Vendramin, 1999, Kenney and Zysman, 2016).

3 Although online platforms describe themselves as a part of this trend, the label ‘sharing economy’ is now disgraced for misrepresenting the reality. Social partners have argued that the term is misleading in so far that a ‘mutualistic’ element is hardly observable when talking about a commercial and professional relationship between the involved parties.
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are distributed across several key sectors: professional online services, including services completed solely on computer and delivered remotely over the internet and encompassing a wide variety of activities, clerical or repetitive – moderation of user-generated content on websites is a widespread application; and locally delivered services ranging from passenger transport services to on-demand services at the client’s premises (De Stefano and Aloisi, 2018 forthcoming).

A variety of online and locally-delivered work platforms active in Italy can be listed: micro-tasking (for example, Clickworker); marketplace/freelancing (for example, MakeItApp); design (for example, Zooppa, 99design and Co-hive); software testing (for example, Appsquare); and innovation such as idea engineering for a corporate communication strategy (for example, Oxway).

Moreover, there is a range of platforms offering personal services, including care (for example, Le Cicogne or Oltretata or Animali alla pari, Holidog), cleaning (for example, Helpling and EasyFeel), food delivery (for example, Foodora, Deliveroo, Glovo, UberEats), manual craft (like Tabbid or Vicker). In each of these five categories, clients select a specific worker, or the platform selects a worker for them (TraiLab and Collaboriamo, 2016).

Additionally, local micro-tasking platforms are on the rise: several small start-ups aiming to scale or be bought by bigger businesses could be mentioned: PrestoFood offering food delivery services in Sicily and Calabria and Expressoo offering postal services in Catania.

Many platform workers are often overqualified for the work they perform. In contrast, many online contestants have academic degrees or specific skills which are required for complex contests.

As for local platform-determined work, the matching is mainly done by algorithmic forms of management or the selection of workers to do a specific task is mainly performed by the client; conversely, on local worker-initiated and online contestant platforms available tasks are posted on the platform and workers can opt to participate.

While there are some platforms that merely connect demand and supply of tasks between clients and workers, there are many other instances where platforms do more than this, actively intervening in key elements of the work being provided (De Stefano, 2016a). The model raises concern about the quality of work and employment of the affected workers and the effects on the economy and society (Pesole et al, 2018).

**Spread of platform work**

The Italian work-related platform economy is rapidly growing. There are only a few data sources on the usage of the platforms. Based on these the participation appears to be non-marginal in statistical terms (Codagnone et al, 2016). The number of workers is estimated at between 700,000 and 1,000,000 according to a new research carried out by Fondazione Rodolfo DeBenedetti (Boeri et al, 2018; Cottone, 2018).

The available data are largely based on estimates. The size varies depending on the methodologies and definitions applied. Moreover, there are reliability issues. For instance, the number of users on a platform may not be a reliable indicator, because not all users are active and some users might have multiple accounts/identities to register on various accounts.

An online survey carried out by FEPS in cooperation with UNI Europa and the University of Hertfordshire (Huws et al, 2017) found that a substantial share of the Italian population (22%) has completed projects or micro tasks. However, only around half of them provide services via platforms frequently (i.e. at least weekly). Moreover, in the majority of cases, this was a very occasional supplement to other earnings. The survey indicates that services provided in households (such as cleaning or maintenance tasks) are the most common ones. According to

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4 The online survey with 15,000 respondents representing working age population (WAPOP) was carried out between 8 May and 15 May 2018: 2.6 % of WAPOP are found to be ‘gig-workers’. 

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the same data, 5.1% of the Italian population (equivalent to 2.2 million people) is earning more than half their income from platform work. Interestingly enough, the reported percentage of young platform worker is only 39%, but only 41% of platform workers end to describe themselves as full-time employees. The same study found a more even gender split among platform workers, with women performing 52% of the weekly platform work (Pesole et al, 2018).

The accuracy of the results of this online survey is questioned. Several interviewees, in particular academics and social partners, are sceptical about these results. Different surveys present quite varied results and are difficult to compare, due to differences in the terminology and the survey method (online, offline, or both) used. For example, online surveys to measure the number of platform workers can lead to an overestimation of the number of workers compared to their real prevalence in the labour market, since those who are more active online are easier to sample.

Additionally, TraiLab and Collaboriamo have conducted several mapping exercises covering ‘sharing economy platforms’, following a definition somewhat overlapping with that of platform work used in this report. Their exercises show that there is a high turnover among Italian platforms. Of the 118 platforms surveyed in 2015, 13 (11%) were inactive in the following year (TraiLab and Collaboriamo, 2016). There were 125 platforms operating in Italy in 2016, of which 17 were newly set up and 30 ceased their operations (TraiLab and Collaboriamo, 2017). Half of these platforms have fewer than 100,000 users, while only 8% have more than 100,000 users (TraiLab and Collaboriamo, 2016). More than half of the platforms are located in the north of the country.

The mapping research also traces the socio-professional profile of the founders: 82% are men, 60% have a degree in economics or engineering, many have previous business experience, 34% own companies in other sectors (TraiLab and Collaboriamo, 2016; Ciccarelli, 2016).

**Debate on the labour market impact of platform work**

Practices in the work-related platform economy have shifted from the original unpaid communal activities to paid professional activities (Hatzopoulos and Roma, 2017). Today, those who work in this economic segment make a career out of it and seek to earn their main income from it.

Platform work surfaced in the public consciousness only in the last 5-10 years, together with broader trends that are reshaping the labour market. This phenomenon is part of a transformation of labour into casual work and fragmentation of labour relations that has been going on for some time. Discussions have focused on extending the current framework rather than setting up a dedicated framework for platform workers.

To varying degrees, most sides of the public debate in Italy acknowledge the potential for positive and negative effects of platform work. For example, platforms are under scrutiny for allegedly contributing to the degradation of the employment relationship and working conditions. Instead of liberating entrepreneurial energies, this phenomenon is considered to

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5 The scope of the research is defined as follows: ‘(i) platforms directly connecting people with people, matching supply and demand, and enabling peer collaboration, (ii) platforms enabling interactions without providing products and services (they do not set the price of the transaction that is established by peers, they do not select the staff, they only set a reputational system), (iii) platforms allowing the participation of both professionals and private citizens, (iv) forms of collaboration mediated by a technological platform’.

6 The term ‘users’ is meant to designate both platform workers and clients cumulatively.

7 Non-standard work arrangements have increased in recent years, even in Italy where traditional self-employment is declining (Boeri et al, 2018).
result in a sharp increase of the low-skill and low-pay economy. As a result, advantages such as job market activation, enhanced flexibility and frictionless career mobility are coupled with harsh working conditions, income insecurity and lower work-related benefits.

Notably, platform workers share working conditions with a wider group of non-standard workers in the ‘fissured workplace’ (Weil, 2014), a trend undermining social protections and reducing wages (Aloisi, 2018a). Most of platform workers are excluded by some, or even the entirety, of the essential workplace protections afforded to employees, such as sick or holiday leave, full insurance, pension, superannuation or similar schemes, or minimum rates of pay and working time regulations. In addition to this, costs associated with equipment, maintenance and repairs are at the worker’s own expense: no reimbursements for these expenses are often due (De Stefano and Aloisi, 2018 forthcoming). Moreover, when employers disclaim responsibility for working conditions, this transfers a range of risks to workers and, more broadly, to society as a whole.

Nonetheless, platform work is also seen as a response to the genuine need for flexibility. Along the development of the platform economy, platform work is increasingly viewed as an important potential creator of new jobs, primarily for underrepresented categories of workers. According to scholars, platform work might offer opportunities to students, retirees and many people belonging to concessionary or marginalised groups, including, in some cases, those impaired or bound to stay at home. These newly emerging forms of work may have the potential to help vulnerable communities, by breaking down the barriers of their local labour markets. At the same time, several platforms offer a system of validation of non-formal skills and ‘skills assessment’ in order to determine a clustering of providers according to their internal ranking.

