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**Imagined Futures of Work in the Making: The Politics of
Platform Workers' Contract Classification in Denmark,
France, Italy, and the Netherlands**

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Abstract

A vibrant debate on the digitalisation of the economy has taken place over the last decade. Among the various manifestations of digitalisation, the rise of platform companies has divided scholars over whether a ‘platformised’ future of work would be desirable. The contract classification of platform workers, i.e. whether they should qualify as independent contractors or employees, has been among the top-debated issues. While some have stressed that coverage of freelancer platform workers should be strengthened regardless of their contract classification, others have highlighted how platform work has all the features of dependent work and should therefore qualify as such.

Various national regulatory processes resulted in numerous statutory measures and collective agreements. Starting from these developments, and unsatisfied with existing institutionalist accounts of platform work regulation, this dissertation asks two research questions: i) How have national actors problematised and responded to the question of platform workers’ contract classification? ii) What were the drivers of such problematisation and responses?

To address such queries, this thesis investigates the politics of platform workers’ contract classification by concentrating on i) the (evolution of) actors’ positions, ii) the building of actor coalitions, iii) the content of regulatory measures in cases they were adopted. It focuses on four actor types, namely governments, social partners, platforms, and independent platform worker organisations. It adopts a qualitative comparative case-study design to study the cases of Denmark, France, Italy and the Netherlands. Such countries represent different ‘varieties of liberalisation’: ‘dualisation’ countries (France – Italy), ‘embedded flexibilisation’ countries (Denmark – Netherlands). Methodologically, this work combines 68 semi-structured elite interviews with selected policy documents and quality newspaper articles. Data was analysed through a thematic analysis using MAXQDA software.

Theoretically, an ‘Imaginative Institutional Work’ approach is developed. Such an approach adopts the concept of ‘institutional work’ to understand *how* ‘uncertain’ actors affect institutions. In this work, institutions are the rules linking contract classification and employment/social protection. To account for the drivers of such an institutional work, this work theorizes learning mechanisms of three kinds, i.e. ‘learning by puzzling’, ‘learning by experimenting’, and ‘learning by researching’. In turn, such mechanisms are conceived of as cognitively bounded by ‘imagined futures’, i.e. expectations on future states of the world.

Thus, this dissertation unveils institutional work objectives and practices and associated learning mechanisms that have shaped the rules linking contract classification and employment/social protection. Further, it finds that learning mechanisms were anchored in three ‘imagined futures of work’, i.e. ‘Start-up Nation’, ‘Creative digitalisation’, and ‘Embedded digitalisation’. While the ‘start-up nation’ future was especially relevant in France and to some extent in the Netherlands, ‘creative digitalisation’, and ‘embedded digitalisation’ were prominent in the Italian, Danish and Dutch cases. This shows how processes of imaginative institutional work were often not in line with expectations deriving from the variety of liberalisation profile of selected countries.

More broadly, this thesis contributes to the understanding of how the implications of technology are socially shaped by providing a fine-grained account of how future-oriented actors affect the rules governing the use of such a technology. In so doing, actors do not merely enact institutional dictates. Rather, they creatively navigate the uncharted waters of novel technologies, seeking to realize their preferred ‘imagined futures of work’.

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“Non va più bene?”

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(Elena Ferrante, ‘Storia della bambina perduta’)

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Table of Contents

List of Tables	12
List of Figures.....	13
List of Abbreviations	14
1. Introduction	18
2. Literature Review. Platforms and Platform Work: Definitions, Origins, and Employment and Social Protection Challenges	23
2.1 Introduction.....	23
2.2 Defining Digital Platforms and Platform Work.....	24
2.3 How Large is Platform Work In Europe? Evidence from Three Surveys	30
2.4 From Liberty to Disenchantment: From the ‘Sharing Movement’ to the ‘Platform Economy’	34
2.5 Placing Platform Work in Broader Capitalist Developments.....	36
2.6 The Enduring Link between Contract Classification and Protection: What is at Stake?	41
2.7 Contract Classification Matters: Access to Employment and Social Protection in Platform Work	44
2.7 Conclusion: Uncertainty, Future-oriented Agency and the Future of Work	48
3. Theoretical Framework. An Imaginative Institutional Work Angle	51
3.1 Introduction.....	51
3.2 Injecting Agency in Institutional Accounts: Uncertainty as the Missing Piece.....	52
3.3 How Do (Uncertain) Actors Shape Institutions? An Institutional Work Perspective	54
3.4 How to Cope With Knightian Uncertainty? The Learning Foundations of Institutional Work	58
3.5 How to Reduce Knightian Uncertainty? Imagined Futures and the Learning Foundations of Institutional Work	63
3.6 Conclusion: An Imaginative Institutional Work Explanation.....	66
4. Research Design and Methodology	67
4.1 Introduction.....	67
4.2 Ontology and Epistemology: Post-positivist, Critical Realist Foundations	67
4.3 Object of Research and Case Selection Rationale.....	69
4.4 Case Study and Cross-Comparison Research Design: What and Why?	75
4.5 Data Collection and Analysis	78
4.6 Conclusion: Pros and Cons of Selected Methodological Approach	81

5. FRANCE	83
Introduction	84
5.1 The Politics of Platform Workers’ Contract Classification in France	84
5.1.1 Liberalizing ‘Dirigisme’: French Labour Market Policies since the Early 1980s	84
5.1.2 Employees or Contractors? Contesting the Contract Classification of Platform Workers in France	89
5.1.3 Conclusion	109
5.2 The Learning Foundations of Institutional Work in France.....	111
5.2.1 What Did Actors Do? Unveiling Institutional Work Objectives and Practices	111
5.2.2 Why Did Actors Do It? The Learning Foundations of Institutional Work Practices	119
5.2.3 Conclusion	127
5.3 How Do Actors Project? Imagined Futures of Work in France.....	129
5.3.1 Introduction.....	129
5.3.2 Theorizing ‘Imagined Futures of Work’	129
5.3.3 Identifying ‘Imagined Futures of Work’: the ‘Start-up Nation’ Future	132
5.3.4 Identifying ‘Imagined Futures of Work’: the ‘Creative Digitalisation’ Future	135
5.3.5 Identifying ‘Imagined Futures of Work’: the ‘Embedded Digitalisation’ Future	136
5.3.6 Conclusion	137
6. ITALY.....	138
Introduction	139
6.1 The Politics of Platform Workers’ Contract Classification in Italy	139
6.1.1 Liberalizing the Italian Labour Market	139
6.1.2 Employees, Contractors, or Para-Subordinate Workers? Contesting the Contract Classification of Platform Workers in Italy	143
6.1.3 Conclusion	161
6.2 The Learning Foundations of Institutional Work in Italy	163
6.2.1 What Did Actors Do? Unveiling Institutional Work Objectives and Practices	163
6.2.2 Why Did Actors Do It? The Learning Foundations of Institutional Work Practices	174
6.2.3 Conclusion	183
6.3 How Do Actors Project? Imagined Futures of Work in Italy.....	185
6.3.1 Introduction.....	185
6.3.2 Theorizing ‘Imagined Futures of Work’	185
6.3.3 Identifying ‘Imagined Futures of Work’: the Start-up Nation Future	188
6.3.4 Identifying ‘Imagined Futures of Work’: the ‘Creative Digitalisation’ Future	189
6.3.5 Identifying ‘Imagined Futures of Work’: the ‘Embedded Digitalisation’ Future	189

