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Improving working conditions in platform work. A comment about the agreement reached on the European directive.

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Abstract

Platform work represents a new form of non-standard work without recognition by European labour law. In recent years, the issue of improving working conditions in platform work has been at the heart of political and academic debate. On 11th March 2024, the employment and social affairs ministers of the EU Member States endorsed the agreement reached with the European Parliament on the Commission's proposed directive on platform work. The directive tackles situations of wrong classification of employment status, introducing a rebuttable legal presumption and reducing the burden of proof on persons performing platform work. In addition, the directive introduces the first EU rules to regulate algorithmic management in the workplace. This paper traces the positions advocated by the European institutions in defining the strategy for improving working conditions within digital platforms and offers an extended analysis of the final text of the directive that has just been approved.

Keywords: Platform Capitalism; Platform Work; Working Conditions; Legal Presumption; Algorithmic Management.

1. Preliminary remarks.

Twin transition, digital and ecological, is one of the major challenges for Europe and its Member States. Promoting the common goal of a sustainable economy requires environmental and digital solutions that are closely linked to objectives of social equity and employment protection in both quantitative and qualitative terms.

A deep transformation such as the one facilitated by digital technologies brings complex challenges that need to be managed properly. The digital transition is significantly

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transforming the European economic system, including the emergence of digital labour platforms as new market players. Digital labour platforms create new job opportunities, but they could amplify inequalities if the legal and institutional framework is inadequate.[1]

Standards in working conditions are an integral part of the European social model. European minimum standards on working time, health and safety at work, social protection and equal treatment are among the highest in the world. However, platform work is still not covered by European labour law.

Platform work has generated a new area of employment – mainly non-standard and highly innovative, being governed by sophisticated algorithm management systems[2] – which is not explicitly recognised and does not fall within a dedicated regulation framework. In addition, being platform workers predominantly self-employed, which European competition law equates with companies, the exercise of collective rights has encountered considerable obstacles.

The term "platform work" expresses an umbrella concept, capturing a very heterogeneous set of activities and work contexts. It refers to the work performed and services provided on demand and for remuneration by platform workers, regardless of their employment status, the type of digital work platforms (on-location or online) or the required skill level.

On 11th February 2024, just a few months before the vote on the renewal of the European political mandate and after more than two years of intense discussions following the veto of Estonia, France, Greece and Germany, the Ministers of Employment and Social Affairs of EU Member States approved the agreement reached with the European Parliament on the directive for the improvement of working conditions in platform work. Notwithstanding the substantial gap between the approved text and the Commission proposal, the directive represents an important step towards the implementation of the European Pillar of Social Rights.

A rich research agenda has developed around working conditions on platforms, involving scholars from different (geographical) areas and disciplinary fields. This paper contributes to the debate by tracing the key points of the European strategy for improving working conditions on platforms. It is addressed to European labour law scholars, non-European legal scholars, legal sociologists, labour sociologists, and those working in the field of

[1] De Stefano V., Aloisi A., *European Legal Framework for 'Digital Labour Platforms'*, Publications Office of the European Union, Luxembourg, 2018; O'Reilly J., Verdin R., *The digital transformation of work and associated risks*, in *EUROSHIP Working Papers*, Oslo Metropolitan University, Oslo, 9, 2021, available at https://euroship-research.eu/publications/.

[2] A reconstruction of the algorithmic management system functions is offered by Kellogg K. C., Valentine M. A., Christin A., *Algorithms at work: The new contested terrain of control*, in *Academy of management annals*, 14, 1, 2020, 366-410. Algorithmic management has also spread in traditional economy. This topic has been thoroughly discussed by Rani U., Pesole A., Gonzalez Vazquez I., *Algorithmic Management practices in regular workplaces: case studies in logistics and healthcare*, Publications Office of the European Union, Luxembourg, 2024. *See* also Hassel A., Özkiziltan D., *Governing the work-related risk of AI: Implications for the German government and trade unions*, in *Transfer*, 29, 1, 2023, 71-86. It is estimated that between 72.48 million and 101.05 million people in the EU-27 are exposed to algorithmic management in their main or secondary workplace, at least to some extent, in at least one area of work organization. In this regard, *see* Council of the European Union, *Commission Staff Working Document Impact Assessment Report accompanying the document Proposal for a Directive of the European Parliament and of the Council to improve the working conditions in platform work in the European Union*, SWD/2021/396 final, 17.

management disciplines, but also to young scholars starting to deal with working conditions on platforms.

In the paragraph following this introduction (Section 2), several documents are considered; although not intended to have legal effects, these express the political positions of the European institutions concerning the strategy to be followed for the improvement of working conditions in digital platforms. In the following paragraph (Section 3) and the five related sub-paragraphs (Sections 3.1., 3.2., 3.3., 3.4., 3.5.), an extended commentary on the final text of the directive is offered. In the closing reflections (Section 4), the discussion focuses on the expected impact on the self-employed and on employees and the business models of digital labour platforms.

2. Towards an improvement of working conditions in platform work.

On 2nd June 2016, in its Communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, entitled "*A European agenda for the collaborative economy*", the Commission pointed out that some of the traditional twentieth-century categories are less well defined (consumer/producer, self-employed/employee, professional/casual worker) with the risk of no longer being covered by the regulation in force. The document underlines that some business models may have these grey areas eventually benefit from unfair competitive advantages. With limited reference to economic activities,[3] some guidelines have been provided to facilitate the application of the current legislation. Specifically, the Commission has introduced the notion of collaborative economy[4] and has given others important guidance. It has distinguished two classes of business models: on the one hand, digital platforms that offer a mere technological intermediaries service, where the platform is limited to enable the connection among different groups of stakeholders in a technically, automated and passive way; on the other hand, digital platforms that adds to technological intermediaries an additional service, with the use of human labour (e.g. passenger transport, product transport, home care services, etc.). The business models included in the first group provide an information society service, while the others offer a traditional service, technologically supported by a technology intermediaries activity. The distinction is based on a set of legal and factual criteria: control over the compensation that will be paid by the users; platform control, according to other contractual terms and conditions, over the relationship among the platform users; and ownership of essential instrumentation to perform the services. Only the latter are required

[3] Only those relationships that involve an economic transfer fall under the concept of economic activities. *See* CJEU, Case C-281/06, *Hans-Dieter Jundt and Hedwing Jundt v Finanzamt Offenburg*, 2016, ECLI:EU:C:2007:816.