For the time being, the topic of platform work has only been the subject of debate or reflection, mainly carried out by experts, scholars and social partners. Preliminary discourses on these issues were carried out in 2015, as an echo of the international debate. A core debate of platform work revolves around whether it is appropriate to consider platform workers as self-employed, or if platform workers should be considered employees of the platform or client. Establishing employment status is not merely a dogmatic issue, but it is pivotal to determine the scope of workers’ protection.

No regulatory solutions have been implemented nor have worker or business representatives taken any official or commonly agreed position, as an interviewed policymaker emphasised. Only sporadic initiatives have taken place as of early 2018. More recently, platform work has received growing political attention, in addition to the intense academic debate related to the broader implications of this new form of work and the decision on the employment status of six riders by the Employment Tribunal of Turin. Several remarkable actions can be listed, namely a new national collective agreement regulating the job position of the ‘rider’ in the logistics sector, the draft of a new legislative decree proposed by the Labour and Industry Minister (then withdrawn), and a number of local efforts carried out by municipalities, workers’ representatives, spontaneous movements and mainly food delivery platforms.

Trade unions appear to support initiatives of platform workers rather than attempt to compete with them. The more the phenomenon moves forward, the more likely it is that traditional trade unions will take an interest. Employer organisations have been much less vocal on the topic than trade unions, and they focus on different issues. In general, employer organisations are focused on Industry 4.0 (Impresa 4.0) and mostly concerned about (unfair) competition,

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8 In 2016, the Italian Ministry of Labour and Social Policy launched a ‘Future of Work’ initiative involving social partners, which aims at placing platform work in a wider political context. This initiative should be seen as a forum for ideas rather than a consultation body.

but they also see new opportunities for businesses and entrepreneurship. In the meantime, new organisations have been launched in an attempt to ‘proto-unionise’ platform workers.

**Regulatory frameworks**

Despite being characterised by a high level of heterogeneity, this model calls into question the suitability and effectiveness of existing regulatory frameworks. It is often wrongly assumed that existing employment regulations do not apply to platform work (Aloisi, 2016a) as it can be difficult to fit platform workers into the traditional categories for employment status, given the flexibility and the supposed novelty of this model and the autonomy that they seemingly enjoy.

Italy has a civil law system. The regulatory frameworks are based on written law including the constitution, codes, and legal statutes. The civil code lays down some fundamental principle regulating matters including individual labour contracts. Italian labour and employment laws cover the relationship between collective parties – the employer organisations, works councils, and trade unions – and the relationship between employers and individual employees (and other categories of workers). There is no unified employment and labour law code. For this reason, case law enacted through Italian courts is more important for labour and employment than in other areas. Court rulings are normally based on evidence, irrespective of how the parties construe or describe a given contractual relationship. Moreover, labour law is regarded as having in general an imperative nature for the main reason that is aimed at protecting the worker as the weaker part of the labour relationship (Treu, 2014). The concept of ‘inderogability’ or mandatory effects applies, through which the principles of the welfare state and social justice ‘seep into’ different templates of both individual and collective employment relationships. Indeed, private agreements may not deviate from the legal requirements and individual workers are not allowed to waive or dispose rights deriving from imperative norms.

The principle of ‘primacy of facts’ is also established as a general principle of contract law, according to which ‘the determination of the existence of an employment relationship should be guided by the facts relating to the actual performance of work and not on the basis of how the parties describe the relationship’ (Berg et al, 2018).

Italian employment and labour law are also influenced by EU law, as legislature and jurisdiction must comply with the regulations and directives of the EU and their interpretation by the European Court of Justice (Treu, 2014). Moreover, Italy has ratified most of the ILO conventions in social matters.

**Employment law**

No specific regulatory framework exists for platform work in Italy. Accordingly, national governments, workers and platforms must rely on more general legislation, based on employment status and the type of work performed. Employment law in Italy is in principle covering work performed in subordination, so that only employees enjoy full protection (Treu, 2014). In the Italian system, a fundamental binary divide applies (Liebman, 1999). Italian law contains the employment statuses of lavoratore subordinato (employee) and lavoratore autonomo (self-employed worker). Nonetheless, in 1973 the legislation was partly responsible for a relaxation of the rigid dichotomy through the creation of an intermediate category.

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10 Articles 2094 – 2134 of the Italian Civil Code.

11 Article 2113 of the Italian Civil Code.
Article 2094 of the civil code defines employees as persons performing intellectual or manual work against payment under management. One of main elements of the standard employment relationship is the subjection of the worker to the organisational, hierarchical and disciplinary powers of the employer\(^\text{12}\), with personal subordination of the employees\(^\text{13}\). More specifically, managerial power is a hallmark of employee status and allows for internal flexibility; the possibility of rearranging, even on a daily basis, an employee’s duties within the business (Del Conte and Tiraboschi, 2004, Perulli, 2017b). According to article 2104 of the civil code, an employer’s directive power is the counterpart of the duty of obedience of an employee. Besides this, case law developed a wide spectrum of subordination factors that could indicate the presence of an employment relationship. A court ruling could disregard or override the contractual label that the parties choose when the substance of the work relationship contained legal indications of subordination and if the level of dependence is such that in reality the relationship is one of employment. The analysis covers a range of factors:

1. the requirement that the worker follows reasonable work rules or even non-specific guidance;
2. the length of relationship and the continuous nature of the work\(^\text{14}\);
3. the respect of set working hours;
4. the form of remuneration (salaried work); and,
5. absence of risk of loss related to the production;
6. the integration with the employer’s business.

The test is multifactorial, and no single factor is dispositive. The label placed on to the relationship is a factor in the outcome, but it is certainly not the most important one. More recently, courts have given greater importance to the intentions of the parties. Subsequent elaboration made clear that workers could have a considerable amount of autonomy – granted by general and functional directives – yet still be classified as employees.

Legislative Decree no. 81/2015 implementing the Jobs Act introduced new possibilities with reference to the regulation of the employers’ prerogative to unilaterally change the duties for which the employee has been hired (Gramano, 2018), thus fostering ‘functional flexibility’ (Treu, 1992). Moreover, Law No. 81 of 2017 introduced ‘smart working’, work that can be carried out via technologies outside the employers’ premises and allow more flexible working time arrangements (Gramano and Del Conte, 2018 forthcoming). This template could be used to regulate different online platform work arrangements in the framework of an employment relationship.

Turning to independent contractors, article 2222 of the civil code sets forth the definition of self-employment as persons performing a piece of work for compensation, primarily by their own effort and without a relation of subordination to a manager. Roughly speaking, general principles of civil and commercial law apply to the self-employed, which are considered substantially and formally equal to the counterpart from a contractual point of view.


\(^{13}\) See, for instance, Cass., 29 November 2007, No. 24903 (‘the principal element of an employment contract – and the criterion that distinguishes it from a self-employment contract – is subordination, understood as a link of personal subjection to the power of direction’). It is important to note that the Italian Civil Code does not provide a definition of the employment relationship, but of the subordinate employee. See Cass., 18 July 2008, No. 20532. In the Italian law, subordination is a technical and functional notion: the employee undertakes the obligation to work under the authority of the employer who has the right to direct and control the work, as well as to inflict disciplinary sanctions.

\(^{14}\) See Cass. 28 July 1995, No. 8260.
Law No. 81 of 2017, a new regulation on authentic self-employed workers, for the very first time grants some specific social protection also to purely independent contractors (Gramano and Del Conte, 2018 forthcoming).

Although the standard employment relationship is considered the most common form of employment, more recently, the lawmaker designed alternative arrangements (such as fixed-term contracts, temporary agency work, job sharing and job on call) which are cheaper for the employer. Despite providing less protection for the employee than the standard employment contract (Gramano and Del Conte, 2018 forthcoming), these contracts could be used to regulate platform work.

An intermediate status between employee and self-employed called ‘quasi-subordinate worker’ was introduced in 1973. It is worth noting that many platform workers are currently classified under this (sub)category. This is for example the case for Foodora riders.