6.3.6 Conclusion	191
7. DENMARK	192
Introduction	193
7.1 The Politics of Platform Workers’ Contract Classification in Denmark	193
7.1.1 Liberalisation and the Danish Model: Developing Danish Flexicurity.....	193
7.1.2 Employees or Contractors? Contesting the Contract Classification of Platform Workers in Denmark.....	198
7.1.3 Conclusion	216
7.2 The Learning Foundations of Institutional Work in Denmark	218
7.2.1 What Did Actors Do? Unveiling Institutional Work Objectives and Practices	218
7.2.2 Why Did Actors Do It? The Learning Foundations of Institutional Work Practices	227
7.2.3 Conclusion	235
7.3 How Do Actors Project? Imagined Futures of Work in Denmark.....	237
7.3.1 Introduction.....	237
7.3.2 Theorizing ‘Imagined Futures of Work’	237
7.3.3 Identifying ‘Imagined Futures of Work’: the Start-up Nation Future	240
7.3.4 Identifying ‘Imagined Futures of Work’: the ‘Creative Digitalisation’ Future	240
7.3.5 Identifying ‘Imagined Futures of Work’: the ‘Embedded Digitalisation’ Future	241
7.3.6 Conclusion	242
8. NETHERLANDS	243
Introduction	244
8.1 The Politics of Platform Workers’ Contract Classification in the Netherlands	244
8.1.1 Transforming the Dutch Labour Market: the Rise of (Solo) Self-Employment in the Netherlands	244
8.1.2 Employees or Contractors? Contesting the Contract Classification of Platform Workers in the Netherlands.....	250
8.1.3 Conclusion	267
8.2 The Learning Foundations of Institutional Work in the Netherlands	268
8.2.1 What Did Actors Do? Unveiling Institutional Work Objectives and Practices	268
8.2.2 Why Did Actors Do It? The Learning Foundations of Institutional Work.....	277
8.2.3 Conclusion	285
8.3 How Do Actors Project? Imagined Futures of Work in the Netherlands.....	287
8.3.1 Introduction.....	287
8.3.2 Theorizing ‘Imagined Futures of Work’	287

8.3.3 Identifying ‘Imagined Futures of Work’: the Start-up Nation Future	290
8.3.4 Identifying ‘Imagined Futures of Work’: the ‘Creative Digitalisation’ Future	292
8.3.5 Identifying ‘Imagined Futures of Work’: the ‘Embedded Digitalisation’ Future	293
8.3.6 Conclusion	294
9. A Comparative Analysis of ‘Imaginative Institutional Work’ in Denmark, France, Italy, and the Netherlands	296
9.1 Within-pair Comparison: Imaginative Institutional Work in ‘Dualisation’ Countries.....	296
9.2 France and Italy: Diverging Solutions to Tame Dualisation	299
9.3 Within-pair Comparison: Imaginative Institutional Work in ‘Embedded Flexibilisation’ Countries	302
9.4 Denmark and the Netherlands: Protection <i>and</i> Flexibility, or Protection <i>over</i> Flexibility?	306
9.5 Cross-pair Comparison: Spotting Similarities between Different Countries	308
9.6 Conclusion and Discussion	311
10. Conclusion. Contributions, Limitations, and Way Forward	316
References	323
Annex A - Interview Questionnaire.....	342
Annex B – Interview Table.....	343

List of Tables

Table 1 Types of digital platforms (van Dijck et al., 2018).....	25
Table 2 Types of digital platforms (Srnicsek, 2017)	26
Table 3 Platforms and platform work classification (Schmidt, 2017).....	27
Table 4 Platforms and platform work classification (Kalleberg & Dunn, 2016)	27
Table 5 Platforms and platform work classification (Eurofound, 2018).....	28
Table 6 Platform work classification (Casilli, 2020).....	29
Table 7 Self-employment and solo self-employment share on total employment (2000 and 2017) (Boeri et al., 2020).....	42
Table 8 Access to social benefits for the self-employed (Spasova et al., 2017).....	43
Table 9 'Creating' Institutional work practices (Lawrence & Suddaby, 2006).....	56
Table 10 'Maintaining' institutional work practices – (Lawrence & Suddaby, 2006).....	56
Table 11 'Disrupting' institutional work practices (Lawrence & Suddaby, 2006)	56
Table 12 Selected countries and varieties of liberalisation.....	71
Table 13 Varieties of liberalisation and platform regulation in selected countries	75
Table 14 Interview table.....	78
Table 15 Dimensions of 'imagined futures of work'. Own elaboration.	130
Table 16 Typology of 'Imagined futures of work'. Own elaboration.	131
Table 17 Dimensions of 'imagined futures of work'. Own elaboration.	186
Table 18 Typology of 'Imagined futures of work'. Own elaboration.	187
Table 19 Dimensions of 'imagined futures of work'. Own elaboration.	238
Table 20 Typology of 'Imagined futures of work'. Own elaboration.	239
Table 21 Dimensions of 'imagined futures of work'. Own elaboration.	288
Table 22 Typology of 'Imagined futures of work'. Own elaboration.	289