[4] "*Business models where activities are facilitated by collaborative platforms that create an open marketplace for the temporary usage of goods or services often provided by private individuals. The collaborative economy involves three categories of actors: (i) service providers who share assets, resources, time and/or skills — these can be private individuals offering services on an occasional basis ('peers') or service providers acting in their professional capacity ('professional services providers'); (ii) users of these; and (iii) intermediaries that connect — via an online platform — providers with users and that facilitate transactions between them ('collaborative platforms')*". European Commission, *European agenda for the collaborative economy*, 02 June 2016, COM (2016) 356 final.

to comply with market access requirements (e.g. licensing requirements, insurance obligations, authorisation schemes, etc.). The Commission also addresses the distinction between self-employed and employees,[5] proposing three criteria for verifying the existence of an employment relationship between the person providing the service and the operator of the digital platform: (i) the existence of a subordination link, which is expressed in the absence of freedom in choosing when, how and at what price to perform the service; (ii) the nature of the service, which must have an economic value, excluding small scale services that are considered as purely marginal and accessory; (iii) the presence of remuneration, excluding the mere compensation of costs incurred for work activities. Lastly, the Commission stresses that the tax regime for digital platform operators and platform users is the same for those who offer the same services in the traditional economy.

On 15th June 2017, the European Parliament adopted a non-legislative resolution in response to the Commission Communication on "*A European agenda for the collaborative economy*". The document promotes the adoption of a binding act in this field and argues for clear and harmonised solutions, although differentiated according to business models specificities. The Parliament highlights concrete issues and possible systemic implications. Among the concrete issues, reference is made to the lack of employment statistics and the wide margins of uncertainty in the application of the current regulations. Perverse repercussions include the high risk of unfair competition and the disruptive impact in some sectors (e.g. urban transport, short-term rentals, restaurants, retail and finance). Considering the deep differences in the regulations applicable to companies that offer information services compared to companies offering other services,[6] further guidance to classify platforms and identify the applicable regulatory regime is encouraged.

The Parliament promotes self-regulation and digital peer review mechanisms, recognising platform operators an active and complementary role to the general public in creating the regulatory environment, but it warns against the dangers associated with dominant market players, information asymmetries, non-transparent and anti-competitive mechanisms. Complementarity between public and private regulation should ensure the free flow of data, enabling users – including service providers – to operate simultaneously on different platforms and to move from one platform to another without incurring significant switching costs. Regarding digital certifications of reputation,[7] careers and skills, the need to intervene is reiterated, but also through public and private investment. In addition, it reiterates the need to protect the rights of association, action and collective bargaining, inviting social partners to update collective agreements so that existing protections can find a new space in the platform economy. With regard to the employment status of platform workers, it is recalled

[5] Labour law is principally a national sphere of competence, that sets out the criteria to classify employment status. European law, instead, establishes minimum standards of protection. However, the case law of the European Court of Justice has defined a notion of employed persons. *See*: CJEU, Case C–94/07, *Andrea Raccanelli v. Max-Planck-Gesellschaft zur Förderung der Wissenschaften eV*, 2007, ECLI:EU:C:2008:425.

[6] *See* Smorto G., *Autonomie locali e politiche pubbliche per l'economia digitale. Istituzioni del federalismo,* in *Rivista di studi giuridici e politici*, 4, 2019, 891-917.

[7] *See* Arcidiacono D., Pais I., Piccitto G., *Job quality in the platform economy: From right to service*, in *Politiche Sociali*, 1, 2021, 75-98. These researchers have mapped 156 work platforms and detected the presence of reputational profiling tools (feedback, ratings, reviews, scores and mixed systems) in 45% of the examined contexts.

that this assessment follows the principle of primacy of facts, and that social protection and collective rights are independent of legal status.

On 8th November 2019, the Council adopted the Recommendation "*on access to social protection for workers and the self-employed*". The document underlines the European principle of equal treatment among different employment statuses, which prohibits any form of discrimination in occupation, social protection and access to goods and services, without, however, excluding the possibility of differences between categories of workers. In order to ensure the current adoption of the European social model, Member States are recommended to reform the access conditions to social protection systems by going beyond workers who are covered by full-time and permanent contracts with a single employer.

At the plenary sessions on 4th and 5th December 2019,[8] the European Committee of the Regions expressed its opinion on the European strategy for improving working conditions on digital platforms. In particular, it supported the extension of core labour and social security provisions, the establishment of a general framework for the protection of the social rights of all workers, and the need to ensure equal solutions between the platform economy and the traditional one. Considering the impact at the local and regional scale, it is argued that it is also necessary to regulate this phenomenon at the regional and local authorities level, within the limits of their competences, especially in terms of taxation and urban planning, but also by responding with social support measures for atypical forms of employment and measures to tackle bogus self-employment.

On 2nd April 2020, the European Economic and Social Committee expressed its opinion on the improvement of working conditions on digital platforms,[9] recommending that the issue be addressed consistently with the Sustainable Development Goals, the Digital Agenda and the European Pillar of Social Rights. The Committee calls on the Commission and the Member States to provide further clarification to correctly classify the different players operating in the platform economy, recognising a key role for social dialogue and collective bargaining. In closing, it highlights the need for transparency, predictability and traceability for all stakeholders, which could be addressed by registering platforms in a dedicated database set up at the European level.

On 19th October 2020, in its Communication to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions entitled "*A Union of vitality in a world of fragility*", the Commission announced a legislative proposal for the improvement of working conditions in digital platforms.

On 16th September 2021, in the Resolution "*on fair working conditions, rights and social protection for platform workers*", the European Parliament notes the existence of an insufficient and inapplicable legal framework due to the incorrect classification of many workers. For this reason, the Parliament calls on the Commission to facilitate the procedures for establishing employment conditions within the Member States by introducing a rebuttable presumption

[8] European Committee of the Regions, *Opinion. Platform work – local and regional regulatory challenges*, 2020, available at https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52019IR2655&from=LT.
[9] European Economic and Social Committee, *Opinion. Fair work in the platform economy (Exploratory opinion at the request of the German presidency)*, 2020, available at https://www.eesc.europa.eu/en/our-work/opinions-information-reports/opinions/fair-work-platform-economy-exploratory-opinion-request-german-presidency.