Act No. 533 of 1973 declared the legislation concerning the settlement of labour disputes applicable to commercial agents and to all contractual relations implying a continuous performance of work, mainly of a personal character, although not in a position of subordination (collaborazione coordinata e continuativa, the so-called Co.Co.Co., or lavoratori parasubordinati). As a result, Act No. 533 extended some protection to a tranche of self-employed workers, thus contributing to the creation of what later would become the intermediate category of worker (‘quasi-subordinate worker’, lavoratore parasubordinato) situated between employee and independent contractor. Comprised of a subset of self-employed workers, these quasi-subordinate workers were recognised as continuous and coordinated collaborators. Hiring these employees is substantially cheaper than hiring an employee who is entitled to substantive labour rights, annual leave, sick leave, maternity leave, overtime, and job security against unfair dismissal (Cherry and Aloisi, 2017).

In response, businesses increasingly began to hire workers under the lavoratore parasubordinato (sub)category. Most of these quasi-subordinate would previously have been classified as employees, according to academic experts. Experience has shown that adding a new category could increase the possibility for arbitrage relocating the borders of the ‘grey area’ between a newly deregulated employment and self-employment rather than provide more protections for the latter.

More recently, article 2 of Legislative Decree No. 81/2015 (the ‘Jobs Act’) introduced ‘collaborations organised by the principal’ (literally collaborazioni organizzate dal committente), whereby the client organises several performance-related aspects, including above all time and location. Should this be the case, all statutory employment provisions afforded to employees apply to this group of formally self-employed workers.

The result is, in practice, a considerable broadening of the scope of protections traditionally granted to standard employees (Bronzini, 2016; Nogler, 2015; Razzolini, 2015). The Jobs Act has effectively extended employment protection to workers whose performance is organised by the client. However, collective agreements may lead to opt-out from labour law regulation. These new provisions, applicable only when the performance displays a purely personal nature, could make it easier to prove the organisational power exercised by a client (the platform, for instance), thus resulting in the possible application of employment protections to platform workers, too (INPS, 2018; Aloisi, 2016b). Criticism has been raised in relation to the suitability of these new provisions to platform workers, specifically riders (Lunardon, 2018).

While the quasi-subordinate category still exists, it is now limited in its scope as a reaction to abuses. Essentially, the ultimate result is a return to the binary distinction of employee and self-employed workers.

Anti-discrimination and privacy and data protection legislations do not apply to platform workers generally.

In particular, the system of anti-discrimination rules covers involvement in a trade union and participation in a strike (Law No. 300/1970), racial and ethnic origin (Legislative Decree No. 215/2003 implementing Council Directive 2000/43/EC), religion, belief, disability, age and

In September 2015, the Jobs Act amended Article 4 of the Italian Workers’ Statute. Pursuant to the new legislation, any other device through which the employer can monitor the employee’s activity must be implemented only for productive and organisational reasons and for protection of the firm’s properties with the approval of workers’ representatives. Moreover, the new Article 4 of the Italian Workers’ Statute allows the employers to process and use all data obtained from devices given to employees for fulfilling the working tasks.

The provision allows the employer to use also for disciplinary purpose personal data collected by technological devices in accordance with the Italian ‘Data Protection Code’ (Legislative Decree No. 196/2003) (Ingrao, 2018). The only employers’ obligation is to inform the employees in advance about the use of the equipment they are going to implement15.

The ‘Data Protection Code’ provides that the personal data – including data related to employees – should be processed lawfully, fairly and in a transparent manner. Data can be collected for specific, explicit and legitimate purposes and must be adequate, accurate, relevant and limited to what is necessary in relation to the final purposes. The EU-GDPR (European Union General Data Protection Regulation) was released in May 2018, and is expected to help clarify and harmonise data laws across Member States and economic sectors.

Social protection

National social security systems are funded by contributions paid by workers and employers and, to various degrees, through taxation. In Italy, the essential prerequisite underpinning a worker’s insured status as regards pensions, health and unemployment is the status of employee.

As platform workers are generally considered to be self-employed, these workers are often subject to the social insurance systems of self-employed, which often tend to be less favourable and/or more expensive for the worker than those for employees. Italian self-employed workers are not covered by contributory social protection against unemployment risk, and sometimes maternity and sickness (Boeri et al, 2018).

The Italian legislation provides for the coverage of the following social security categories: old age, invalidity, survivor, sickness, unemployment, family, maternity and equivalent paternity benefits, as well as benefits for work injuries and occupational diseases. All employees performing their earning activity in the Italian territory are compulsorily covered by social security insurance (European Commission, 2013, Borzaga, 2016).

Contributions of the employees are a share of the total pay, depending on the sector, professional qualification of the employee, number of employees, location of the business, etc. The employer is responsible for transferring both the employer and employee contributions to the competent social security institution.

Contributions of self-employed workers are based on the total income declared. There are special provisions for family members actively involved in the earning activities of the self-employed (against a reduced rate when they are under 21), farmers, sharecroppers and smallholders (paying a pro rata contributions of the average taxable income) (Eichhorst et al, 2013; European Commission, 2013; Spasova et al, 2017). Self-employed women are also entitled to maternity allowance for the two months preceding and three months after the birth,

15 Therefore ‘the companies should draft new internal policies, duly published and delivered to the employees, in which they clearly and fully explain how the equipment will be used and which information the employer will obtain from it and the aim of such control’ (Bargellini, 2016).
irrespective of their actual abstention from work (contrary to employed women who are obliged to suspend their activity during this period)\textsuperscript{16}.

Moreover, the self-employed must register and make contributions either to a separate social security regime (called cassa), which is a social security fund allied to their profession, or directly with the Italian Social Security administration (Istituto nazionale della previdenza sociale, INPS). The rate for workers with a VAT number exclusively enrolled into the separate social security regime is at around 25%.

Little attention has been paid to whether platform workers engaged in online platform work activities qualify for obligatory social insurance as of early 2018.

Generally, the requirements for obligatory social insurance are not met by platform workers because they do not enter into a contract with the platform. When platform workers are hired under a collaborazione coordinata e continuativa scheme, they must enrol into a separate social security regime (gestione separata INPS)\textsuperscript{17}. In such case, the contribution rate is 32.72\% of the income (one third is paid by the worker (collaborator), two thirds by the client). Autonomous and occasional collaborators (collaboratori occasionali) must enrol in gestione separata INPS only if the total yearly remuneration exceeds €5,000. In 2015, a specific new scheme was introduced for collaborators who lose their job after having paid contributions for at least one month during the previous year or with a contract with a duration of at least a month.

As the fragmented available data suggest that the large majority of platform workers uses this employment form for side earnings, it can be assumed that those workers who are engaged in this employment form on a part-time basis or occasionally fall below this threshold.

**Health and safety**

Issues pertaining to health and safety have not been discussed much in the context of platform work. In Italy, no specific provisions for platform workers are in place. Some platforms, such as Deliveroo, have started to offer insurance to the workers, but their number is limited\textsuperscript{18}.

Italian companies must adopt a set of precautionary measures, in the interests of preventing accidents at work and occupational illnesses.

According to article 2087 of the civil code the employer is required to prevent the risks at the workplace in the light of existing technical knowledge and, where this is not possible, to reduce them to a minimum. Failure to observe the obligations imposed on the employer and on those designated in the various sectors is punished.

\textsuperscript{16} Moreover, pregnant self-employed women have the possibility after approval of the principal to be replaced or supported by other workers who meet the necessary professional qualification. Additionally, pregnancy, illness and injury of self-employed workers who work continuously for the same principal does not lead to the termination of the contract, whereas the performance is suspended at the request of self-employed, without entitlement to compensation for a period up to 150 days per year. However, the client of the self-employed is entitled to withdraw from the contract when no longer interested in continuation. Finally, self-employed workers are entitled to parental leave of up to six months for both parents during first three years after the birth of the child. The indemnity is equal to 30\% of the income from work for which at least three months of contribution has been paid (Gramano and Del Conte, 2018 forthcoming).

\textsuperscript{17} Gestione separata is a pension scheme funded by a compulsory tax providing quasi-subordinate workers with a suitable insurance.