List of Figures

Figure 1 Estimates of platform work (PW) Pesole et al. (2018)	31
Figure 2 Types of platform services by country (Pesole et al., 2018)	31
Figure 3 Online and offline platform work distribution (Urzi Brancati et al., 2020)	32
Figure 4 Platform work by task and frequency (ETUI, 2022)	33
Figure 5 Share of self-employment from 2002 to 2015 (total, solo, part-time solo) (Eurofound, 2017).....	41
Figure 6 Access to social security benefits by platform work intensity (Berg et al., 2018).....	45
Figure 7 Access to social protection by benefit type (Forde et al., 2017)	46
Figure 8 Access to social protection benefits by clusters of platform workers (Forde et al., 2017)	47
Figure 9 Learning mechanisms. Own elaboration.	60
Figure 10 Learning Circle. Own elaboration.....	61
Figure 11 The Learning foundations of institutional work. Own elaboration.	62
Figure 12 Imaginative institutional work. Own elaboration.....	66
Figure 13 Varieties of liberalisation (Thelen, 2014)	70
Figure 14 Proportion (%) of temporary and part-time employment respectively on total dependent employment and total employment (1983-2021)	85
Figure 15 Proportion (%) of part-time employment on total employment (1991-2021), by gender.....	86
Figure 16 Self-employment and micro-entrepreneurs as a share (%) of total employment (1989-2015) (OECD, 2018).....	87
Figure 17 Institutional work objectives - weighted frequencies in interviews of the same actor category	112
Figure 18 Institutional work practices across the interviews – distribution in percent	114
Figure 19 Institutional work practices – weighted frequencies in interviews of the same actor category	115
Figure 20 Learning mechanisms by actor type – weighted frequencies in interviews of same actor category	120
Figure 21 Imagined futures of work - weighted frequencies by actor type	131
Figure 22 Proportion (%) of temporary and part-time employment respectively on total dependent employment and total employment (1983-2021)	141
Figure 23 Institutional work objectives - weighted frequencies in interviews of the same actor category.....	164
Figure 24 Institutional work practices across the interviews – distribution in percent	167
Figure 25 Institutional work practices - weighted frequencies in interviews of the same actor category	168
Figure 26 Learning mechanisms by actor type – weighted frequencies in interviews of same actor category	175
Figure 27 Imagined futures of work - weighted frequencies by actor type	188
Figure 28 Share of non-standard work in Denmark (1984-2020)	196
Figure 29 Share of solo self-employment on total employment in Denmark (1984-2020).....	197
Figure 30 Institutional work objectives - weighted frequencies in interviews of the same actor category	219
Figure 31 Institutional work practices across the interviews – distribution in percent	221
Figure 32 Institutional work practices - weighted frequencies in interviews of the same actor category	221
Figure 33 Learning mechanisms by actor type – weighted frequencies in interviews of same actor category	228
Figure 34 Imagined futures of work - weighted frequencies by actor type	239
Figure 35 Part-time employment as % of total employment (1983-2019).....	246
Figure 36 Part-time employment as a % of total employment, by gender (1991-2021)	246
Figure 37 Temporary employment as a % total employment (1983-2019)	248
Figure 38 Self-employed without employees as a % total employment (1983-2020).....	249
Figure 39 Institutional work objectives - weighted frequencies in interviews of the same actor category	269
Figure 40 Institutional work practices across the interviews – distribution in percent	271
Figure 41 Institutional work practices - weighted frequencies in interviews of the same actor category	271
Figure 42 Learning mechanisms by actor type – weighted frequencies in interviews of same actor category	278
Figure 43 Imagined futures of work - weighted frequencies of futures codes by actor type.....	289
Figure 44 Imaginative institutional work in 'dualisation' countries	302
Figure 45 Imaginative institutional work in 'embedded flexibilisation' countries	308
Figure 46 Cross-case imaginative institutional work	310

List of Abbreviations

Abbreviation	Original denomination	English denomination
3F	Fagligt Fælles Forbund	United Federation of Workers
ANAR	Associazione Nazionale Autonoma Riders	Italian National Autonomous Association Riders
ARPA	-	Advanced Research Projects Agency
AvePro	Loi avenir professionnel'	Law for the future of work
AWVN	Algemene Werkgeversvereniging Nederland	General Association of Employers of the Netherlands
CAE	Coopérative d'activité et d'emploi	-
<i>CDA</i>	Christen-Democratisch Appèl	Christian Democratic Appeal
CDC	Coop des Communs	Commons Cooperative
CERN	Conseil Européen pour la Recherche Nucléaire	European Council for Nuclear Research
CFDT	Confédération française démocratique du travail	French Democratic Confederation of Labour
CGIL	Confederazione Generale Italiana del Lavoro	Italian General Confederation of Labour
CGIL –NIdiL	CGIL Nuove identità di Lavoro	CGIL New Work Identities
CGT	Confédération Générale du Travail	General Confederation of Labour
CISL	Confederazione Italiana Sindacati Lavoratori	Italian Confederation of Workers' Trade Unions
CLAP	Collective des Livreurs Autonome de Paris	Collective of Autonomous Riders of Paris
CNNum	Conseil National du Numérique	National Digital Council
co.co.co	Collaborazione coordinata e continuativa'	Coordinated and continuous collaboration
co.co.pro	Contratti di collaborazione a progetto	Project-based Collaboration Contract
CPA	Compte Personnel d'Activité	Personal Activity Account
CSR	-	Corporate Social Responsibility

CU	ChristenUnie	Christian Union
D66	Democraten 66	Democrats 66
DI	Danskindustri	Confederation of Danish Industry
DBA	-	Danish Business Authority
DE	Dansk Erhverv	Danish Chamber of Commerce
DESI		Digital Economy and Society Index
DGT	Direction Générale du Travail	Directorate General for Labour
EGNum	Etats Généraux de Nouvelles Régulations du Numériques	States-general of novel digital regulations
ESA	Entrepreneur Salarié Associé	
FNV	Federatie Nederlandse Vakbeweging	Federation of Dutch Trade Unions
FO	Force Ouvrière	
M5S	Movimento Cinque Stelle	Five Star Movement
HTML	-	Hypertext Markup Language
HTTP	-	Hypertext Transfer Protocol
IGAS	Inspection Générale des Affaires Sociales	General Inspection of Social Affairs
IGF	Inspection Générale des Finances	General Inspection of Finances
INPS	Istituto Nazionale Previdenza Sociale	National Welfare Institute
INTEFP	Institut Nationale du Travail et de la Formation Professionnelle	National Institute for Work and Training
IRES	Institut de Recherches Economiques et Sociales	Institute for Economic and Social Research
ITR	-	Information Technology Revolution
LOM	Loi d'Oriéntation Mobilité	Mobilities Act
MEDEF	Mouvement des Entreprises de France	Movement of French Companies
NOC	-	Network of Contracts