of subordination, accompanied by the reversal of the burden of proof.[10] It also stresses the need to improve working conditions for genuinely self-employed people and to ensure equal rights on platform work and traditional work. With this in mind, the Commission is called upon to support collective rights irrespective of employment conditions, providing, for instance, information and consultation obligations prior to the use of automated monitoring and decision-making systems; to prohibit exclusivity clauses, to ensure the interoperability of personal data and to contrast attitudes that may hinder 'multi-apping' work activities; to strengthen workers' rights by ensuring that algorithmic management is reliable, 'ethical'[11], rebuttable and reversible, suggesting the opportunity to introduce transparency rights, human supervision and communication obligations; to ensure the presence of tools that enable workers to get to know each other and to communicate. The Parliament highlighted several problem areas in the field of health and safety[12] and proposed measures to address them, such as the right to disconnection, the right to receive personal protective equipment, necessary for working safely, the obligation to provide insurance against accidents at work and occupational diseases, but also to provide mechanisms to report violence and harassment episodes. Lastly, the Parliament proposed to contrast the emergence and expansion of unfair and socially irresponsible extractive business models by introducing a European Quality Label to be granted to platforms that implement good practices and are sensitive to their workers, after a thorough impact assessment.

In December 2021, the Commission presented a package of significant measures to improve working conditions in digital platforms. A Communication was presented to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions entitled "*Better working conditions for a stronger social Europe: harnessing the full benefits of digitalisation for the future of work*": it identifies some possible areas for action, and calls upon national authorities, social partners and all relevant stakeholders to propose concrete measures to improve working conditions on digital platforms. The Commission also supports the opportunity to encourage a global governance of platform work in order to achieve a genuine improvement of working conditions. A draft guideline on the application of EU competition law to collective agreements regarding the working conditions of solo self-employed people was also presented,[13] in order to prevent European competition law from hindering the collective efforts of individual self-employed people to improve their working conditions. The guidelines clarify the circumstances under which people who do not have an employment relationship can negotiate collectively to improve their working conditions without infringing EU competition rules.[14] To conclude, the Commission has

[10] On the contrary, the Parliament expresses its opposition to the idea of introducing a third intermediate employment status, as it would not only hinder the investigation procedure, but even complicate it further.
[11] We talk about 'ethical' algorithmic management to indicate an approach that is aware of the risks that may arise and respectful of private life, freedom and human dignity.
[12] The document mentions: (i) risks related to the ergonomic requirements of workstations or means/tools; road accidents; (ii) danger of physical injury due to machinery or chemical agents; (iii) risks related to unpredictability, indeterminacy or excessively long working hours; (iv) risks linked to being subjected to unpredictable and/or very intense working rhythms; (v) risks associated with prolonged social isolation.
[13] The guidelines were published on 30th September 2022.
[14] The guidelines refer to any collective bargaining on issues such as: wages, bonuses and benefits; working time and arrangements; holidays; working spaces; health and safety; social insurance and social security; conditions

presented a proposal for a directive on the improvement of working conditions in digital platforms, thus initiating the ten-step process that may lead to the adoption of the final document: (i) Commission proposal, (ii) national parliament opinions, (iii) EESC and/or CoR opinion(s), (iv) Draft report, (v) Committee vote, (vi) Submitted to plenary, (vii) Voted in plenary, (viii) Trilogue, (ix) Approved in plenary, (x) Adoption.

At their meeting on 12th June 2023, the Ministers of Employment and Social Affairs agreed on the general orientation of the Council. The negotiations[15] began on 11th July 2023 and ended with the agreement reached on 8th February 2024.

The following paragraphs examine the text of the agreement reached on 8th February 2024 among the Presidency of the Council and the negotiators of the European Parliament on the directive for the improvement of working conditions in digital platforms, which was definitively approved by the EU Employment and Social Affairs Ministers on 11th March 2024.[16]

3. The directive on improving working conditions in platform work.

In accordance with Article 288 TFEU, a directive is a legislative act used by the European institutions to exercise the Union competences. A directive is binding in the Member States, as to the result to be achieved, while the national authorities of each EU country to which the directive is addressed determine the form and the methods to transpose it into a national law.

Some directives – such as the one in question (Article 26) – set minimum standards, without prejudice to the Member States capacity to define higher levels of protection. Instead, other directives set uniform harmonisation limits, preventing the introduction of stricter rules than those set in the directive.

When a Member State does not correctly transpose a directive into its national law, the Commission may initiate infringement proceedings and referral to the Court of Justice.

The legal basis of the European directive on improving working conditions in platform work are Articles 16 and 153, letter b, of the TFEU. In reverse order, Article 153 identifies eleven areas in which the Union shall support and complement the activities of Member States. Specifically, letter b addresses the field of working conditions. In accordance with Article 16 TFEU, The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall lay down the rules related to the protection of individuals with regard to the processing of personal data. In addition, the Directive refers to four provisions contained in the Charter of Fundamental Rights of the European Union: Article 8, concerning the protection of personal data; Article 16, which recognises the freedom to

under which workers are entitled to interrupt their service or under which they have the right to cease using their service. The Commission will consider revising its guidelines by 2030. European competition law continues to apply to economic activities such as the sharing, for profit, or the resale of goods or services (e.g. short-term rentals, e-commerce, etc.).

[15] During the negotiations, the Council was represented by Pierre-Yves Dermagne, the Parliament was represented by Elisabetta Gualmini and the Commission was represented by Nicolas Schmit.

[16] The text was adopted despite the French objection and Germany abstaining.

conduct a business; Article 27, which states the workers' right to information and consultation within the undertaking; Article 31, establishing the right to fair and just working conditions.

Platform economy is still under-developed and its development trend is flawed from competitive advantages built on strategy based on employment status misclassification, which has a negative impact on people performing platform work, on competition in the EU market, on EU Member States budgets and on all taxpayers.[17] In this context, the European Institutions must set up a difficult balancing operation: on the one side, they support the potential of the platform economy, still largely underdeveloped; on the other, they hold together the objectives of scalability and profitability of platforms, the needs for protection and well-being of people, the fair nature of competition, and the economic interests of States and taxpayers.

The directive is probably the most significant legislative initiative in the field of working conditions in the digital era. The Directive develops its action along three lines: (a) employment status and assessment procedures; (b) rights and protection related to algorithmic management system; (c) traceability of employment data in platform economy, including in cross-border situations.

In the following sub-paragraphs, a comment on the six chapters which constitute the text of the Directive is offered.

3.1. Chapter I, General Provisions.

Chapter I of the Directive deals with general provisions, and it defines the subject matter, the scope, and the taxonomies adopted in the text.

