

The collective dimension of platform work

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The present research aims at inquiring if a collective dimension exists and how to strengthen it in platform work. Firstly, the consistency of the characteristics of platform work with the collective dimension of labour law is verified from a theoretical point of view. Even if difficulties in building a collective dimension emerge, it is then shown that some collective initiatives, taken by self-organised and non-unionised movements but also by Trade Unions, have been occurred in working on-demand via apps, especially with reference to the food delivery sector. A different story can be told about crowdwork where the collective dimension is completely neglected, with the exception of few original experiences, supported also by Trade Unions, put in place online, due to the virtual character of the crowdwork workplace. However, these initiatives are considered not sufficient in order to build a collective dimension, as they are not enough to guarantee the communication among workers from which a collective interest can rise. For this reason, the Proposal of the European Union requesting platforms to provide crowdworkers with specific virtual infrastructures on the platforms themselves, enabling a communication among workers similar to that which takes place in the physical workplace, is pivotal to facilitate discussions and exchanges of ideas among workers, from which a collective organisation, holding a collective interest, could slowly develop.

Keywords: platform work, collective labour law, collective dimension, collective interest, working on-demand via apps, crowdwork, Trade Unions, non-unionised movements, right of communication, European Union.

1. Introduction

The implications of platform work on labour law are nowadays well-known. However, while the majority of studies have focused on individual relationships of platform workers, not many researches have explored which role the collective dimension of labour law has or could have in this sector. This paper aims at verifying if the peculiarities of platform work allow the existence of a collective dimension able to support the contractual power of platform workers in order to improve their working conditions and which strategies could be put in place to build a collective dimension in this sector.

2. Basic research

2.1. The “inconsistency” of platform work with the collective dimension

Many factors of platform work seem to prevent the rise of a collective dimension of labour law in this sector.

A first aspect concerns the legal qualification of platform workers. Platforms formally identify workers, in their terms and conditions, as independent contractors and the characteristics of these performances in the specific case, due to the presence of the platform which affects the exercise of the employer's power and the space-time dimension, make it difficult to clearly classify these workers as employees. This context is apparently inconsistent with Trade Unions activities, which traditionally addresses employees and not atypical workers or self-employed people. Moreover, the fact that collective agreements of self-employed people do not comply with EU anti-competition law, as they are considered cartels between companies distorting the competition in the internal market according to Article 101 of the Treaty on the Functioning of the European Union (TFEU), precludes collective bargaining in this sector¹, despite the recent attempt of the EU Commission to make less strict this rule².

Another factor in contrast with the emergence of a collective dimension in platform work is the presence of a strong competition among workers, which has its most visible expression in the rating systems adopted by platforms to assess the workers' performances and on which the stability of relationships between platforms and their workers is based³.

Due to the two factors mentioned above, platform work performances are extremely precarious, feature that is emphasised by the high turn-over used by platforms: the continuous substitution of workers in platform economy prevents that a solidarity among workers can be established.

In other words, the organisational model proposed by platforms seems to not conceive any collective dimension of labour law, being oriented, on the contrary, to the "disintermediation" of labour relations (Caruso 2017, 7–8), in a context where employers' and workers' organisations are absent and where the worker negotiates her/his working conditions directly with the enterprise in an individual relationship.

2.2. The role of industrial relations in platform work

Actually, the apparent inconsistency of platform work with the collective dimension has been partially disproved in facts.

Looking at working on-demand via apps, especially concerning the food delivery sector, some collective self-organised and non-unionised movements emerged during the last years in some countries⁴. These movements were the first to promote collective ac-

¹ With the only exception of the "false" self-employed person, according to European Court of Justice 4 December 2014, *FNV Kunsten Informatie en Media vs. Staat der Nederlanden*, C-413-13.

² See: European Commission. 2022. Communication from the Commission. Approval of the content of a draft for a Communication from the Commission — Guidelines on the application of EU competition law to collective agreements regarding the working conditions of solo self-employed persons (2022/C 123/01). Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52022XC0318%2801%29> (accessed: 27.05.2023).