OECD	-	Organization for Economic Development and Cooperation
PEC	Plateformes en Commun	
PFF	Platform Toekomst van Arbeid	Platform Future of Work
PvdA	Partij van de Arbeid	Labour Party
RNE	Résponsabilité numérique des entreprises	Digital Responsibility of Firms
RSI	Régime social des indépendents	-
RUB	Riders union Bologna	-
S&W	Sharers and Workers	-
SCVG	Syndicat des Coursiers à Vélo de la Gironde	-
SER	Sociaal-Economische Raad	Socio-Economic Council
SME		Small-Medium entreprise
SZW	Ministerie van Sociale Zaken en Werkgelegenheid	Ministry for Employment and Social Affairs
UGL	Unione Generale del Lavoro	General Union of Labour
UIL	Unione Italiana del Lavoro	Italian Union of Labour
UILTuCS	Unione italiana Lavoratori, Turismo, Commercio, Servizi	Italian Worker's Union of Tourism, Trade and Services
URL		Uniform Resource Locator
VNO-NCW	Verbond van Nederlandse Ondernemingen- Nederlands Christelijk Werkgeversverbond	Association of Dutch Entreprises – Netherlands Christian Employers Association
VPR	Voyageur, Représentant, et Placier	-
VTC	Vehicule de Transport avec Chauffeur	-
VVD	Volkspartij voor Vrijheid en Democratie	People's party for Freedom and Democracy
WAADI	Wet allocatie arbeidskrachten door intermediairs	Placement of Personnel by Intermediaries Act
DBA	Wet deregulering beoordeling arbeidsrelaties	Employment Relationships Deregulation Act'

WRR	Wetenschappelijke Raad voor het Regeringsbeleid	The Netherlands Scientific Council for Government Policy
WWW	-	World Wide Web
ZZP	Zelfstandige zonder personeel	Self-employed without employees

1. Introduction

Rarely a day went by during the elaboration of this work without a politician, an international organization or a newspaper article discussing the impact of digitalisation on work and on lives more in general. The fast-paced development of artificial intelligence, algorithmic management, big data, internet of things and digital platforms has ushered in heated debates on the relationship between technology and work in capitalist societies. As a result, centuries-old questions have re-emerged as to whether, how, and to what extent these technologies have the potential to actually revolutionize our societies, as well as to the attitude our societies should have towards them.

The development of aforementioned digital technologies has been accompanied by a halo of disruptiveness and inevitability. The digital-technological promise of disrupting the status quo has made decision makers start to plan and orient their action with the aim of shaping the coming digital society. The ‘digital future of work’ has become a key policy concern as a result. Committed to realize their preferred version of the future of work, a range of actors have animated the debate on what has been referred to as ‘the fourth industrial revolution’ (Schwab, 2016), ‘the second machine age’ (Brynjolfsson & McAfee, 2014) or ‘the rise of robots’ (Ford, 2015). Governments have tended to see digitalisation as the preferred way to improve their countries’ wealth and wellbeing. Employers’ organizations have pushed for increasingly digitalised economies as a way to boost productivity and smooth business operations. Trade unions have advanced scepticism as to the effect of digitalisation on working conditions and labour relations and seek to envisage adequate adaptive reactions. International organizations and think tanks have produced a vast amount of research on digitalisation spanning from implications for working conditions and taxation to consumer safety and competition. Public administrations reforms have aimed at digitalising public services. Manufacturing companies have seen the so-called ‘Industry 4.0’ as the preferred way forward to construe their prospective competitive advantage, while platform companies have proposed their business model as innovative and liberating as opposed to ‘heavy’ and constraining twentieth-century firms. Attention has been just as high in the media, where techno-optimistic views of the digital future flank sceptic to worried characterizations.

A specific facet of digitalisation, namely the emergence of digital platforms, has been heatedly debated in relation to its effects on work. Discussions about employment and social protection challenges associated to platforms such as Uber, Deliveroo, and Glovo have been particularly intense. The most controversial aspect has regarded the contract classification of individuals

working through these platforms, that is whether they should qualify as independent contractors or employees. Because social security systems are largely organized along occupational lines, this has notable implications in terms of employment and social protection. While the question of contract classification is all but new, its emergence in relation to platform work – that is a type of work strongly associated with the future of work - has given it new impetus.

Presenting themselves as service intermediaries, platforms have developed their business model relying on the self-employment of platform workers.¹ Nonetheless, the degree of control platforms exercise and consequent restricted autonomy of workers have led many to argue that independent platform work actually conceals an employment relationship. A wide array of actors ranging from international organizations, governments and political parties to social partners, platforms and platform worker autonomous organizations has fought over the contract classification of platform workers. This dissertation focuses on such a contestation.

From the early 2010s to the beginning of the pandemic – the period under scrutiny here – discussions were intense and responses numerous, coming via national, regional and local legislation as well as through different types of collective agreements. Regulatory solutions ranged from self-employment to employment protection to proposals to create an ad-hoc category for platform workers. What characterized these regulatory processes and responses was their frequently reversing and contingent nature both within and across countries. Because of the novelty of the phenomenon, no actor could take a single regulatory stance and stuck with it. While I was starting to empirically look at the politics of platform workers' contract classification, I could observe how different actors were occupied with two main tasks that concerned the understanding of i) employment and social protection challenges of platform work in the first place, ii) employment and social protection implications of various regulatory options. What was under discussion, in effect, were the rules establishing a privileged connection between dependent work and employment/social protection. On the one hand, those who argued that platform workers should qualify as employees stood up for maintaining such rules. On the other hand, those who contended that platform workers are freelancers noted how the latter should enjoy protection regardless of their contractual arrangement, which implies a change in the aforementioned in the privileged connection.

¹ 'Platform workers' is a general expression that can be confusing, given the heterogeneity of platform business models. In this work, I use such an expression to refer to workers whose contract classification is debated. Hence, 'platform workers' does not refer to all workers involved in platform work, but to a specific segment of them.

Despite considerable attention towards digitalisation, only few scholarly works have sought to understand the drivers of such regulatory processes and responses. Most notably, Thelen (2018) engaged with such a puzzle by scrutinizing the regulatory responses to Uber in different countries. In her work, she argued that regulatory responses to Uber depend on actor coalitions that take shape around institution-specific regulatory conundrums. While this study valuably illuminated the importance of actors in institutionalist studies, it was not able to elucidate the mechanisms of problematisation and decision-making driving the regulatory processes in question. Indeed, actors emerged as mere translators of ‘institutional orders’. Hence the active role of actors in the quest for regulatory options under highly uncertain conditions remained something of black box. This motivated me to reflect further and develop two research questions as a result:

1. How have national actors problematised and responded to the question of platform workers’ contract classification?
2. What were the drivers of such problematisation and responses?

To answer these questions, this dissertation investigates the politics of platform workers’ contract classification by concentrating on i) the (evolution of) actors’ positions, ii) the building of actor coalitions, iii) the content of regulatory measures in cases they were adopted. It takes into consideration four actor types, namely governments, social partners, platforms, and independent platform worker organisations. It focuses on two kinds of regulatory measures that tackle the question of contract classification: state legislation and collective agreements.