In accordance with Article 1, the purpose is to improve working conditions and personal data protection in platform work by introducing measures aimed at facilitating a correct definition of the employment status of people performing platform work; to promote transparency, fairness, human oversight, safety and accountability in algorithmic management; and to improve the traceability of human labour in digital platforms, including in cross-border situations.

The application fields include (Article 1, paragraph 3) digital labour platforms organising platform work performed in the Union, irrespective of their place of establishment and of the otherwise applicable law. Article 2 defines the digital labour platform as "any natural or legal person providing a service which meets all of the following requirements: it is provided, at least in part, at a distance through electronic means, such as a website or a mobile application; it is provided at the request of a recipient of the service; it involves, as a necessary and essential component, the organisation of work performed by individuals in return for

[17] The platforms obtain a reduction in tax and social security contributions of 24.5%, which translates into a corresponding competitive advantage against competing companies and a reduction in public revenue. Without forgetting that any social benefits for false self-employed workers will be charged to taxpayers. To quantify the reduction in tax and social security contributions *see* Eurostat, *Wages and labour costs*, 2023, available at https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Wages_and_labour_costs#Labour_costs.

payment, irrespective of whether that work is performed online or in a certain location; it involves the use of automated monitoring or decision-making systems".

The audience of beneficiaries is divided into two categories (Article 2): "persons performing platform work", which includes any individual performing platform work, regardless of the nature of the contractual relationship or its designation by the parties involved; "platform workers", which includes any person performing platform work on the basis of an employment contract with the digital labour platform or an intermediary or who is deemed to have an employment relationship as defined by law, collective agreements or practices in force in the Member States, taking into account the case law of the Court of Justice. The Directive reproduces a dual scheme also in terms of collective rights, referring on the one hand to the "representatives of persons performing platform work" and on the other to the "workers' representatives".

The effects of the directive are articulated according to a classical dichotomy of labour law, that separates self-employment from employees, recognising a complex of rights and protections differentiated according to the employment status. The Directive outlines minimum rights that apply to anyone performing platform work in the Union who has, or who based on an assessment of facts may be deemed to have, 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 (Article 1, paragraph 2). The Directive further outlines rules to improve the protection of natural persons in relation to the processing of their personal data by providing measures on algorithmic management applicable to persons performing platform work in the Union, including those who do not have an employment contract or employment relationship (Article 1, paragraph 2).

The Directive provides no definition of algorithmic management, but refers to the idea of work organisation, which takes place "at a distance", "by electronic means such as a website or a mobile application", and "involves the use of automated monitoring and decision-making systems" (Article 2, paragraph 1, letter a), c), d)). The text refers to "automated monitoring systems" to indicate "systems which are used for, or support monitoring, supervising or evaluating the work performance of persons performing platform work or the activities carried out within the work environment, including by collecting personal data, through electronic means" (Article 2, paragraph 1, point 8). The text refers to "automated decision-making systems" to indicate "systems which are used to take or support, through electronic means, decisions that significantly affect persons performing platform work, including the working conditions of platform workers, in particular decisions affecting their recruitment, access to and organisation of work assignments, their earnings including the pricing of individual assignments, their safety and health, their working time, their access to training, promotion or its equivalent, their contractual status, including the restriction, suspension or termination of their account" (Article 2, paragraph 1, point 9).

In order to ensure the coverage of the Directive across subcontracting chains, it requires Member States to take measures to ensure that those persons who work through a platform and have a contractual relationship with an intermediary enjoy the same level of protection as those who have a direct contractual relationship with a platform, including through the

provision of several joint liability mechanisms (Article 3). The term "intermediary" is used to refer to a "natural or legal person that, for the purpose of making platform work available to or through a digital labour platform, establishes a contractual relationship with that digital labour platform and with the person performing platform work or is in a subcontracting chain between that digital labour platform and the person performing platform work" (Article 2).

3.2. Chapter II, Employment Status.

Chapter II addresses the issue of employment status in platform work, by introducing facilitated procedures to verify and ensure the correct determination of the employment status of persons performing platform workers.

Article 4 requires Member States to introduce appropriate and effective procedures with a view to ascertaining the existence of an employment relationship as defined by law, collective agreements or practice in force in the Member States, with consideration to the case-law of the Court of Justice. In particular, it establishes that the determination of the existence of an employment relationship shall be guided primarily by the facts relating to the actual performance of work. In assessment procedures, the exercise of managerial functions through computer devices, including the use of automated monitoring and/or decision-making systems, should be considered. Moreover, in the hypothesis of reclassification, it must be clear who assumes the obligations of the employer.

Article 5 introduces a rebuttable legal presumption in the presence of facts indicating control and direction, according to national law, collective agreements or practice in force in the Member States and with consideration to the case-law of the Court of Justice. Initially, the proposal for a directive contained five control criteria for determining if the digital labour platform is an employer, by reaching the threshold of two criteria to determine the existence of an employment relationship. Subsequently, the criteria were extended to seven and the threshold was raised to three. In the end, the possibility of establishing uniform criteria at European level was abandoned, but this is not necessarily a failure. De Stefano, in this journal, has stressed that some of the initial five criteria were sufficient to obtain the reclassification of employment status in different national jurisdictions and, therefore, that the provision of a minimum threshold could weaken the position of people in the assessment procedure.[18]

Article 5 further facilitates the assessment procedure by reversing the burden of proof. In particular, where the digital labour platform seeks to rebut the legal presumption, "it shall be for the digital labour platform to prove that the contractual relationship in question is not an employment relationship". It is pointed out that the legal presumption does not have the effect of increasing the burden of the requirements that are already borne by workers in the judicial procedures for establishing their employment status. The legal presumption is not

[18] De Stefano V., *The EU Commission's proposal for a Directive on Platform Work: an overview*, in *Italian Labour Law e-Journal*, 15, 1, 2022, 3.

general but limited to certain proceedings (Article 5, paragraph 3). It shall apply in all relevant administrative or judicial proceedings in which the correct determination of the employment status of the person performing platform work is discussed, but shall not apply in proceedings concerning tax matters, criminal law and social security. However, Member States may apply the legal presumption in those proceedings as a matter of national law (*see* § 9, Chapter VI, Final Provisions).

In accordance with national law and practice, proceeding where the correct determination of the employment status of the person performing platform work is discussed may be started by persons working through platforms, their representatives and the competent national authorities (Article 5, paragraphs 4 and 5). The legal presumption does not have retroactive effect (Article 5, paragraph 6), but shall apply from the second year after its entry into force (*see* Chapter VI, Final Provisions, Article 29).