³ ILO. 2021. World Employment and Social Outlook 2021: The role of digital labour platforms in transforming the world of work. Geneva: ILO. P.179 ff. Available at: https://www.ilo.org/global/research/global-reports/weso/2021/WCMS_771749/lang-en/index.htm (accessed: 27.05.2023).

⁴ E. g.: Riders x i diritti in Italy (Eurofound. 2020. Riders for rights (Rider x i diritti) (Initiative), Record number 2456, Platform Economy Database, Dublin. Available at: <https://apps.eurofound.europa.eu/platformeconomydb/riders-for-rights-rider-x-i-diritti-105064> (accessed: 27.05.2023)); Riders x Derechos in Spain (Eurofound. 2018. Riders x Derechos (Riders for Rights) (Initiative), Record number 3092, Platform Economy Database, Dublin. Available at: <https://apps.eurofound.europa.eu/platformeconomydb/>

tions against platforms in order to obtain better working conditions, especially regarding wages and health and safety at work⁵.

Of course also Trade Unions, which seemed at first to be far from working on-demand via apps, have taken initiatives in the sector. In particular, the existing transport unions or new collective organisations started to represent the interests of food delivery workers negotiating collective agreements of national⁶ and company levels⁷ with platforms. But Trade Unions have acted also at judicial level to affirm their representativeness in the sector in respect of other Trade Unions, especially newly established, whose representativeness was highly questionable⁸.

riders-x-derechos-riders-for-rights-103036 (accessed: 27.05.2023)) or the Collectif des Livreurs Autonomes de Paris (CLAP) in France (Eurofound. 2021. Independent Delivery Workers Collective in Paris (CLAP) (Initiative), Record number 3037, Platform Economy Database, Dublin. Available at: <https://apps.eurofound.europa.eu/platformeconomydb/independent-delivery-workers-collective-in-paris-clap-103098> (accessed: 27.05.2023)).

⁵ Eurofound. 2018. Riders x Derechos (Riders for Rights) (Initiative), Record number 3092, Platform Economy Database, Dublin; Eurofound. 2020. Riders for rights (Rider x i diritti) (Initiative), Record number 2456, Platform Economy Database, Dublin. Available at: <https://apps.eurofound.europa.eu/platformeconomydb/riders-x-derechos-riders-for-rights-103036> (accessed: 27.05.2023).

⁶ For example, the collective agreement signed in 2021 by the Austrian trade association for the carriage of goods (Fachverband für Güterbeförderungsgewerbe), which is a member of the Austrian Federal Economic Chamber, the Austrian Trade Union Federation, and the Vida trade union, representing workers in the transport and service industries: Eurofound. 2021b. Collective agreement for bicycle couriers in Austria (Initiative), Record number 3015, Platform Economy Database, Dublin. Available at: <https://apps.eurofound.europa.eu/platformeconomydb/collective-agreement-for-bicycle-couriers-in-austria-103121> (accessed: 27.05.2023). Other cases are the national collective agreement signed in 2020 by an Italian platforms organisation, AssoDelivery, and UGL Rider (Eurofound. 2021. Collective agreement between AssoDelivery and UGL (Initiative), Record number 2885, Platform Economy Database, Dublin. Available at: <https://apps.eurofound.europa.eu/platformeconomydb/collective-agreement-between-assodelivery-and-ugl-103352> (accessed: 27.05.2023)) and the extension to the cyclists of the logistics sectors working via platform of the Italian National Logistics Contract concluded by FILT-CGIL, FIT-CISL and Uiltrasporti (Eurofound. 2021d. National Logistics Contract (Initiative), Record number 2884, Platform Economy Database, Dublin. Available at: <https://apps.eurofound.europa.eu/platformeconomydb/national-logistics-contract-103353> (accessed: 27.05.2023)).