Four countries were selected for investigation, namely Denmark, France, Italy and Netherlands. These countries are mature political economies with an interest and exposure to platform work. According to previous research (Thelen, 2014) they can be associated to different ‘varieties of liberalisation’, which implies that they have liberalized their economies following different paths starting in the 1980s. On the one hand, Denmark and the Netherlands have taken an ‘embedded flexibilisation’ path, which entails “the introduction of new forms of flexibility within the context of a continued strong and encompassing framework that collectivizes risk” (Thelen, 2014, p. 14). On the other hand, France and Italy have embarked upon a ‘dualising’ route, which “involves continued strong coordination on the employer side but in the context of a distinct narrowing in the number of firms and workers covered under the resulting arrangements” (Thelen, 2014, p. 14). Because it regards the employment and social protection treatment of non-standard work, the

liberalisation profile is of particular importance to understand how a country is set to respond to the question of platform workers' contract classification. Preliminary empirical observations of regulatory debates in such countries, however, let emerge that actors were actually not behaving as expected according to their respective variety of liberalisation. Thus, such a four-country investigation turned out to be the best way to delve into what happens not only between 'dissimilar' cases – e.g. Denmark and Italy - and 'similar' countries – France and Italy – as well as across them.

This dissertation argues that platform work regulation is best understood by looking at learning processes through which actors actively shape institutions, which in this case are the rules linking the employment contract with employment and social protection. Indeed, the whole discussion on platform workers' contract classification revolves around the pros and cons of maintaining or changing such rules. Novelty-triggered uncertainty ushered in by the rise of platforms opened up opportunities for actors to shape such institutions through their active tending and problem-solving capacities. Moreover, I argue that aforementioned learning processes are anchored in different imaginaries of the future of work that serve as a compass for actors in the present. Because of the markedly future-oriented character of platform work, actors' expectations about the future turn out to be fundamental in guiding learning processes.

Theoretically, this work engages with the institutionalist scholarship and particularly addresses the long-standing conundrum of the relationship between institutions and agency. In so doing, it does not seek to solve the dilemma once for all; rather, it deliberately concentrates on how actors affect institutions under condition of radical uncertainty. To address such theoretical questions, it develops the concept of 'Imaginative Institutional Work'. The latter is built upon three pillars. First, to understand *how* actors affect institutions in practice, the concept of 'institutional work' is employed (Lawrence & Suddaby, 2006). Second, to account for the drivers of such an institutional work, a focus is placed on learning mechanisms through which actors seek to cope with uncertainty. Third, the concept of 'imagined futures' is used to grasp the cognitive boundaries of learning, which is not free-floating but indeed anchored in imaginaries of the future of work.

This thesis adopts a comparative qualitative case study approach that combines 'within-case' analysis with 'cross-case' comparison (Barlett & Vavrus, 2017; Kaarbo & Beasley, 1999). Within-case analysis is conducted through theory-building process tracing (Beach & Pedersen, 2013) and serves to reconstruct the regulatory processes that led – or did not lead – to regulation. Building

upon case studies, cross-case comparison compares imaginative institutional work across the selected countries with the aim to develop more generalizable conjectures on the regulation of platform work.

This dissertation relies on a qualitative methodology. An actor-centred qualitative approach is of crucial importance to understand the motivations and actions driving regulatory decisions. This work thus combines 68 semi-structured elite interviews with the aforementioned actors with secondary sources such as policy documents and quality newspaper articles. Data was analysed through MAXQDA software following a thematic analysis approach.

The remainder of this work is structured as follows. Chapter 2 reviews the literature on technological and institutional changes that occurred in Western capitalism since the late 1970s, and places the rise of platform work in such a context. Chapter 3 develops the theoretical framework on which this dissertation rests. Chapter 4 delineates the research design and methodology. Chapter 5, 6, 7 and 8 are country chapters. Country chapters are constructed in such a way as to answer the two research questions by applying the theoretical framework developed in chapter 3. Each country chapter comprises three parts or subchapters. The first part addresses the first research question and investigates the politics of platform workers' contract classification. It does so by reconstructing the process of problematisation, coalition building and delved into the content of adopted regulatory measures – statutory legislation and collective agreements. The second and third parts answer the second research question by analysing the politics of contract classification through the lenses of the theoretical framework developed in chapter 3. Chapter 9 compares the results from country chapters by looking at similarities and differences both within and across country cases. Chapter 10 discuss contributions and limitations of the dissertation as well as future research avenues it opens up.

2. Literature Review. Platforms and Platform Work: Definitions, Origins, and Employment and Social Protection Challenges

2.1 Introduction

From social relations to food-delivery, from big data to content moderation, from taxi riding to interior design: digital platforms have developed worldwide over the last fifteen years. Their fast-paced growth, coupled with their promise to become the business model of the future, has ignited vibrant discussions among policy makers, academics, journalists and beyond.

The scientific literature on platforms and platform work has taken off in recent years. This chapter reviews such a scholarship with the aim to i) illustrate the characteristics of the ‘platform ecosystem’ (van Dijck et al., 2018), ii) place platform work in larger developments of contemporary capitalism, iii) present the question of platform workers’ contract classification, i.e. whether such workers should qualify as independent contractors or employees. A careful consideration of platforms’ characteristics and connection with broader capitalist trends is a necessary step to understand the roots of the contestation over the contract classification, which is the empirical focus of this dissertation.

The remainder of the chapter is organized as follows. Section 2.2 defines digital platforms and platform work and illustrates their characteristics as emerging from existing literature. With a view to provide a quantified snapshot of platform work in Europe, section 2.3 presents the results of three comprehensive surveys that sought to estimate its size. Section 2.4 traces back the origins of the platform business model, while section 2.5 places its development in far-reaching technological and politico-economic transformations occurred in contemporary capitalism over the last four decades. Section 2.6 focuses on the link between contract classification and protection and dwells on the challenges it brings to employment and social protection – of platform workers but also more in general. Section 2.7 concludes by stressing the reasons for which the state of the art is not well-suited to account for the drivers of platform work regulation. It thereby paves the way for Chapter 3, which will develop the theoretical framework adopted in this work.

2.2 Defining Digital Platforms and Platform Work

Climbing up the ‘ladder of abstraction’ (Sartori, 1970), platforms can be defined as “digital infrastructures that enable two or more groups to interact” (Srnicsek, 2017, p. 25). Such infrastructures share a bundle of features. First, their online architecture allows to reduce transaction costs dramatically thereby making interactions among different actors happen at very limited expenses (Casilli, 2020). Platforms’ ability to connect a range of actors is what led economists to define them as ‘multisided’ markets’, i.e. economic configurations involving a plurality of different actors (Armstrong, 2006; Parker & van Alstyne, 2005; Rochet & Tirole, 2003). Take YouTube as an instance, where watchers, video-makers, and advertisers are involved with different economic arrangements (Yan Song & Wildman, 2013).