Article 6 indicates a framework of supporting measures to ensure the effective understanding and implementation of the rebuttable legal presumption. Specifically, Member States shall develop appropriate guidelines and practical recommendations for various stakeholders (digital working platforms, people working through platforms and their representatives). Secondly, Member States shall develop guidance and procedures to proactively identify digital labour platforms which do not comply with rules on the correct determination of the employment status. In addition, Member States shall provide for effective controls and inspections conducted by national authorities, also on specific digital labour platforms where the existence of an employment status of a person performing platform work has been ascertained by a competent national authority. Finally, Member States shall provide for appropriate training for competent national authorities and shall make available technical expertise in the field of algorithmic management, to enable those authorities to carry out the assigned tasks.

3.3. Chapter III, Algorithmic Management.

Chapter III introduces the first EU rules to regulate algorithmic management in the workplace. It introduces a new set of rights for platform workers and of obligations for digital labour platforms to deal with potential pitfalls of automated monitoring and decision-making systems. We must not forget that the wrong classification of employment status and the lack of rules on algorithmic management have fuelled a vicious circle and exacerbated platform workers' vulnerability.[19]

The Chapter opens with Article 7, which provides restrictions on processing of personal data by automated (paragraph 1) or semi-automated (paragraph 3), monitoring and decision-making systems, regardless of the occupational status of the recipients (paragraph 2). Article 7 prohibits the processing of specific categories of personal data, the pursuit of specific purposes, and processing at specific time periods. It is prohibited to process personal data

[19] *See* Aloisi, A., & Potocka-Sionek, N., *De-gigging the labour market? An analysis of the 'algorithmic management' provisions in the proposed Platform Work Directive*, in *Italian Labour Law e-Journal*, 15, 1, 2022, 29-50.

"on the emotional or psychological state" (paragraph 1, letter a) and "in relation to private conversations, including exchanges with other persons performing platform work and their representatives" (paragraph 1, letter b). It is prohibited to process any biometric data[20] to establish that person's identity by comparing that data to stored biometric data of individuals in a database (paragraph 1, letter f). It is prohibited to process personal data "to predict the exercise of fundamental rights, including the right of association, the right of collective bargaining and action or the right to information and consultation", "to infer racial or ethnic origin, migration status, political opinions, religious or philosophical beliefs, disability, state of health, including chronic disease or HIV status, the emotional or psychological state, trade union membership, a person's sex life or sexual orientation" (paragraph 1, letter e). It is prohibited to process personal data "while the person performing platform work is not offering or performing platform work" (paragraph 1, letter c).

In order to align the restrictions set out by the Directive on platform work and obligations laid down by the General Data Protection Regulation, Article 8 establishes that impact assessment (Article 35, GDPR) shall include the limitations discussed above. In impact assessment procedures, digital labour platforms shall seek the views of persons performing platform work and their representatives and shall provide the assessment to workers' representatives.

The Directive also intervenes to strengthen transparency in automated monitoring and/or decision-making mechanisms. In accordance with Article 9, Member States shall require digital labour platforms to inform platform workers, their representatives and, upon request, competent national authorities, about the use of automated monitoring or decision-making systems. Article 9 specifies and distinguishes this information in relation to "automated monitoring systems" (paragraph 1 letter b) and "automated (or semi-automated)[21] decision-making systems" (paragraph 1 letter c). With reference to automated monitoring systems, the information shall include: (i) the fact that such systems are in use or are in the process of being introduced; (ii) the categories of data and actions monitored, supervised or evaluated by such systems, including evaluation by the service recipient; (iii) the aim of the monitoring and how the system shall achieve it; (iv) the recipients or categories of recipients of the personal data processed by such systems and any transmission or transfer of such personal data including within a group of undertakings. With reference to automated decision-making systems, the information shall include: (i) the fact that such systems are in use or are in the process of being introduced; (ii) the categories of decisions that are taken from or supported by such systems; (iii) the categories of data and main parameters that such systems take into account and the relative importance of those main parameters in the automated decision-making, including the way in which the personal data or behaviour of the person performing platform work influence the decisions; (iv) the grounds for decisions to restrict, suspend or terminate the account of platform workers, to refuse the payment for work performed by them, as well as for decisions on their contractual status or any decision of equivalent or detrimental effect. The same information shall be provided to persons undergoing a selection

[20] It refers to biometric data as defined in Article 4, point (14), of Reg. no. 679/2016.
[21] Article 9, paragraph 1, letter a.

or recruitment procedure but with limited reference to automated monitoring and decision-making systems used in such procedures (paragraph 5).

Information must be provided in written form, which may be in electronic format, and must be presented in a transparent, intelligible and easily accessible form, using clear and plain language (paragraph 2). Platform workers shall receive concise information about the systems and their features that directly affect them, including their working conditions where applicable, at the latest on the first working day, prior to the introduction of changes affecting working conditions, the organisation of work or the monitoring of work performance, or at any time upon their request. Upon request, they shall also receive also receive comprehensive and detailed information about all relevant systems and their features (paragraph 3). At any time upon request and prior to the use of those systems or to the introduction of changes affecting working conditions, organisation of work or monitoring work performance, workers' representatives shall receive comprehensive and detailed information about all relevant systems and their features. Competent national authorities shall further receive comprehensive and detailed information at any time upon request (paragraph 4).

In the last paragraph, Article 9 introduces a right to personal data portability for persons performing platform work, irrespective of employment status (paragraph 6). In particular, it refers to personal data generated through their work performance in the context of a digital labour platform's automated monitoring and decision-making systems, including ratings. This implies an obligation on digital labour platforms to provide tools to facilitate the effective exercise of this right, excluding economic burdens on beneficiaries, and to transmit such personal data directly to a third party when required by platform workers. This right is already provided for under Article 20 of Reg. 679/2016, but it has never been applied and it was not included in the Commission's draft Directive for the opposition of digital labour platform, which supported the existence of disproportionate costs resulting from the digital infrastructural adaptation.[22] Therefore, this right represents an important step forward.[23]

With the introduction of the right to human oversight of automated systems, the Directive further adapts European labour law to the GDPR. In particular, Article 22 of the Reg. 679/2016 has introduced the right not to be subject to a decision based solely on automated processing – including profiling – which produces legal effects or other effects on data subjects. In those cases where automated processing is permitted, the data controller shall implement suitable measures to safeguard the data subjects rights and freedoms and legitimate interests, at least the right to obtain the controller intervention, to express their point of view and to challenge the decision. In accordance with Article 10 of the Directive, Member States shall ensure that digital labour platforms oversee and regularly carry out an evaluation of the impact of individual decisions taken or supported by automated monitoring and decision-making systems used on platform workers, with the involvement of workers'

[22] Impact Assessment Annex A11.2, SWD(2021) 143 final.