⁷ A case in point is the agreement concluded in 2019 in Florence by a food delivery company called Laconsegna with FILT-CGIL, FIT-CISL and Uiltrasporti (Eurofound. 2019. Collective agreement between LaConsegna and FILT-CGIL, FIT-CISL and UIL Trasporti of Florence (Initiative), Record number 2455, Platform Economy Database, Dublin. Available at: <https://apps.eurofound.europa.eu/platformeconomydb/collective-agreement-between-laconsegna-and-filtcgil-fitcisl-and-uil-trasporti-of-florence-105065> (accessed: 27.05.2023)). Other examples are: the collective agreement signed by Foodora and Fellesforbundet (United Federation of Trade Unions) in Norway in 2019 (Eurofound. 2021. Collective agreement between Foodora and the United Federation of Trade Unions (Fellesforbundet) (Initiative), Record number 3018, Platform Economy Database, Dublin. Available at: <https://apps.eurofound.europa.eu/platformeconomydb/collective-agreement-between-foodora-and-the-united-federation-of-trade-unions-fellesforbundet-103118> (accessed: 27.05.2023)); two collective agreements of 2022 between Voocali, a platform that provides translation services in Denmark, and the trade union HK Privat, representing clerical workers and workers in retail and related industries (Eurofound. 2022. Collective Agreement between Voocali and HK (Initiative), Record number 2278, Platform Economy Database, Dublin. Available at: <https://apps.eurofound.europa.eu/platformeconomydb/collective-agreement-between-voocali-and-hk-106111> (accessed: 27.05.2023)); the collective agreement signed by the Italian company Takeaway.com Express Italy, FILT-CGIL, FIT-CISL, Uiltrasporti, Nidil-CGIL, Felsa-CISL and UILTemp.

⁸ The reference is to the lawsuits taken by FILCAMS-CGIL, Nidil-CGIL and FILT-CGIL which ended with the statement that the AssoDelivery national collective agreement is a “pirate agreement”, namely a collective agreement concluded by not representative employers and workers collective organisations (see Tribunal of Bologna January 12, 2023; Tribunal of Bologna June 30, 2021; Tribunal of Florence November 24, 2021).

In addition, some social dialogue practices prove the involvement of social partners in improving platforms' working conditions. In Italy, for example, the Charter of fundamental rights of digital labour in the urban context of Bologna was signed by the Municipality of Bologna, some self-organised movements, Trade Unions and platforms in May 2018 to set a minimum standard of protections for food delivery workers performing via apps within the city of Bologna⁹. But platform work (as a general phenomenon) has been also discussed in the scope of the EU Social Dialogue, according to Article 154, paragraph 2, TFEU, in order to identify the actions to be taken at EU level to set a minimum standard of protections for platform workers¹⁰.

2.3. *The crowdworker: "An isolated monad"*

Although the collective dimension of labour law is developing more and more in working on-demand via apps, this is not happening in other areas of platform work, such as crowdwork¹¹, where no collective initiatives — taken by Trade Unions or self-organised movements — have been reported until the present time. The reasons of this difference are multiple and not simple to identify. However, the characteristics of the workplace in the context of the two platform work typologies mentioned seem to play an important role relating to the possible rise of a collective dimension.

On the one hand, working on-demand via apps are traditional activities (e. g. food delivery, transports of passengers or grocery delivery) performed in local physical places and limited to a geographical area, such as a city, thanks to the platform intermediation. On the other hand, crowdwork refers to activities performed on platforms (e. g. sorting products, tagging pictures or copying information from a website), namely on the internet, therefore crowdworkers can work "anytime and everywhere" without space constraints. Here, the workplace is "virtual", as it can be generally identified with the platform itself.

As a consequence, while in working on-demand via apps workers can meet themselves in a physical workplace, where they can see each other, communicate, discuss and exchange ideas (Caruso, Chesta and Cini 2019, 67), this cannot happen immediately in crowdwork, as crowdworkers, when performing in the virtual workplace, have no means to communicate with each other on the platform. Indeed, they do not know even who are the other crowdworkers that are working with them on the platform in a specific time, as the performance is completely decontextualised from the whole productive process whose that activity is only a little part. But there are also other factors that provide crowdworkers to communicate with each other. Among the others, the fact that crowdwork tasks are directed to the worldwide web crowd implies its transnational dimension. For this

⁹ See: http://www.comune.bologna.it/archivio-notizie/sites/default/files/documenti/CartaDiritti3105_web.pdf (accessed: 27.05.2023).