\textsuperscript{18} Deliveroo has stipulated a private insurance for food delivery workers. The company will provide its riders free accident insurance to cover up to €7,500 of medical expenses and as much as 75\% of average gross income (Simonetta, 2018; Gangcuangco, 2018).
In addition to article 2087 of the civil code, health and safety at work are regulated by Legislative Decree Law 81/2008 from an operational point of view. This decree transposes the European Directive on the protection of safety and health of workers.

The customer must verify the aptness and the necessary professional competences of the self-employed workers to effectuate the works. A list of documents that can be asked, including registration with the Chamber of Commerce, Industry and Handicrafts with scope that relates to the contract type, specific documentation showing compliance with the provisions of this decree in the field of machinery, equipment and temporary works, list of personal protective equipment, statements regarding their for training and health suitability as expressly foreseen by this decree; documents on regular contributions.

Although accidents at work and occupational injuries are linked to the employment status, as employers are usually responsible for insuring their workers against these risks, in Italy the self-employed, mainly quasi-subordinate workers, have access to these type of benefits (Spasova et al, 2017).

The insurance scheme providing protection to workers in case of occupational diseases, injuries or death at work are financed through contributions of the employers and managed by the National Institute for the Insurance against Accidents at Work (Istituto Nazionale Assicurazione Infortuni sul Lavoro, INAIL). It offers both temporary benefits, life-long annuities in the event of permanent disability and death grants (European Commission, 2013).

As below, most of the platform workers are classified as quasi-subordinate workers or occasional collaborators. Quasi-subordinate workers (collaboratori coordinati e continuativi) are covered by an insurance paid by the worker (1/3 of the amount) and by the employer (2/3 of the amount)\(^{19}\). Occasional collaborators (collaboratori occasionali) do not join any statutory insurance scheme. Either they are insured at their own expense (and nobody does), or in the event of an accident they are not entitled to any compensation (Gabanelli and Querzè, 2018).

**Taxation rules**

All earnings from platform work activities are officially subject to taxation.

The platform economy more broadly is considered both a threat and opportunity for tax authorities. On the one hand, it offers the opportunity to formalise the informal economy and reduce undeclared work. Due to its digital nature, information can be easily stored and shared with the responsible authorities. On the other hand, enforcement of the taxation rules appears to be difficult and many platform workers are unaware of the applicable rules.

This is related to the uncertainty on platform workers’ employment status, and it has implications for who is responsible for what (also in administrative terms). If the platform workers are employees, the platform is responsible for transferring the income tax to the authorities. If these workers are self-employed, the responsibility falls on them (income tax and value added tax (VAT), and corporate income tax if they are incorporated).

Employees are subject to income tax on natural persons (Imposta sul Reddito delle Persone Fisiche, IRPEF). The same applies to quasi-subordinate workers (collaboratori coordinati e continuativi).

The available anecdotal evidence, however, pinpoints towards only a low share of platform workers being employees. No information is available as regards self-employed platform workers fulfilling their tax obligations.

Self-employed workers must apply for a VAT number (partita Iva in Italian), issue invoices, submit an annual tax return, and make regular VAT payments and income tax advance

\(^{19}\) A food delivery worker earning €600 per month must pay €75 per year, while the platform pays €150 (Gabanelli and Querzè, 2018).
payments. The contributions a worker must pay are calculated based on the total company
income a worker declares for the purposes of income tax on natural persons for the year to
which the contributions correspond.

Litigation on platform work
In Italy, there have been or are still ongoing cases on the legality of the services provided and
the classification of platform workers. Rulings are made on a case-by-case basis, considering
the specific circumstances. This implies that courts can arrive at different conclusions for
workers active on the same platform, and in the same sector or country.

As for activities in the transport field, the Court of Milan banned the UberPop app across Italy
for unfair competition practices in May 2015. According to the court, the service was a direct
competitor of traditional taxi companies or cooperatives. Although Uber claims to be a mere
digital service, it has the same features as private transport companies. Moreover, the service
should not be treated as car-sharing or car-pooling since car owners do not share the costs of
the drive to reach their personal destination (Auriemma, 2017a). The matching service was,
therefore, deemed comparable with that provided by a traditional call centre while its pricing
system was not subject to the rules governing the public taxi service. The price advantages of
UberPop arise because of a lack of obligations for transport licences (such as the cost of
installing meters, insurance and maintenance checks) and other legal requirements.

A second decision by the Court of Milan stated that the UberBlack service (licenced drivers)
may also constitute unfair competition against private hire vehicle drivers who have to return
to a garage in between rides. Similar observations were made in Tribunale di Torino, Sez.
spec. impresa, sentenza 24/3/2017, n. 1553 and Tribunale di Roma, S. spec. impresa,
ordinanza 7/4/2017 (then reversed) (Donini, 2016; Di Amato 2016).

Grassroots organisations started promoting lawsuits claiming the misclassification of platform
workers (Cravero, 2017).

The Employment Tribunal of Turin (Tribunale del Lavoro) came to a decision in April 2018.
According to trade unionists, this is a highly political and social issue and should be
addressed by social partners instead of courts. As for inspection and proper enforcement, the
labour inspectorate has been called to intervene and investigate Foodora, after a public
protest, but there have not been further publications on the developments as of early 2018.

Last April, the Employment Tribunal of Turin rejected a claim from six riders of the food
delivery platform Foodora who asked to be reclassified as employees and argued that they
had been disconnected from the platform as a form of retaliation of the company against their
decision to go on strike.

In this case employee status was denied because the judge relied extensively on the fact that
these workers were allegedly free to decide when to work and to disregard previously agreed
shifts (De Stefano, 2018)20. Moreover, they were not subjected to neither the employer’s
directive power, nor to the organisational one. The judge refused to take into consideration
the issue regarding the appropriateness of the remuneration or others related to the platform
economy (Tullini, 2018b).

20 Relevant case law dates back to the 1980s when the Italian Supreme Court (Corte di Cassazione)
stated that couriers were self-employed workers rather than employees on the grounds that they had the
right to refuse service and decide if and when to work. Multiple reactions in the press and the
claimants’ decision to appeal the ruling confirm that there will be more discussion and case law on this
issue (Sideri, 2018).
Discussion on new or updated regulatory frameworks

At the national level, different parliamentary initiatives may be listed. First, a parliamentary question on working conditions of platform workers hired by the food delivery platform Foodora was presented in 2016\textsuperscript{21}. Furthermore, there have been three bills that have not been yet passed into law, respectively the Italian ‘Sharing Economy (Tax) Act’\textsuperscript{22} introducing a lower or no tax charge on annual income up to €10,000, the draft laws ‘Provisions on work organised or coordinated by the client Act’\textsuperscript{23} and ‘Provisions on self-employment mediated by digital platforms’ regulating umbrella organisations such as cooperatives for self-employed persons\textsuperscript{24} (Dagnino, 2018b). The national elections in March 2018 have halted parliamentary activity and none of the Members of Parliament who were working on this topic have been re-elected.

More recently, new Labour and Industry Minister Luigi Di Maio held informal meetings with representatives of ‘precarious’ platform workers and platforms managers\textsuperscript{25}. He met a group of food delivery riders in his first official engagement since being sworn in, and representatives of platforms and workers in subsequent meetings. Di Maio, who is also the deputy prime minister in the new government, said it was necessary to give these workers ‘insurance and a decent minimum hourly wage’ and to support ‘dialogue between the big international companies and the young workers (Ansa, 2018b). This initiative ‘provided an unquestionable piece of recognition for the movement, which may allow its progress to be coordinated at the national level’ (Zamponi, 2018).