[23] The Directive recognises the right to personal data portability, but doesn't recognise the right to personal data interoperability. Portability means the possibility of transferring personal data from one platform to another, whole interoperability means the possibility to integrate your personal data produced in the career in different digital labour platforms. A study on the implications produced by the non-portability and non-interoperability of personal data is available here: Di Cataldo L., *Reputation capital and transition capability in the platform economy. An exploratory research*, in *Professionalità Studi*, 1, 2023, 59-83.

representatives and in any event every two years. Moreover, digital labour platforms shall ensure sufficient human resources for an effective oversight and evaluation of the impact of individual decisions taken or supported by automated monitoring or decision-making systems. Supervision activities must be carried out by sufficient human resources and be adequate in terms of competence[24], training[25] and authority[26] (paragraph 2). The persons – designated by the digital labour platform – with the function of supervision and evaluation shall enjoy protection from dismissal or its equivalent, disciplinary measures or other adverse treatment for exercising their functions (paragraph 2). Where a high risk of discrimination or concrete rights violations emerges, the digital labour platform shall take the necessary steps, including a modification of the system or a discontinuance of its use in order to avoid such decisions in the future. The impact assessment shall be transmitted to platform workers and their representatives and to the competent national authorities upon their request (paragraph 4). This and other discrepancies in collective rights between self-employed and employees have been eliminated by Article 15 (s. *infra*). Lastly, in accordance with Article 10, the most incisive decisions on platform workers – e.g. limitation, suspension, account closure – shall be taken by a human being (paragraph 5).

Article 11 further strengthens protection in personal data processing, introducing the right to obtain an explanation and to request a review for any decision taken from or supported by an automated decision-making system. These rights may be exercised through a contact person designated by the digital labour platform to discuss and to clarify the facts. Digital labour platforms shall ensure that such contact persons have the necessary competence, training and authority to exercise that function. The explanation could be in oral or written form, but shall be presented in a transparent and intelligible manner, using clear and plain language. Instead, digital labour platforms shall provide a written statement of the reasons for: any decision – supported or, where applicable, taken by an automated decision-making system – to restrict, suspend or terminate the account of the person performing platform work; any decision to refuse the payment for work performed by the platform worker; any decision on the contractual status of the platform worker; any decision with similar effects; any other decision affecting the essential aspects of the employment or other contractual relationships, without undue delay and at the latest on the day which it takes effect. Platform workers and their representatives have the right to request a review of the decisions supported or taken by an automated decision-making system, as well as the right to expect an answer in electronic format without undue delay and in any event within two weeks of the request receipt. The guarantees provided for in the Directive differ according to the substance of the decision. In particular, two hypotheses are recognised: if the automated decision or the decision supported by automated systems has not resulted in a violation of the rights, the platform shall provide a precise explanation in writing, within two weeks of

[24] It means that designated persons must have acquired the necessary skills to fulfil this specific role in the course of their experience.
[25] It means that designated persons must receive from the digital work platform the training needed to fulfil this specific role.
[26] It means that designated persons must have sufficient scope to repeat, correct or ignore decisions made by the system automatically or supported by automated systems.

the request receipt (paragraph 2); if the automated decision or the decision supported by automated systems has resulted in a rights violation, the platform shall rectify that decision without delay, within two weeks, and where such rectification is not possible, the platform shall provide adequate compensation for the damage suffered (paragraph 3). In any event, the digital labour platform shall take the necessary steps in order to avoid such decisions in the future, including a modification of the automated decision-making system or a discontinuance of its use.

The Directive also intervenes to prevent negative health and safety implications produced by algorithmic management (including automated systems supporting decisions that affect platform workers)[27], but with limited reference to persons who have an employment relationship. In accordance with Article 12, digital labour platforms shall: asses the risks for workers health and security, in particular as regards risks of work-related accidents and psychosocial and ergonomic risks; assess if the safeguard measures are appropriate for the risks identified; and introduce appropriate preventive and protective measures. In this evaluation and corresponding remedies, digital work platforms shall guarantee the rights of information, consultation and participation of platform workers and/or their representatives[28] (paragraph 2). In addition, Article 12 bans undue pressure on platform workers and, specifically, pressure that puts safety and the physical and mental health of platform workers at risk (paragraph 3). Lastly, Member States shall ensure that platforms take preventive measures, including effective reporting channels, against violence and harassment (paragraph 5).

Article 13 introduces relevant collective rights of information[29] and consultation,[30] but only to platform workers' representatives. These new collective rights cover decisions that are likely to lead to the introduction of or to substantial changes in the use of automated monitoring or decision-making systems.

Moreover, the platform workers' representatives may be assisted by an expert of their choice to examine the matter that is the subject of information and consultation and formulate an opinion. In case of a digital labour platform with more than 250 workers in the Member State concerned, the expenses for the expert shall be borne by the digital labour platform. However, Member States may determine the frequency of requests for an expert, while ensuring the effectiveness of the assistance. If the workers' representatives are not present, Article 14 provides for direct information to workers affected by decisions which could lead to the introduction of automated monitoring and decision-making systems or which could lead to substantial changes in their use.

Article 15 extends some of the collective rights to the self-employed. In particular, it extends: the right to receive the result of the data protection impact assessment (Article 8, paragraph 2); the right to be informed about the use of automated monitoring and decision-making systems prior to their introduction and of changes affecting working conditions,

[27] Article 12, paragraph 4.
[28] Rights of information, consultation and participation must be guaranteed in accordance with Articles 10 and 11 of Council Directive 89/391/EEC.
[29] Article 2, letter f), Directive no. 2002/14.
[30] Article 2, letter g), Directive no. 2002/14.

work organisation or work performance monitoring (Article 9, paragraph 1 and 4); the right to receive information about the impact of individual decisions taken or supported by automated monitoring and decision-making systems (Article 10, paragraph 4); the right to request the digital labour platform to review the decisions taken or supported by an automated decision-making system (Article 11, paragraph 2).