To make such coordination mechanisms work, platforms systematically access users’ data (Casilli, 2020). Described by Srnicsek (2017) as the raw material to be extracted by users’ activities, data constitutes the most profitable source of competitive advantage in digital capitalism: it is by accumulating and selling data that platforms can expand exponentially and generate network effects. The latter imply that the value of a platform grows as the number of users rises thereby favouring (quasi)monopolistic postures: when a player assumes a dominant position, then it is easier for it to consolidate and strengthen its advantage than for other companies to gain traction.

In terms of firm structure and business model, platforms’ reliance on flexible and atypical working arrangements are similar to the so-called Network of Contracts (NOC) firms that expanded during the 1990s, of which Nike is a well-known example (Rahman & Thelen, 2019). According to Rahman and Thelen (2019), however, platforms present three distinctive characteristics that differentiate them from NOC firms. First, they have benefitted from a comparatively more ‘patient’ form of capital. While investors in the 1990s mostly had short-term profit horizons, today’s investors in the gig economy are interested in the long-run development of platforms. Second, different attitudes of investment capital go hand in hand with diverging corporate goals. Hyper-outsourcing and labour shedding that allowed a maximization of share value were central in NOC strategies. In contrast, the ultimate goal for platforms is market dominance through network effects, which inevitably calls for more time and hence more patient capital. A third point pertains to the role of consumers in business strategy. Consumers were of course already important in, say, Nike’s strategy in the 1990s, especially as they could benefit from low prices resulting from cuts in labour costs. Platforms, however, have developed a closer relationship with consumers thanks to the ‘immediacy’ of their app-based infrastructure. The alliance with consumers is also a political

strategy for platforms, which present themselves as easily reachable and transparent so as to gain consumers' loyalty (Culpepper & Thelen, 2020).

Beyond such shared characteristics, there exist specific traits characterizing different platform business models. Several criteria have been adopted to classify the panoply of existing platforms. Depending on their prominence in the construction of the 'platform society', van Dijck et al. (2018) distinguish between 'infrastructural' and 'sectoral' platforms. Infrastructural platforms constitute the backbone of the platform ecosystem as they offer the digital ground on which other platforms can be built. Taken together, the so-called Big Five, i.e. Alphabet-Google, Facebook, Amazon, Apple, and Microsoft amount to the bulk of Western world' digital infrastructural capacity. Relying on such infrastructures, sectoral platforms focus on one or more specific economic sectors (e.g. retail, transportation, food delivery). AirBnb, for instance, relies on Google Maps to provide users with information on accommodations, while Spotify utilizes Google Cloud and Netflix relies on Amazon Web Services. This especially reveals that markedly hierarchical nature of the platform ecosystem (van Dijck et al., 2018).

Digital Platforms	
Infrastructural	Sectoral
Backbone of the platform ecosystem;	Dependent on infrastructural platforms;
active in a variety of sectors.	active in specific economic sectors.

Table 1 Types of digital platforms (van Dijck et al., 2018)

Srnicek (2017) classified platforms based on goods and services provided (Table 2). In his analysis, 'advertising platforms' extract information from users, analyse it and then utilize it to sell ad spaces. 'Cloud platforms' own both hardware and software components of digital firms and rent them to other companies that need a digital infrastructure to store data. Amazon Web Services (AWS) is a case in point. 'Industrial platforms' seek to exploit digital technologies for manufacturing purposes; the aim is to foster Internet-enabled communication between various components of the production process, so as to make it more independent from human labour and enhance effectiveness. 'Product platforms' transform a traditional good into a service and make profit by

selling subscriptions on it. Think of Spotify that derives its revenues from music listeners, advertisers as well as record labels. Lastly, ‘lean platforms’ conceive of themselves as the thinnest possible virtual locus where a market transaction can happen; even though they are responsible for real-world economic exchanges, they own hardly any tangible assets and employ a very limited number of workers. A typical example is Uber, which does not possess any car and mostly counts on independent contractors. Hyper-outsourcing is the key strategy to lean platforms.

Platform type	Platform activity
Advertising platforms	Information extraction and sale
Cloud platforms	Digital infrastructure to store data
Industrial platforms	Digital technologies for manufacturing purposes
Product platforms	Subscription sellers on a traditional good transformed into a service
Lean platforms	Intermediaries of market transaction; hyper-outsourcing as main strategy

Table 2 Types of digital platforms (Srnicsek, 2017)

Schmidt’s taxonomy (2017) is insightful both in terms of platform types and platform work varieties. Schmidt (2017) distinguishes between cloud work platforms, which intermediate web-based activities, and gig work platforms, which intermediate location-based services (Table 3). Cloud-work platforms are turn grouped into three sub-categories. If a task is assigned to a number of individuals on the web, it is ‘freelance marketplace’. If a task is split into several microtasks given to different people paid for their single microtask, it is ‘microtasking crowdwork’. If a task is put online and simultaneously solved by multiple crowdworkers, but only one solution will be remunerated in the end: it is ‘contest- based crowdwork’. Gig work platforms are also divided into three subcategories depending on the level of personal involvement of and risks for the independent worker. Accommodation platforms entail low involvement and risks, transportation and delivery services present medium involvement and risks while household and personal activities come with high involvement and risks.

Digital Platforms	
Cloudwork (web-based)	Gig work (location-based)
Freelance marketplaces	Accommodation
Microtasking crowd work	Transportation and delivery services
Contest-based creative crowd work	Household services and personal services

Table 3 Platforms and platform work classification (Schmidt, 2017)

Similar to Schmidt (2017), Kalleberg and Dunn’s (2016) classification provides information on how platforms are built as well as on what kind of work they intermediate. By looking at two dimensions that are relevant to job quality in the gig economy, namely wage level and worker control, Kalleberg and Dunn (2016) identify four platform types (Table 4). Transportation platforms like Uber and Lyft and delivery/home task platforms such as Instacart and Taskrabbit.com are normally locally embedded. These platforms exert heavy control on how work is allocated as well as on wage rates. This kind of gig work mostly takes place in metropolises, which is why workers are usually able to earn higher than minimum wage. Online freelance platforms such as Upwork are typically used by high-skilled individuals who seek to top up their income. Workers have a relatively high control over their activities as they can negotiate their own rates, rate their employers and refuse tasks with no penalty. Also, the online nature of these gigs gives workers more control and flexibility over their activities. Given their high-skilled profiles, workers are normally paid relatively high wages. Yet pay on the platform is still less than what they get from their ‘usual’ job. A fourth category is crowdwork platforms, on which gig workers normally perform microtasks of a brief duration and relatively poorly paid. Workers, moreover, exert little control over their activities as they usually cannot set wage rates and clients can reject work outright.