The new government proposed a new legislative decree aimed at ensuring more contractual protection and a guaranteed minimum wage for platform workers in the food delivery sector (Dagnino, 2018a). According to a preliminary draft, workers ‘working via platforms or apps’ must be considered employees entitled to the right to paid holidays, sick leave and a wage equal to or above a minimum level set by the relevant national collective bargaining agreements. Moreover, platform workers shall be paid hourly (and not on a piece rate or ‘per-drop’ basis) and entitled to the ‘right to disconnect’. Interestingly enough, algorithmic management as well as the internal algorithm could be implemented after a ‘trial phase’, and a subsequent negotiation with the trade unions which, in turn, shall be kept informed of the internal rating’s dynamics and metrics (Feltri, 2018)\textsuperscript{26}. There are different views whether new legislation may improve the situation of platform workers (Baratta, 2018; Merler, 2018). However, the draft was used as an instrument to pressurise social partners in order to foster consultation between management and labour (Meta, 2018).

Tito Boeri, President of the Italian Social Security administration (\textit{Istituto nazionale della previdenza sociale}, INPS), proposed the introduction of an hourly wage for platform workers, in addition to imposing that there is a registration of these transactions, to make sure that the employers pay contributions (Conte, 2018).

\textsuperscript{21} See ‘Initiatives aimed at verifying working conditions at the Foodora company, as well as regulating employment relationships with start-ups operating in the so-called sharing economy – No. 3-02559’, available at https://goo.gl/eNP3T4 (in Italian).

\textsuperscript{22} See https://goo.gl/HhXPiY (in Italian).

\textsuperscript{23} See https://goo.gl/qhnajn (in Italian).

\textsuperscript{24} The proposal contains a definition of platform-mediated labour, defines and regulates the ‘contract of assistance and mutual protection’ to be used by umbrella companies. Umbrella companies provide continuity of income and essential social security coverage. See https://goo.gl/is61ES (in Italian).

\textsuperscript{25} See: https://goo.gl/pd8VIL (in Italian).

\textsuperscript{26} At the time of writing, the new text of the Legislative Decree on Decent Work (\textit{Decreto Dignità}) does not contain any provision on platform work.
While an increasing number of countries are looking at creating an employment status somewhere between the traditional divide between employees and the self-employed, it seems unlikely that a third or new status for platform workers will be introduced. In Italy, some employees have actually seen their rights narrowed because their status was levelled down into the already existing intermediate category (Cherry and Aloisi, 2017). Accordingly, policymakers and unionists argue that it is important to be very careful about creating a ‘tailor-made’ intermediate category, whereas businesses argue in favour of allowing to take advantage of the less burdensome employer requirements. Moreover, several voices have been raised advocating a coordinated intervention at the European level aimed at preventing social dumping and regulatory arbitrage (Baratta, 2018, Aloisi, 2018b).

Very little systematic effort has been made to establish how existing regulations should apply. However, before proposing any changes to the current rules, solutions should be sought by interpreting the notion of employment in a resilient or elastic way. Moreover, the existing regulatory framework should be exploited to its maximum possibilities as appropriate. Understandably, another crucial answer should be closing legal loopholes that incentivise exploitative comportments by a marginal group of deceitful platforms. In addition to this, more effort needs to be made to ensure that regulations are effectively applied, in order to avoid the risk that platform workers’ are considered by default as falling in a normative vacuum with no access to labour rights’ (De Stefano, 2017; Evans and Gibb, 2009).

Wrap-up
Platform work may display some characteristics of both self-employed workers and employees. The employment status of platform workers is not specifically regulated in Italy. As a result, the terms and conditions of platforms often opt for a self-employment status.

Under Italian employment law, employees are especially protected due to their dependence on employers, receiving the most comprehensive protections in all the relevant domains. What seems to be most significant is that the complete range of protective norms can be enjoyed only entering the realm of employment. Very few platforms provide such contract. However, both self-employed and the intermediate category of ‘quasi-subordinate worker’, lavoratore parasubordinato (which seem to be the most common contractual formula), receive a portion of these legal protections. Each of these categories represents heterogeneous groups that are marked by extensive case law.

The discussion on setting employment law’s coverage is by no means new to scholars: in many cases, the delimitation of the ‘border areas’ of the employment and self-employment status has regularly posed practical, sometimes insurmountable, difficulties. Two court cases (in Turin and in Milan, but the latter has not been published yet) investigated whether platform workers are employees instead of self-employed, both finding a self-employment status (Covelli, 2018).

Employment status has important implications for workers’ social protection, with self-employed being less covered or having to afford higher contributions themselves while for employees this is shared with the employer. This is a particular concern for those doing platform work as their main earning, which tends to be the case in local platform-determined work.

In addition to this, it must be understood that the employment status implies several efficiencies and cost advantages compared to self-employment status. Firstly, typical arrangements allow the fully-fledged deployment of managerial prerogatives and the related flexibility in the use of the labour force to implement organisational strategies. Secondly, they constitute an effective tool to deliver training and develop advanced or specific skills (Aloisi, 2018a).

Generally speaking, except for the national health system – mainly funded through general taxation and thus not linked to employment status – in Italy the self-employed are not compulsorily covered by sickness insurance, unemployment protection and cannot opt into
one or more insurance-based schemes, while employees are mandatorily covered by the schemes concerned. Moreover, quasi-subordinate workers may be compulsorily covered by unemployment protection (Spasova et al, 2017).

While collaborators (the so-called Co.Co.Co.), together with professionals in sectors not covered by independent pensions funds, are subject to compulsory insurance under a separate social security scheme (gestione separata INPS), autonomous and occasional collaborators are completely excluded from sickness insurance.

**Formal relationships**

The heterogeneity among platforms makes it unfeasible to cover all existing or potential formal relationships between clients, platform workers, and platforms. This section will therefore discuss the relationships of the platforms identified based on the existing literature and expert interviews.

The formal relationships between platform worker and platform, and platform worker and client, are extensively discussed. Contrarily, relationships between the client and platform appear to be much less covered. Client and platform relationships are usually mentioned anecdotally within discussions on platforms’ general terms and conditions, or consumer protection in the broad context of digitalisation. It does not appear that the Italian government has paid special attention to clients in platform work.

The formal relationships between platform worker and client, and platform worker and platform, are inextricably linked to employment status.

**Potential employment statuses under Italian law**

Taking into account the existing legal options, platform work arrangements may be classified as employment contracts, self-employment contracts, and occasional or continuous and coordinated collaborations (Menegatti, 2018).

In theory, any of these employment statuses could apply to platform workers. In practice, however, the terms and conditions of the platform designate the employment status. It appears that, in most cases, this results in a situation in which platform workers are considered to be self-employed. Especially among workers who obtain their main income from platform work, self-employed is the most common status.

Other schemes are quasi-subordinate worker (collaborazioni coordinate e continue) and autonomous and occasional work performances (prestazioni occasionali). Autonomous and occasional work performances (prestazioni occasionali) can only be used for assignments of fewer than 30 days and a total yearly remuneration of less than €5,000. According to a recent investigation, around 80% of Italian food delivery riders are engaged under such contractual template (Gabanelli and Querzè, 2018).

Platform workers may be classified as employees, but this happens very rarely (as with YouGenio). Platform workers are classified as self-employed, with very limited access to labour protection. However, platform workers are set apart from the ‘old guard’ of self-employed workers and freelancers, who did not possess the propensity to self-regulate and to exert industrial pressure against their clients.

Some platform workers (mainly in food delivery) are claiming that their work relationship has been misclassified. Concerns about proper classification are not new. Italian judges have been struggling with the task of correctly classifying workers. Part of the difficulty stems from how the definition of employment is crafted and interpreted. In the 1980s these principles were

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27 In the isolated case of the food delivery platform Foodracers, an autonomous occasional collaboration is set between the platform worker and the final user, while UberEats promotes an autonomous occasional collaboration between platform workers and restaurants (Cavallini, 2017).
highlighted in a leading case on the classification of a courier (‘pony express’ messenger). Despite the label the courier service used to describe its workers in their contracts, the labour court ruled that the worker was actually an employee on the basis of socioeconomic dependence. The court reasoned that the delivery rider was part of the economic and business organisation of the principal. An appellate court, however, subsequently deemed the worker to be an independent contractor. The highest judicial authority agreed that the worker was an independent contractor on the grounds that the pony express messenger had the right to refuse the service and decide if and when to work. This was essentially the reasoning behind a recent decision made by an Italian court in a comparable case involving six Foodora bikers in April 2018: ‘if the employer cannot require performance of the service from the worker, neither can he exercise any control or organisational power over that performance’. In the absence of specific case law for food delivery through platforms, the court rejected the Foodora riders’ claim to be reclassified as employees. The court decision was taken on the basis that the workers could refuse to work and there was no obligation for the company to provide work. Italian tribunals must individually assess cases to determine whether a person is an employee in case of disputes at the request of the worker.