3.4. Chapter IV, Transparency on Platform Work.

Chapter IV consists of two articles, which aim to strengthen transparency and traceability about platform work, by clarifying the existing obligations of platforms to declare work to national authorities, and asking platforms to give key information about their activities and the people who work through them.

At present, we do not have reliable employment data about platform economy, nor do we have data about the social composition of platform workers, let alone data about working participation. We have no information about account activations, account suspensions, and account deactivations. We have no information about employment status, or about compensations received, or about hours worked, or about the 'multi-apping' phenomenon.

Without this information, it is difficult to monitor the development of platform economy and to design policies to offset negative impacts, especially in cross-border situations. The scarcity of the available information also complicates measures to ascertain the correct employment status of persons performing platform work and reduces the chance of reclassification.

In order to remedy this situation, Member States shall require digital labour platforms to declare to the competent authorities the activities performed by platform workers, in accordance with the rules and procedures laid down in the law of the Member States concerned, and specific obligations under Union law according to which work shall be declared to relevant bodies of the Member State in cross-border situations remain unchanged (Article 16). In accordance with Article 17, relevant information on platform work must be accessible to competent authorities, as well as to representatives of persons performing platform work. The information included concerns: (i) the number of persons performing platform work through the relevant digital labour platform, disaggregated by level of activity, and their contractual or employment status; (ii) the general terms and conditions, determined by the digital labour platform and applicable to those contractual relationships; (iii) the average duration of the activity, the average weekly number of hours worked per person and the average income from such activities of persons performing platform work on a regular basis; (iv) which intermediaries the digital labour platform has a contractual relationship with. Moreover, information on work performed by platform workers and their employment status must be transmitted to national authorities (paragraph 2). Information about average activity duration, average weekly hours, and average income shall only be provided upon request (paragraph 3). However, the information shall be updated at least every six months, but information about intermediaries shall be updated each time the terms and conditions are modified in substance (paragraph 3). Instead, with regard to digital labour platforms

which are micro, small or medium-sized enterprises, the frequency for updating information is reduced to once a year (paragraph 5).

National authorities and representatives of persons performing platform work shall have the right to ask digital labour platforms for additional clarifications and details regarding any of the information provided, including details regarding employment contracts. Digital labour platforms shall respond to such request by providing a substantiated reply without undue delay (paragraph 4).

3.5. Chapter V, Remedies and Enforcement measures.

Chapter V defines remedies and enforcement measures for the effective application of the Directive on improving working conditions in platform work.

Regardless of the employment status and including those whose employment or other contractual relationship has ended, Article 18 establishes the right to effective and impartial dispute resolution and a right to redress, including adequate compensation for the damage sustained.

In accordance with Article 19, the representatives of platform workers and other legal entities which have a legitimate interest may engage – on behalf or in support of one or several persons performing platform work – in any judicial or administrative procedure to enforce any of the rights or obligations arising from this Directive.

To support people performing platform work in communicating and associating to increase their bargaining power, Article 20 provides the introduction of communication channels for platform workers. These channels must ensure them the possibility to contact and communicate privately and securely with each other, and to contact or be contacted by representatives of other platform workers, through the digital infrastructure of digital labour platforms, or similarly effective means. Digital labour platforms must refrain from accessing or monitoring those contacts and communications.

In proceedings concerning the provisions of this Directive, access to evidence must be guaranteed by Member States. In particular, Article 21 requires that national courts or competent authorities are able to order the digital labour platform to disclose any relevant evidence which lies in their control, as well as confidential information where they consider it relevant to the proceeding. At the same time, when ordering the disclosure of such information, it is required that national courts have at their disposal effective measures to protect such information.

Article 22 requires to Member States to introduce the necessary measures to protect persons performing platform work against adverse treatment or consequences resulting from a complaint lodged with the digital labour platform or resulting from any proceedings initiated with the aim of enforcing compliance with the rights provided for in this Directive. In this direction, Article 23 protects persons performing platform work from dismissal. Specifically, it prohibits the dismissal, termination of contract or their equivalent, and all preparations for dismissal, on the grounds of the exercise of the rights provided for in this Directive. In these situations, people may request to provide duly substantiated grounds for

the dismissal, termination of contract or any equivalent measures, and the digital labour platform shall provide those grounds in writing without undue delay (paragraph 2). Moreover, the burden of proof is inverted, therefore the digital labour platform has the burden to prove that the dismissal, termination of contract or equivalent measures were based on other grounds[31] (paragraph 3).

Responsibilities for monitoring the Directive and the system of applicable sanctions are defined in Article 24. The Supervisory Authority or the authorities responsible for monitoring the application of Reg. no. 679/2016, shall also be responsible for monitoring and enforcing the application of Articles 7, 8, 9, 10, and 11 of this Directive as far as data protection is concerned. As regards the mentioned Articles, the ceiling for administrative fines referred to in Article 83, paragraph 5, of GDPR applies. With regard to the other parts of the Directive, monitoring responsibility shall be charged to competent national authorities. In accordance with Article 24, paragraph 2, the authorities responsible for monitoring the application of Reg. no. 679/2016 and other competent national authorities cooperate in the enforcement of this Directive, exchanging relevant information, including information obtained in the context of inspections or investigations (paragraph 2), and exchanging best practices on the implementation of the legal presumption (paragraph 3). This collaboration occurs within the remit of their respective competences, in particular where questions on the impact of automated monitoring or decision-making systems on platform workers arise. In cross-border situations, the competent authorities of those Member States shall exchange information for the purpose of enforcing this Directive (paragraph 4). Member States shall lay down the rules on sanctions applicable to infringements of national provisions adopted pursuant to provisions of this Directive or of the relevant provisions already in force concerning the rights within the scope of this Directive, ensuring sanctions that are effective, dissuasive and proportionate to the nature, gravity and duration of the undertaking's infringement and to the number of affected workers (paragraph 5). In the case of infringements of the rules determining the employment status of persons performing platform work, Member States shall provide for financial sanctions (paragraph 6).

3.6. Chapter VI, Final Provisions.

The Directive closes with Chapter VI, concerning formal and methodological indications to be followed in transposition by Member States. Final provisions regard collective bargaining (Articles 25, 28), non-regression in the general level of protection already addressed within Member States and the possibility to introduce more favourable provisions (Article 26), dissemination of information on the application of the Directive (Article 27), transposition, implementation, recipients (Articles 29, 31, 32), and provisions regarding timeline and procedures for review by the Commission (Article 30).