¹⁰ European Commission. 2021. Consultation document. First phase consultation of social partners under Article 154 TFEU on possible action addressing the challenges related to working conditions in platform work. Brussels. February 24, 2021. Available at: <https://ec.europa.eu/social/BlobServlet?docId=23655&langId=en> (accessed: 27.05.2023); European Commission. 2021. Consultation document. Second-phase consultation of social partners under Article 154 TFEU on possible action addressing the challenges related to working conditions in platform work. Brussels. June 15, 2021. Available at: <https://ec.europa.eu/social/main.jsp?catId=522&langId=en> (accessed: 27.05.2023).

¹¹ This classification, today widely accepted, has been originally proposed in labour law by (De Stefano 2016).

reason, crowdworkers are from different parts of the world, they have different cultural backgrounds and interests and they speak different languages. In other words, crowdwork is well represented by two paradoxes. On the one side, it is an activity carried out by the “crowd” of the web, consisting of many “isolated monads” (Donà and Marocco 2019, R. 14). On the other side, although crowdworkers perform by means of Information and Communication Technologies (ICTs), they cannot communicate with each other.

In the light of this, and considering the existence of a collective dimension in working on-demand via apps but not in crowdwork, the possibility to meet and communicate seems to be crucial in order to establish a collective organisation of workers and to build a common language among crowdworkers as well as a collective interest belonging to the organisation itself, different from the individual interests of workers, as a combination of them and not simply their sum¹².

2.4. Attempts of building a collective dimension in crowdwork

Actually, some popular initiatives, also supported by Trade Unions, have taken place with the aim of facilitating the meeting of crowdworkers, the exchange of ideas among them and, in the end, the rise of a collective organisation with its collective interest.

A first example is Turkopticon¹³, a forum and browser extension, letting the crowdworkers (so-called Turkers) working on Amazon Mechanical Turk (AMT) to review crowdsourcers (so-called requesters) on the basis of the amount, the time and the fairness of pay.

Another case is FairCrowdWork (FCW)¹⁴, inspired to Turkopticon and promoted by the German metalworkers Trade Union, IG-Metall. Here, crowdworkers can rate the platforms themselves, for example, according to pays, the quality of tasks and the rating systems. Furthermore, FCW offers crowdworkers the possibility to talk with its legal consultants to assess the platforms terms and conditions and the chance to compare their remunerations with those paid to people working in the same geographical areas where crowdworkers live. A specific section of the website allows also crowdworkers to know the principal legal issues of platform work and to contact directly Trade Unions, even remotely.

A third experience is CrowdWorkers, an app working in background which monitors the crowdworkers activities and shares automatically the crowdsourcers data gathered with the cooperation of crowdworkers, letting them to block the crowdsourcers who do not pay or pay late.

The cases mentioned are very important in the perspective of building a collective dimension in platform work and especially in crowdwork, as they try to bring crowdworkers together, sharing information on platforms and crowdsourcers and making crowdworkers themselves aware that many other platform workers are in their same condition of weakness. However, the relevance of these experiences is given also by the adoption of new strategies, instruments and languages, different from those of traditional Trade Unions and taken from the digital world. In particular, the possibility of rating platforms and crowdsourcers to then block those who are considered “bad” relating to working condi-

¹² The concept of collective interest has been defined in Italian labour law by Santoro Passarelli (Santoro Passarelli 1981, 25).

¹³ See: <https://turkopticon.net/> (accessed: 27.05.2023).

¹⁴ <http://faircrowd.work/> (accessed: 27.05.2023).

tions shows that the platforms economic power can be tackled through the reputational systems they use and on which the stability of platform work relationships depends. After all, the platforms reputation could be challenged also involving the consumers in the workers initiatives, with the aim of strengthening the pressure on platforms to improve working conditions (La Tegola 2019, 156).

2.5. The right of communication: A pivotal strategy to build the collective dimension in crowdwork

The experiences cited are significant to lay the foundation of the collective dimension of labour law in the platform economy but they do not seem sufficient, as they cannot face alone the lack of communication among crowdworkers, even when supported by Trade Unions.