Other contractual relationships

According to the INPS’ new annual report (INPS, 2018), there are certain regimes covering specific activities and situations in Italy that are or could be applied to platform work. Indeed, besides delivery platforms, ‘little is known of the various segments of the gig economy, which are likely to be associated with forms of informal or oral contracts, which could use alternative forms of payment such as gift card or telephone top-up cards, or in any case may not be subject to any form of protection, social contribution, or taxation’ (INPS, 2018).

According to interviewed experts, platforms try to hybridise traditional temporary work agencies with new business models. Other labour lawyers argue that work activities performed for platforms delivering goods or providing services to individuals and households fall under temporary agency work (Faioli, 2018). However, it is worth noting that this legal template postulates the existence of two different contracts: a commercial one binding the agency and the final user and an employment contract between the agency and the worker.

According to scholars, trade union and business representatives, platform work in the on-demand household services sector might be considered as ‘casual work’ and regulated accordingly (Prassl and Risak, 2017).

Recently, a set of rules encompassing the so-called ‘family booklet for occasional jobs’ and the casual work contract was introduced for the purpose of hiring workers on a marginal basis and up to a certain maximum income threshold. The family booklet covers casual work activities related to household chores, elderly people or child care, and private teaching and ‘could serve as a particularly appropriate instrument to combine the social protection needs

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28 In the context of its institutional activity of monitoring workers’ protections, INPS initiated a series of meetings with the Deliveroo and Foodora management as of early 2018.

29 Although this working hypothesis does not reflect current market conditions, it should be taken into consideration despite its difficult and controversial feasibility. The Italian Ministry of Labour with Opinion (Interpello) n. 12/2013 has excluded the obligation of prior authorisation pursuant to article 4, Legislative Decree no. 276/2003 (temporary agency work) for the brokerage of activities carried out in a ‘crowdsourcing fashion’ if the aim pursued results in the mere stipulation of contracts of a commercial nature, rather than the conclusion of employment contracts.

30 Act 24 April 2017, No. 50, transformed into Act 21 June 2017, No. 96.
with those of red tape simplification’ (INPS, 2018). Casual work contracts can be used by employers (professionals, self-employed workers, entrepreneurs, associations, and public organisations) who are staffed with over five permanent employees, do not operate in the construction sector, and are not involved in the execution of public procurement contracts. The wage is €9 per hour and at least €36 for a full working day. These sums include social security contributions (Faioli, 2018). The same new annual report (INPS, 2018) argues that intermittent work (contratto di lavoro intermittente) could be the most appropriate contractual tool to regulate platform work. It presents the desirable elements of flexibility for both employers and workers, although it is of a subordinate nature. According to articles 13-18 of Decree 81/2015 two types of intermittent work exist. Under the first type, the worker is on the one hand not required to accept calls for work, while the employer on the other hand is not required to offer a minimum amount of work. In the second type, the worker accepts the calls, while the employer does not need to guarantee a minimum amount of hours but has to pay a monthly availability indemnity when the worker is not called. A minimum notice of one working day is required (De Stefano, 2016). In the tourism sector, these workers are already included in the national collective agreement.

Another existing legal scheme that can be used to regulate platform work is accessory work (lavoro accessorio) introduced by article 70 of Decree 276/2003. It is defined as occasional activities such as small domestic work, cleaning, maintenance, landscaping, and participation in sportive or charitable events performed by people at risk of social exclusion, not participating in the labour market or about to be excluded (Treu, 2014). These jobs cannot be paid more than €7,000 per annum. Only people unemployed for more than one year, students, housewives, retired people, and disabled persons can perform accessory work.

Relationships among the three involved parties

In many cases, the general terms and conditions of the platform (GTAC) determine the relationships between all parties. Italian platforms usually specify that a platform worker accepts a self-employment status by agreeing to the terms and conditions. This view was also voiced by employee organisation representatives in the interviews. The implication is that a platform worker and platform do not necessarily have a strong legal relationship. The platform worker might simply use the platform as an intermediation tool to reach clients, and any use of the platform is subject to the rules set by the participation agreement.

In order to conduct activities via a platform workers and clients only have one option: either they adhere to the terms and conditions or not use the platform at all. The worker cannot negotiate terms and conditions, as electronic standard forms – a kind of adhesion-styled agreement – allow only to agree. These often long and complex forms contain a variety of clauses encompassing several aspects of the relevant relationship, from forum selection to dispute resolution, from worker classification to limitations of liability. Nondisclosure and non-compete agreements can be included in this kind of forms. Contracts are usually drafted purporting to create a self-employment relationship. Such clauses are unlikely to be legally enforceable and the ‘coerced’ labelling in a participation agreement may be easily disregarded when reality casts doubt on such statements.

Moreover, there are realistic reasons for arguing that both workers and clients do not authentically agree on anything when pushing the ‘I Agree’ button, provided that these kinds of contracts require no explicit manifestation of assent.

On the contrary, Deliveroo riders are allowed to work for other on-demand economy businesses simultaneously.

Disclaimer: This working paper has not been subject to the full Eurofound evaluation, editorial and publication process.
Moreover, workers are often asked to agree on a great number of obligations in contradiction with the status of a self-employed provider. Amidst such forms that many users might not even have read, workers can make inquiries and receive template responses. The specific arrangement of work provision and remuneration can be made between the platform worker and client, or the platform worker and platform. In a minority of cases, an employment contract establishes the platform worker as an employee and the platform as an employer. There are few platforms (such as YouGenio) which hire workers under an employment contract with a plant-level collective agreement based on the multiservice national collective agreement. In Italy, riders could be covered by the collective agreement in the logistics, trade or tourism sectors. No examples of employed platform workers were found for purely online platforms.

**Discussion on formal relationships**

Each platform is a case unto itself, but very often underlying these models are forms of HR management that are very similar to traditional employment. In particular, technology allows platforms to have an instant overview of the demand for their services and of the labour supply, and to assign work contracts as and when required. Technology also allows platforms to monitor the workers’ location and their speed in performing a given task, thereby increasing the platform or clients’ control over workers. Technology does not really change the structure of the employment relationship, but it certainly allows the platform to switch the employment relationship on and off according to need (Newsroom, 2018).

As was indicated above, formal relationships are often determined by the terms and conditions of the platforms, which can be problematic especially when the employment status is ambiguously defined as is often the case. The general terms and conditions for example state that the activities are conducted at the own risk of the worker, which implies that the worker needs to be organised as self-employed. But this is not explicitly stated and not necessarily in line with the applicable legislation. A certain uniformity between platforms can be identified (Prassl and Risak, 2017). Noticeably, the wording seems to be conceived in order to remain ambiguous and prevent a potential loss for the platform in case of a lawsuit. The lack of clarity about the employment status creates uncertainty on the side of the worker, for instance about the responsibility for training and supervision. Moreover, it might discourage platforms to provide more favourable conditions for workers such as benefits, to avoid that they are considered employers.

Transport services and delivery platforms often exercise supervision, direction, and control over how the tasks are completed. For example, food delivery couriers are strongly recommended to wear a commercial uniform, use their own vehicle, bring a branded backpack, show up in a defined hotspot, then log onto the app from their smartphone and wait for the first order. Workers own the necessary equipment or rent it from the platform with a monetary deposit. While delivering fresh meals from a restaurant to the customer’s address, they have to follow the suggested route and check the timer, in order to carry out their duty as quickly as possible. Moreover, they are required to interact with the middle management of the platform via internal channels of communication (chat or apps). Workers have to pay for

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33 With the collective agreement, rider has become a contractual position for which working conditions can be negotiated (Baratta, 2017). The contract includes all the protections, wage levels, insurance and social security typical of an employment relationship. The working time is flexible and can be either full-time or part-time (within a limit of 39 hours per week), for up to six days a week, and with a daily minimum of two hours and up to a maximum of eight, with the possibility of combining the urban delivery of goods with work in a warehouse. The personal protective equipment, such as helmets and fluorescent safety jacket, are expected to be borne by the companies (Rassegna, 2018).
all running expenses (petrol, insurance, taxes) and assume all responsibility should an accident occur.