[31] Paragraph 3 shall not apply to criminal proceedings, unless otherwise provided by the Member State (paragraph 4).

The final Chapter opens with Article 25, which grants Member State a responsibility to take adequate actions to promote the role of social partners and encourage the exercise of the right to collective bargaining in platform work. Article 26 rules out a reduction in the general level of protection already provided to platform workers within Member States and it maintains Member States prerogative to apply or to introduce laws, regulations or administrative provisions which are more favourable to platform workers, or to encourage or permit the application of collective agreements which are more favourable to platform workers.

In accordance with Article 27, National measures transposing this Directive, together with the relevant provisions already in force relating to platform work, shall be brought to the attention of stakeholders: persons performing platform work, digital labour platforms, the general public, national authorities, etc. Dissemination of information shall be provided in a clear, comprehensive and easily accessible way, including to persons with disabilities.

With regard to the protection of the rights and freedoms in respect of the processing of platform workers personal data, Member States may provide for more specific rules by law or by collective agreements (Article 28). Moreover, Member States may allow social partners to maintain, negotiate, conclude and enforce collective agreements which establish arrangements concerning platform work, different from those referred to in Article 12 on health and safety, and Article 13 on information and consultation (Article 28).

Article 29 grants a two-year period from the date of entry into force of the Directive to adapt the internal arrangements according to the goals set. As soon as transposition has been completed, Member States shall communicate to the Commission the text of the main adopted measures of national law. In transposition, Member States shall take adequate measures to ensure the effective involvement of social partners and to promote and enhance social dialogue. Member States may entrust social partners with the implementation of this Directive, but they shall take all the necessary steps to ensure that they can at all times guarantee the results sought under this Directive.

By five years from the date of entry into force of this Directive, the Commission shall review its implementation and propose, where appropriate, legislative amendments. In such review, the Commission shall (Article 30): consult Member States, social partners at the Union level and key stakeholders; take into account the impact on micro, small and medium-sized enterprises; and pay particular attention to the impact of the use of intermediaries on the overall implementation of this Directive.

The Directive will enter into force on the twentieth day following its publication date in the Official Journal of the European Union (Article 31).

4. Final remarks.

With the approval of the Directive on improving working conditions in platform work, Europe has defined a common legal framework and fixed the goals to be achieved.

The approved text respects subsidiarity and the different approaches formulated by Member States in the last few years. Moreover, the text defines the conditions for creating adaptable rules according to the differences among business models.

The next steps to be taken for the Directive to enter into force have a formal character and determined by specific time. The text of the agreement will now be finalised in all the official languages and formally adopted by European institutions. After the formal steps of the adoption will be completed, Member States shall have two years to incorporate the provisions of the Directive into their national legislation.

It is necessary to wait for the transposition to draw some really conclusive considerations about the impact of the Directive. However, from the Italian case, some remarks on the expected impact of the Directive on business models and on self-employed and employees working conditions are proposed.

According to the Impact Assessment report accompanying the proposal for a Directive on improving working conditions in platform work, it is estimated that between 1.7 million and 4.1 million out of the 5.5 million people who are at risk of misclassification might be reclassified as workers and will thus gain access to various labour law protections[32]. These people will be able to access labour law rights (e.g. minimum wage, right to rest, paid leaves, health and safety protection, etc.) and rely on a social safety net (e.g. unemployment insurance, insurance for accidents at work and occupational diseases, maternity, paternity and parental leave, etc.). Clarity on the employment status and the related tax and social security contributions will support the sustainability of public budgets[33]. Member States could recover up to 4 billion Euro in annual contributions. In addition, they will also bear lower costs in terms of the non-contributory benefits that public authorities may need to award to unprotected workers in order to address, for instance, social exclusion or medical costs. As such, the correct classification of employment status can have a positive impact for all taxpayers as a whole.

At the same time, for digital labour platforms, the rebuttable legal presumption does not affect the possibility to use genuine self-employed people and could raise the compliance degree between contractual provisions and effective work organization.

In cases where digital labour platforms operate through self-employed people exercising form of control which may be involved in the reclassification, companies could consider the opportunity to reform their business models according to two alternative hypotheses. I examine these hypotheses in relation to the food delivery sector where the tension between autonomy and control has more clearly emerged. In the former, companies may start to classify persons performing platform work as workers continuing to interfere in their activities, but according to contractual provisions and transparent modalities. This is the path which Just Eat Takeaway.com has chosen to follow in Italy, by signing a company collective agreement with sectoral federations of the Italian General Confederation of Labour (CGIL), the Italian Confederation of Workers Trade Unions (CISL), and the Italian Labour Union

[32] SWD(2021)396. Impact Assessment report accompanying the proposal for a Directive on improving working conditions in platform work, Section 2.1 and Annex 5.
[33] SWD(2021)396. Impact Assessment report accompanying the proposal for a Directive on improving working conditions in platform work, Section 6.1 and Annex 5.

(UIL). The collective agreement classifies riders as employees and applies The National Collective Bargaining Agreement for the sector of "logistics, transport, freight, shipping".[34] In the second hypothesis, companies could reform their business models ensuring the autonomy and entrepreneurialism that genuine self-employment entails. Glovo might follow this path. In Italy, Glovo has begun to test a new work organization model based on a free login system, that eliminates the rating mechanism, digital reputation, the work shifts, and the work area. It started the experimentation in four medium-sized cities: Catania, Cagliari, Padova, and Reggio Emilia.[35]

Given that people's preferences regarding the desired levels of autonomy, flexibility and protection may vary, it is therefore necessary to ensure a high degree of correspondence between contractual provision and effective labour organization. It is as well important for people to have legal certainty regarding their status, allowing them to make conscious and voluntary choices.

Regardless of the changes that will affect the business models of digital labour platforms, the provisions on algorithmic management will protect the rights and freedoms of people in the workplace. This test shall provide important information in view of a future expansion of the regulation on algorithmic management in other productive sectors and geographical areas.

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[34] *See Labour and Law Issues* 7, 1, 2021.
[35] Web site Glovo (https://delivery.glovoapp.com/it/domande-frequenti-free-login/). In the previous model, riders faced sanctions: when they reached the working area in late; in case of no-show; when they leave the working area. *See* Di Cataldo L., *Connectivity, Time, and Remuneration. Towards a Method for Determining Minimum Compensation in Platform Work*, in *Economia & Lavoro*, 2, 2023.

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