For this reason, the acknowledgement by law of the right of communication for crowdworkers, as a minimum standard of protection, would be pivotal in order to create the conditions to build slowly a collective interest.

Actually, the European Union is moving in this direction. According to Article 15 of the “Proposal for a Directive of the European Parliament and of the Council on improving working conditions in platform work”, entitled “Communication channels for persons performing platform work”: “Member States shall take the necessary measures to ensure that digital labour platforms create the possibility for persons performing platform work to contact and communicate with each other, and to be contacted by representatives of persons performing platform work, through the digital labour platforms’ digital infrastructure or similarly effective means, while complying with the obligations under Regulation (EU) 2016/679 [namely without breaching the EU privacy rules]. Member States shall require digital labour platforms to refrain from accessing or monitoring those contacts and communications”.

This Article, mostly underestimated by the first comments to the Proposal, is instead very remarkable as the collective dimension cannot rise without the communication among workers, which is the starting point for the collective organisation. In this sense, the collective rights enucleated by the Proposal, such as the right of information and consultation (Article 9) and of activating “Procedures on behalf or in support of persons performing platform work” (Article 14), would be strongly weakened without the implementation of Article 15, which seems to be the fundamental condition for the effective exercise of those rights in platform work (Peruzzi 2022, 4).

After all, the awareness of the Commission about the importance of the right of communication emerges from the Whereas no. 45, according to which: “Platform work is characterised by the lack of a common workplace where workers can get to know each other and communicate with each other and with their representatives, also in view of defending their interests towards the employer. It is therefore necessary to create digital communication channels, in line with the digital labour platforms’ work organisation, where persons performing platform work can exchange with each other and be contacted by their representatives. Digital labour platforms should create such communication channels within their digital infrastructure or through similarly effective means, while respecting the protection of personal data and refraining from accessing or monitoring those communications”. In other words, if the Proposal was approved, platforms would

be obliged by EU Member States to provide crowdworkers with digital communication channels within their digital infrastructure to replicate the same communication present in the physical workplace. Moreover, the link between the right of communication and the collective dimension has been strengthened by the EU Parliament Amendment 150, which has suggested to insert in the Proposal a new Article 15a, let. b, according to which the Member States shall ensure “that workers’ representatives have the right to access platform workers, to meet and contact workers individually or collectively for the purpose of organising workers, negotiating wages on their behalf and representing them”¹⁵.

Furthermore, the potentialities of Article 15 in creating the possibility for the emergence of the collective dimension result also from its subjective scope of application, as the right of communication is acknowledged not to the “platform worker”, who is “any person performing platform work who has an employment contract or employment relationship as defined by the law, collective agreements or practice in force in the Member States with consideration to the case-law of the Court of Justice”, but to the “persons performing platform work”, namely “any individual performing platform work, irrespective of the contractual designation of the relationship between that individual and the digital labour platform by the parties involved” (see Article 2, paragraph 1, points 3 and 4). In other words, this right would be granted to all platform workers regardless their legal qualification as employees or self-employed people, in order to overcome the hurdles that prevent the collective dimension from flourishing outside the subordination area.

3. Conclusion

In conclusion, while the development of the collective dimension in working on-demand via apps can be left to the evolution of industrial relations, encouraging the growth of non-unionised movements and their cooperation with Trade Unions, the existing collective initiatives are not sufficient to build a collective dimension in crowdwork. Here, industrial relations are absent, lacking the conditions for their rise. Therefore, the task to remove the hurdles that prevent crowdworkers to organise themselves collectively lays on the legislators, at national and supranational level. And the first step in this direction could be the acknowledgement of an effective right of communication by law as a fundamental right for crowdworkers, as an essential precondition to the merging of the individual interests of workers in a unique collective interest owned by the organisation.

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¹⁵ European Parliament. 2022. DRAFT REPORT on the proposal for a directive of the European Parliament and of the Council on improving working conditions in platform work (COM(2021)0762 — C9-0454/2021 — 2021/0414(COD)). May 3, 2022. Available at: https://www.europarl.europa.eu/doceo/document/A-9-2022-0301_EN.html (accessed: 27.05.2023).

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