In the on-demand household services subsector, instead, performances such as cleaning, home or electronics repair, furniture assembling or refurbishing, gardening, painting apartments, hauling clothes to the laundry, handyman-like tasks can be commonly executed with a certain degree of autonomy, although workers have to conform to guidelines and instructions. Platform work is allocated through open calls rather than by direct assignment or sharp job role requirements. The selection mechanism varies from platform to platform. At least three principal models can be described. The hiring procedure may be organised as a bid in response to a public auction (this occurs mostly when the task to be completed is a creative one), as an automatic matching operated by the internal algorithm on the basis of the specification of the service required and the worker’s profile, or in a different approach, the worker may spontaneously apply for the fulfilment of the task in a ‘slot’ (Aloisi, 2018a). Selected shifts may be proposed for the rider to choose the most suitable arrangement. There are also platforms that demand the availability of workers at a certain time period. Foodora and Deliveroo are organising their workforce in shifts. Schedules are stable from week to week. Platform workers say when they are going to be available, and then shifts are assigned on the basis of this information. Once a platform worker logs in to the platform, the work does not follow the traditional self-employment route: work is monitored, prices are fixed by the platforms, there is a rating system that also takes into account the customer’s level of satisfaction, and algorithm-driven assessments are made to understand whether the service was successful or not. If the algorithm returns a poor performance, the worker is either penalised, expelled from the platform, given less favourable shifts, or assigned less work (De Stefano, 2018).

Workers using contest-based platforms enjoy a higher degree of autonomy than the platforms where the platform allocates the tasks. There are two main models when it comes to payments: either the client or the worker can set the rate, while – in almost all cases – the platform handles the payments. Platform workers are mostly remunerated not on an hourly, but on a piece rate or ‘per-drop’ basis, in this case workers are pushed to complete as many deliveries as possible within an hour.

The issue of qualifying platform work under employment law is rather complex. Decisions accepting the workers’ claims could point towards work activities that do not correspond to the idea of genuine self-employment – the lack of independence when completing the task or in setting its price, the instructions given by the platforms and the control they exert over the time spent for every task and over the quality of the work done, also through the customers’ rating. The ones rejecting these claims, however, point to elements that do not correspond to the commonplace idea of employment, such as the flexibility of deciding if and when to work and the ability to ask someone to replace them in doing the job (De Stefano, 2018).

**Organisation and representation in platform work**

The Italian system of industrial relations formed in the post-World War II period. Most bargaining takes place at the sector level between employee organisations and employer organisations, and most negotiations take place at the national level. Trade union freedom is a fundamental principle of Italian industrial relations granted by article 39 of the Constitution. Individuals have the right to organise themselves, but also the possibility to choose, join or leave a union without any condition (Treu, 2014).

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34 Riders argue that their flexibility declined dramatically since the company has adopted a model based on weekly shifts. A leaflet containing Deliveroo workers’ complaints and claims can be found at [https://goo.gl/YljPj](https://goo.gl/YljPj) (in Italian).
Almost every national trade union confederation has set up a working group on ‘digital transformation of work’ with a specific focus on platform work. Mainly, unionists are trying to enter into contact with platform workers. Conversely, employer organisations seem to be silent on this issue and focus their attention more on digitalisation in general.

Platform workers seeking to organise new unions might struggle with the absence of a workplace. According to interviewed employee organisation representatives, platform workers are not usually physically present at a single workplace or may not share a common ‘class consciousness’. These practical difficulties are especially relevant for online platform workers: many do not see the significance of unions since they do not even see themselves as workers. They are geographically dispersed, isolated, and sometimes highly mobile. The short-term, task-based, and on-demand nature of platform work might place platform workers in direct competition with each other (Tullini, 2018a; Forlivesi, 2018). This makes it difficult to build collective voice. In addition to geographical disaggregation and genuine reluctance, practical obstacles might be workers’ fear of retaliation, the implicit threat of dismissal/account deactivation.

In the very first wave of non-standard employment, unions responded to the needs of non-standard workers by creating specific representational opportunities in existing labour confederations for such workers (Pulignano et al, 2015). In Italy, the three main unions – the Italian General Confederation of Labour (Confederazione Generale Italiana del Lavoro, CGIL), the Italian Confederation of Workers’ Trade Unions (Confederazione Italiana Sindacati Lavoratori, CISL) and the Italian Labour Union (Unione Italiana del Lavoro, UIL) – have opened sections aimed at precarious and freelance work. These unions are more based on employment classification than the traditional sectoral or occupational segmentation, allowing them to focus on specific classification related issues such as term of contracts, remuneration, working conditions and labour rights (Johnston and Land-Kazlauskas, 2018). But for the time being, the three central union bodies have difficulties in representing platform workers. Also the rank-and-file independent union Inter-Sectoral Self-Organised Workers’ Union (Sindacato Intercategoriale Cobas Lavoratori Autorganizzati, Si-Cobas) started representing the riders in the food delivery sector.

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 Virginio Merola, the Riders Union Bologna (a worker-organised initiative), the secretaries of the Italian General Confederation of Labour (Confederazione Generale Italiana del Lavoro, CGIL), the Italian Confederation of Workers’ Trade Unions (Confederazione Italiana Sindacati Lavoratori, CISL) and the Italian Labour Union (Unione Italiana del Lavoro, UIL) and by the managers of a food delivery company employing 200 workers in Bologna (Martelloni, 2018; Ciccarelli, 2018). According to Martelloni (2018), these initiatives are building a new ‘metropolitan social unionism’ using ‘tools for collective action and forms of organisation and communication adopted in the UK during the protests lead by Uber drivers. The ‘Charter’ provides for:

- a fixed and fair hourly pay rate greater or equal to the salary minima set in national collective conventions for similar services provision,
• compensation for overtime work, public holidays, and when weather conditions are inclement,
• a ban on discriminatory behaviour,
• official notification including justification in cases where workers are excluded from a platform,
• insurance (covered by the platform) for accident risk and illness at work as well as accidents ‘en route’,
• compensation for bicycle maintenance costs,
• freedom of association and the right to strike.

In Milan, the municipal administration inaugurated the first office in Italy dedicated to ‘listening, information and advice’ for workers of food delivery platforms. The office will also offer free training courses on road safety, safety at work and basic sanitary rules for food transport (Ansa, 2018a). The Italian region of Lazio drafted a manifesto of the ‘Fundamental rights in the gig-economy’38, and a new proposed draft legislation39 has been adopted after a public consultation phase regulating wage, health and safety and social security aspects of platform work, despite the lack of competence to legislate in this field at regional level (Martelloni, 2018).

In fact, trade unions appear to support initiatives of platform workers rather than to go in competition with them. Italy’s new bargaining agreement in the logistics service sector, for example, includes riders among its contractual qualifications (Casadei, 2017). Specific provision of this position were negotiated (Rassegna, 2018). Such experiments show the workers’ capacity to creatively find a space for negotiation and regulatory advances in a context in which companies are refusing to bargain’ (Zamponi, 2018).

Organisation of platform workers

Platform workers may lack direct channels of communication and are deprived of a collective voice due to the characteristics of the platform, thus leading to the difficulty to have an impact on the decision-making that shapes labour processes. It is against this background that movements of interests based on distributed leadership, disconnection from traditional trade unions, and spontaneous mobilisation focused on sectorial issues are rising and becoming an effective advocate for decent work and even a tool for social emancipation.