	High worker control	Low worker control
High wages	Online freelance platforms	Transportation platforms; Delivery/Home task platforms
Low wages	-	Crowdwork platforms

Table 4 Platforms and platform work classification (Kalleberg & Dunn, 2016)

Another relevant work to understand platforms and platform work heterogeneity was realized by Eurofound (2018), which developed its classification adopting five indicators: skills level (low/medium/high), the way service is provided (online/offline), the scale of the tasks (micro tasks/larger projects), the selection process (decision taken by platform, client, or worker), the form of matching (offer/contest). The following ten types of platform work are identified, i.e. On-location client-determined routine work, On-location platform-determined routine work, On-location client-determined moderately skilled work, On-location worker-initiated moderately skilled work, Online moderately skilled click-work, On-location client-determined higher-skilled work, On-location platform-determined higher-skilled work, Online platform-determined higher-skilled work, Online client-determined specialist work, Online contestant specialist work. Table 5 details their characteristics.

Label	Service classification			Platform classification	
	Skills level	Format of service provision	Scale of tasks	Selector	Form of matching
On-location client-determined routine work	Low	On-location	Larger	Client	Offer
On-location platform-determined routine work	Low	On-location	Larger	Platform	Offer
On-location client-determined moderately skilled work	Low to medium	On-location	Larger	Client	Offer
On-location worker-initiated moderately skilled work	Low to medium	On-location	Larger	Worker	Offer
Online moderately skilled click-work	Low to medium	Online	Micro	Platform	Offer
On-location client-determined higher-skilled work	Medium	On-location	Larger	Client	Offer
On-location platform-determined higher-skilled work	Medium	On-location	Larger	Platform	Offer
Online platform-determined higher-skilled work	Medium	Online	Larger	Platform	Offer
Online client-determined specialist work	Medium to high	Online	Larger	Client	Offer
Online contestant specialist work	High	Online	Larger	Client	Contest

Table 5 Platforms and platform work classification (Eurofound, 2018)

Lastly, in his sociological inquiry on platform work in the digital age, Casilli (2020) refers to three main forms of platform work: while they all involve data generation, they differ in the way work is performed in practice (Table 6). ‘On-demand digital labour’, also frequently referred to as ‘gig work’, combines an app-based online dimension that makes data production possible with a physical activity that concretely realizes such data. On-demand labour normally relies on low-skilled individuals and is linked with geographically delimited spaces. Platforms like Uber and Deliveroo are cases in point. A second type of platform-mediated work is ‘micro-work’. The latter involves individual or firms posting task offers on platforms such as Amazon Mechanical Turk and Clickworker on the one hand, and a multitude of ‘crowdworkers’ responding to such offers on the other hand. Tasks of various nature are highly fragmented in the most cost effective manner. The logic of micro-work is usually that of human-based computation, that is the practice of delegating to humans tasks that machines cannot perform as efficiently. Differently from on-demand labour, microwork is detached from the physical dimension as it normally involves activities that can be realized online. This means that task requester and platforms can count on a globally dispersed workforce that presents highly diverse skills profile and remuneration levels. Such differences foster downward competition on prices while allowing platforms to expanding virtually limitless. ‘Online social network work’ is a third instance of digital labour. This kind of activity has to do with data generation and value extraction through social network like Facebook and Instagram. As well known, the usage of such platforms generates a certain amount of data that constitutes these platforms’ added value. What distinguishes online social network work is the fact that productive activities are rarely remunerated, but associated with spare time, creativity, and amusement (Fuchs, 2014). Other than amounting to profit opportunities for platforms, this completely sets aside any form of contestation.

Platform work type	Description
On-demand labour	App-based physical activity; Geographically limited
Microwork	Online activity based on task parcelization; Borderless
Online social work	Data generation and value extraction through social network; Borderless and mostly not remunerated

Table 6 Platform work classification (Casilli, 2020)

As hinted at above, such a bird-eye view on platforms and platform work was meant to present the characteristics of ‘the platform ecosystem’ (van Dijck et al., 2018). More recently, research has attempted to measure the size of platform work in Europe. In this regard, findings are still quite sensitive to data collection and methodological choices. However, a quick dive into evidence on platform work’s size in Europe provides a valuable quantified snapshot of the phenomenon at stake. The next subsection reports the main findings of three surveys that attempted to measure platform work in Europe.

2.3 How Large is Platform Work In Europe? Evidence from Three Surveys

The scope of the development of digital platforms and platform work has proven hard to measure thus far. Several studies have sought to estimate the size of platform work by adopting different techniques and often divergent definitions of platforms and platform work. While this has frequently led to diverging results, it has turned out to be helpful to quantify the phenomenon at stake. With a view to providing knowledge on the estimated size of platform work in Europe, this subsection reports the results of the three most extensive attempts to quantify platform work in Europe, i.e. COLLEEM I (Pesole et al., 2018)², COLLEEM II (Urzi Brancati et al., 2020)³, and ETUI Platform Work Survey (Piasna et al., 2022). The three surveys adopted a broad definition of platform work that includes both services performed digitally - e.g. Amazon Mechanical Turk - and ‘offline’ platform work.

In general terms, Pesole and colleagues (2018) calculated that about 10 % of the respondents in their sample of 14 European member states “would have ever used online platforms for the provision of some type of service involving some type of work. But less than 8% would do this kind of work with some frequency, and less than 6% would spend a significant amount of time on it (at least one fourth of the standard workweek of 40 hours) or earn a significant amount of income (at least 25% of the total) via this kind of work. As a main form of employment or main source of income, platform work remains extremely low in most countries, affecting around 2% of the adult

² The survey aims at being representative of all internet users between 16 and 74 years old in the 14 selected countries, i.e. Germany, Netherlands, Spain, Finland, Slovakia, Hungary, Sweden, United Kingdom, Croatia, France, Romania, Lithuania, Italy, Portugal. A commercially available list of internet users in the selected countries (CINT) was used as sampling frame. The final sample amounted to 32.409 individuals- around 2,300 per country.

³ The survey builds on COLLEEM I. It collected 38.022 responses from internet users aged between 16 and 74 years old in 16 EU Member States: Croatia, Czech Republic, Finland, France, Germany, Hungary, Ireland, Italy, Lithuania, the Netherlands, Portugal, Spain, Sweden, Slovakia, Romania, and the United Kingdom. In addition, COLLEEM 2018 includes a booster sample of 856 respondents who were identified as platform workers in 2017 and were re-invited to participate in the survey.

population on average.” (Pesole et al., 2018, p. 19) (Figure 1).

