

## Editorial

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The platform economy does not need any introduction. Suffice it to recall the fact it involves the performance of labour-intensive services in a triangular relationship, in which workers, classified as independent contractors, and customers are matched by online platforms in a (relatively) new work paradigm.

It is a potentially very profitable business model. Mainly because of its ability to combine a reduction of labour costs to a good quality of the services provided, so benefitting the consumers. In this regard, digital platforms are able to move past the traditional exchange between control and security offered by the employment contract. More precisely, the classification of workers as independent contractors enables platforms to avoid the typical employer's obligations dealing with social security (i.e. unemployment benefits, mandatory pension schemes), employment protections (i.e. paid holidays, minimum wages, restriction on dismissals), collective representation, including collective bargaining. At the same time, they retain a good amount of control over workers, very similar to that of a traditional employer. They organise work performances by dictating routes, quality standards, timing, equipment specifications; they supervise the workers performances by taking advantage of the electronic means (primarily, rating systems); they go sometimes as far as imposing sanctions on workers (i.e. suspension or deactivation of accounts). As a result, even though platforms are really keen on excluding they are employers, they enjoy an organisational flexibility which is very similar to that permitted by the employment contract, without bearing the costs (financial and organizational) attached to employment and social security rights.

Workers, especially those whose main income comes from platforms, face many issues, primarily stemming from the independent contractor's status. They are in many ways similar to employees, since they are economically dependent from one main principal (the platform), towards whom they have little or no bargaining power. Nonetheless, they do not get access to most of labour and social protections available to employees. They are excluded from minimum wage legislations. Transparency and predictability of working conditions is very low. Unionisation turned out to be very difficult, mainly because they are dispersed in a virtual workplace, which makes it difficult to build solidarity ties between them. Antitrust law can make it difficult for them to resort to collective bargaining. Last but not least, algorithmic management involves a strong surveillance over workers, whose personal data and behaviours are constantly screened. Decisions on tasks allocation and sanctions (i.e. accounts suspension and deactivation), based on internal metrics and ratings, are often taken without transparency and may involve discriminations.

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Judiciaries in many member states are addressing these challenges by reclassifying platform workers as employees, so granting them access to employment and social protections. However, platforms are learning from Courts' decision and therefore constantly adapting their terms and conditions in view of excluding the employment status. Thus, the dispute is not even close to over. Moreover, the legislative response of Member States to the issues affecting platform workers has been rather uneven. Some Member States have passed legislations to protect platform workers, other prefer not to address the issues, more interested in attracting platforms. This implies a possible unfair competition among Member States, especially in cross-border situations, and between platforms and traditional service providers.

In the light of this, a common EU minimum floor of protection for gig workers seems very timely and appropriate. Thus, the European Commission proposal for a directive on platform work presented in December 2021 should be welcomed.

Its general aim is that of "improving the working conditions of persons performing platform work". It is translated in article 1.1 into three main actions: (1) ensuring correct determination of their employment status; (2) promoting transparency, fairness and accountability in algorithmic management in platform work; (3) improving transparency in platform work, including in cross-border situations.

The essays included in this issue provide a critical analysis of the Commission proposal. The introductory contribution by Valerio De Stefano presents a general overview of the draft directive, pointing out its main shortcomings and suggesting some solutions to make it more effective. Christina Hießl deals with the classification of platform workers, offering a comprehensive review of national case law on which are based the subsequent considerations on the solution proposed by the Commission. Antonio Aloisi and Nastazja Potocka-Sionek consider the directive provisions regulating algorithmic management. They highlight the strengths and, above all, the weaknesses of the proposal, only partially addressing the shortcoming of existing legal frameworks dedicated to workplace monitoring and automated decision-making systems. The same provisions are investigated also by Marta Otto essay, offering a focus on the interconnections between the provisions included in the draft Directive and the GDPR.

The final three articles investigate the regulative framework of the draft directive from a national perspective. Maria Giovannone and Maurizio Falsone consider it in the light of the current peculiarities of the Italian legal system. Giovannone focuses on the rules on transparency and enforcement, considering the potentiality of the already existing Italian procedure dedicated to the certification of employment contracts. Falsone concentrates his attention on the relevant impact that the rebuttable legal presumption of employment included in the Commission proposal could have on the employment tests currently used by Italian courts. The legal presumption is also considered by Marco Biasi e William B. Gould IV, in a comparison with the (only) apparently similar solution offered by the ABC-Test in the US.