Platform workers have shown the willingness to organise collectively through either grassroots organisations or traditional labour unions (Aloisi and De Stefano, 2017; Berg and De Stefano, 2018). Some of the platform workers, in particular on-location platform-determined, are represented by trade unions or via own initiatives such as self-organised grassroots movements and advocacy groups.

Platform workers of several delivery platforms have carried out worker-organised initiatives including strikes, boycotts40, mass disconnection during promotional events and flash-mobs in Bologna, Milan and Turin, in addition to information campaigns (for example, handing out

38 Available at https://www.regione.lazio.it/gigeconomy/.
40 In October 2016, after being repeatedly ignored by the management, a group of 50 Foodora workers staged their first public protest (a ‘proto-strike’) in Turin, calling for a boycott of the app. The protest erupted following the announcement of a change in the payment system from hourly rate to ‘per delivery’ (Aloisi and De Stefano, 2016). In addition to this, workers demanded to ‘be classified as employees and covered by a national collective [agreement] and thus by the minimum wage levels set therein’ and to stop retaliatory actions against workers perceived to be ‘troublemakers’. In response to the requests, Foodora increased the delivery fee from €2.70 to €3.60 (Tassinari and Maccarrone, 2017).
flyers). These workers have organised into groups, relying on social media. Especially in the food delivery sector, they are increasingly voicing their opinions via online tools enabling them to manifest their collective interests through, for example, circulating petitions, developing alternative systems for rating platforms or those placing orders, sharing positive and negative experiences, and reaching out to the media.\footnote{In 2017, the self-organised collectives ‘Deliveroo Strike Raiders’, ‘Riders Union Bologna’ and ‘Deliverance Project’ signed a petition addressed to Deliveroo. The demands included the application of the ‘national collective bargaining agreement on transportation, the introduction of an employment contract, the renewal of all the contracts that were about to expire, a minimum wage of €7.50 an hour, the guarantee of at least twenty hours’ a week pay, a 30% raise in case of rain or snow, a 50% raise in case of deliveries lasting beyond the planned shift, and a 30% raise as a compensation for exposure to smog, as well as insurance coverage, the reimbursement of maintenance expenses for the worker’s bicycle and phone, and a safety kit with a helmet’ (Zamponi, 2018). Unlike the self-organised groups in Turin and Milan, ‘Riders Union Bologna’ immediately addressed the claims towards the local institutions, involving the municipality in the disputes’ (Martelloni, 2018). See \url{https://www.facebook.com/ridersunionbologna/}. See also \url{https://www.facebook.com/DeliveranceProject/} and \url{https://www.facebook.com/strikeraidersunited/}.}

For the time being, workers populate private groups on social media such as Facebook and Whatsapp to coordinate actions combining ‘traditional’ tactics ‘with newer forms of solidarity aimed at increasing the disputes’ visibility and attracting public support’ (Tassinari and Maccarrone, 2017). As of early 2018, a number of alternative strategies have been pursued to help workers to organise, effectively express individual and collective grievances and demand rules aimed at contrasting unjustified rejections of the work completed or capricious deactivation of their accounts (Robertello, 2017; Zamponi, 2018). Moreover, some self-financed event groups supported the lawsuit against Foodora aimed at proving that the contractual relationship between the platform and the couriers is of a subordinate nature. These efforts, however, may be materially hurled by current regulatory limits banning self-employed workers from joining unions or engaging in collective bargaining, since they would be in breach of antitrust law and risk heavy sanctions (De Stefano, 2016d). The large majority of platform workers is not represented. This is partially due to many being self-employed, which are traditionally not represented.

However, the ongoing mobilisation often remains confined to the relevant sector and hardly exceed this dimension. Meanwhile, several spontaneous initiatives have been developed with modest results at national level. Sectorial and territorial federations, such as Italian Workers’ Union in the Tourism, Trade and Service Sectors (Unione Italiana Lavoratori Turismo Commercio e Servizi, UILTuCS) and Italian Workers’ Federation for Trade, Hotel, Canteen and Service Sectors (Federazione Italiana Lavoratori Commercio, Albergo, Mensa e Servizi, Filcams) are promoting initiatives aimed at raising awareness about working conditions in app- and platform-based work. In an interview, the CGIL representative asked to negotiate the algorithms that determine the allocation of tasks (Baratta, 2017).

**Organisation of platforms**

For the time being, most of platforms claim to be open to the debate, but in certain cases have said that they want to speak with individual workers, and not with the trade unions.

Platforms used to depict platform work as a mere ‘sharing of favours’, thus conveying an image of the platform economy as a sort of parallel dimension, where chores are amateurishly carried out as a form of leisure or to earn ‘pin money’, and where labour protection and employment regulation are assumed not to be necessary.

There were occasions when platforms (for example, Foodora) had refused to discuss new employment conditions with the union that platform workers had chosen to represent them on.
the basis that platform workers are self-employed workers and therefore have no right to
unionise (Cant, 2017).

According to an interviewed representative of an employer organisation, employer
organisations have not sought to incorporate platforms as platforms do not view themselves as
employers – such companies are just putting customers in touch with independent service
providers. For instance, traditional employer organisations like the General Confederation of
Italian Industry (Confederazione generale dell’industria italiana, Confindustria) have not
taken a great interest in platform work as of early 2018. On the contrary, in June 2018, a new
organisation for ‘all digital platforms’ has been launched by an employer organisation in the
trade sector (Confesercenti, 2018). Similarly, in a press release a group of food delivery
platforms operating in Italy (Deliveroo, Glovo, JustEat) stated that they met in Milan with the
view to launching a new sectoral employer organisation in light of a planned meeting with the
new Labour and Industry Minister Luigi Di Maio. These initiatives could potentially lead to
further significant developments.

In June 2018, Foodora, Foodracer, Moovenda and Prestofood launched a draft charter of
rights ‘to demonstrate a commitment to guarantee the fundamental safeguards for riders’. The
document reveals the willingness to provide a coordinated and continuous collaboration
contract with clients, with INAIL insurance coverage in case of accident and INPS
protections, as required by such type of contract (Tonell, 2018). In addition to INAIL
insurance, companies have announced their intention to take out supplementary insurance for
damage to third parties, which could occur during the activity of food delivery. The four
platforms are loosely committed to providing ‘a fair and adequate compensation partly on an
hourly basis and partly linked to the reward and motivational aspects’ to platform workers
(Covelli, 2018).

Despite this, most of platforms seem to refuse to form or join a new employer organisation.
As a result, it may prove difficult to establish labour relations with platforms (Jolly, 2018).

42 These platforms demanded an unambiguous and stable regulatory framework as well as a ‘unitary
representation body’ (CorCom, 2018).
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All Eurofound publications are available at www.eurofound.europa.eu


Disclaimer: This working paper has not been subject to the full Eurofound evaluation, editorial and publication process.


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## Annex: platforms mentioned in text

<table>
<thead>
<tr>
<th>Platform</th>
<th>Platform work type</th>
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<tbody>
<tr>
<td>99designs</td>
<td>Online contestant specialist work</td>
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<tr>
<td>Amazon Mechanical Turk</td>
<td>Online moderately skilled click-work</td>
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<tr>
<td>Animali alla pari</td>
<td>On-location client-determined moderately skilled work</td>
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<tr>
<td>Appsquare</td>
<td>Online contestant specialist work</td>
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<tr>
<td>Clickworker</td>
<td>Online moderately skilled click-work</td>
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<tr>
<td>Co-hive</td>
<td>Online contestant specialist work</td>
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<td>Deliveroo</td>
<td>On-location platform-determined routine work</td>
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<td>EasyFeel</td>
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<td>Expressoo</td>
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<td>Foodora</td>
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<td>Foodracers</td>
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<td>Glovo</td>
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<td>Helpling</td>
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<td>Holidog</td>
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<td>Joebee</td>
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<td>Le Cicogne</td>
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<td>MakeItApp</td>
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<td>Oltretata</td>
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<td>PrestoFood</td>
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<td>UberEats</td>
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<td>YouGenio</td>
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<tr>
<td>Zoopppa</td>
<td>Online contestant specialist work</td>
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