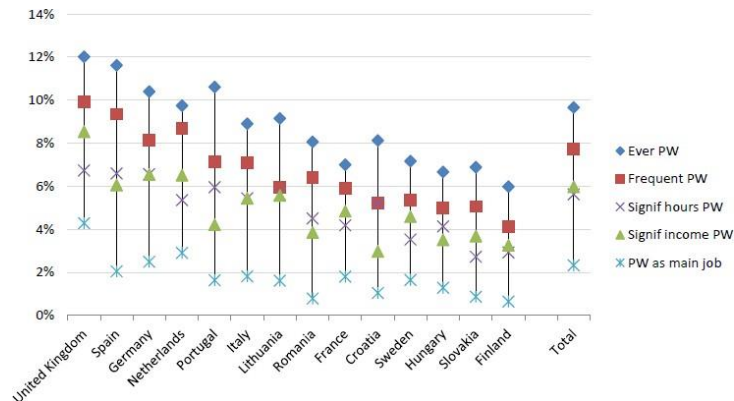


Figure 1 Estimates of platform work (PW) Pesole et al. (2018)

Within the general picture, Pesole and colleagues (2018) distinguished between online platform work and ‘on-location’ provision of services through digital platforms. They found that on-location platform work is generally less extensive than online platform work. Figure 2 shows country incidence of both types of platform work. Plus, it illustrates how on average half of the platform workers perform both online and offline platform work.

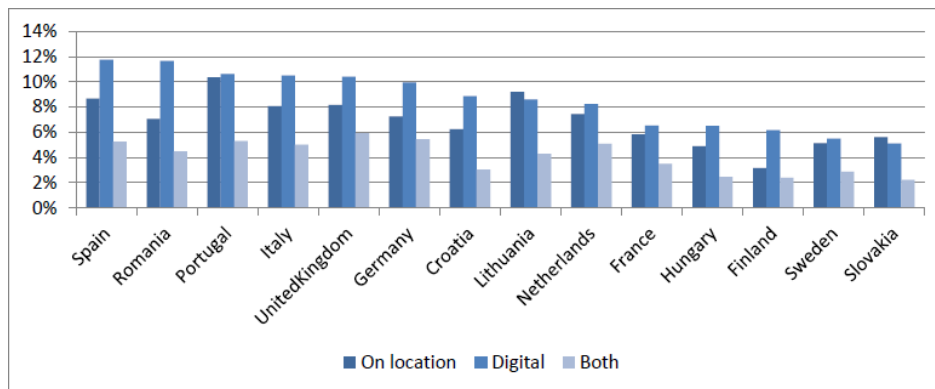


Figure 2 Types of platform services by country (Pesole et al., 2018)

Urzi brancati et al. (2020) built on Pesole and colleagues’ work and tackled some of its measurement flaws. In general terms, Urzi Brancati and colleagues’ work (2020) found that “the percentage of platform workers in all categories tend to increase slightly in most countries, except for the narrowest category of main platform workers which marginally but consistently declines, with very few exceptions. For the total COLLEEM sample, sporadic platform workers go from 1.9% to

2.4%; marginal platform workers go from 1.6% to 3.1%; secondary platform workers go from% to 4.1%; and finally, main platform workers go from 2.3% to 1.4% (Urzi Brancati et al., 2020, p. 16). Urzi Brancati and colleagues (2020) distinguished between online and on-location platform work as well. Compared to Pesole and colleagues (2018) they note how the number of workers involved in on-location platform work has increased remarkably from 2017 (COLLEEM I) to 2018 (COLLEEM II). As no explanation for this trend is provided, it may well be hypothesized that this difference stems from methodological differences in conducting the survey. In Urzi Brancati et al. (2020), we also find interesting data about the geography on on-location platform work. Figure 3 shows how on-location platform workers are concentrated in big cities, whereas online platform work is more dispersed.

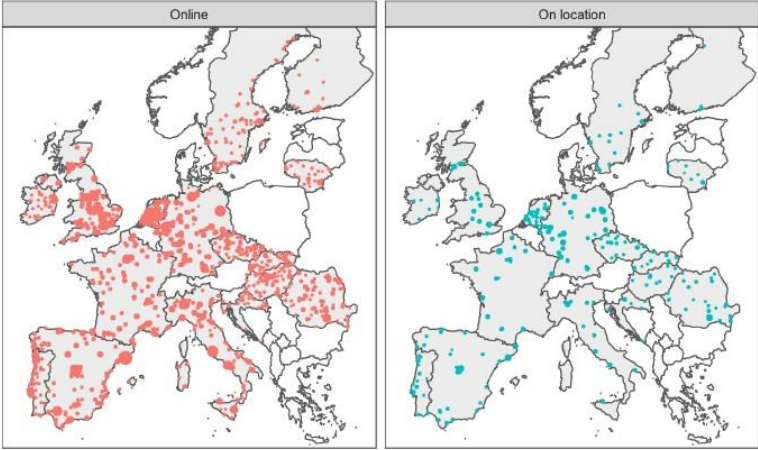


Figure 3 Online and offline platform work distribution (Urzi Brancati et al., 2020)

In February 2022, the ETUI Internet and Platform Work Survey (IPWS) presented novel data on the diffusion of internet and platform work in 14 European countries⁴(Piasna et al., 2022). By addressing a representative sample of adults aged 18-65⁵, IPWS aims at providing evidence for the incidence of internet and platform work in Europe. IPWS assumed platform work to be a subset of internet work and defined it as an internet-enabled freelance task intermediated by a platform. According to ETUI IPWS, 4.3 %⁶ of working age population (12 million) performed platform work from March 2020 to March 2021. 1.1% of them (3 million) can be considered as ‘main

⁴ Data was collected during the second wave of IPWS. The first wave was conducted in 2018-2019 and involved five countries, namely Bulgaria, Hungary, Latvia, Poland, and Slovakia. The second wave was conducted in spring 2021 and involved 14 European countries, namely Austria, Bulgaria, Czech Republic, Estonia, France, Germany, Greece, Hungary, Ireland, Italy, Poland, Romania, Slovakia, and Spain.

⁵ Final results are based on 24.108 respondents from 14 European countries.

⁶ Average across 14 European countries. All working age population.

platform workers’, namely individuals that have worked at least 20 hours per week via platforms or have gained at least 50% of their income through platforms. The rest (3.2%) performs platform work not as the main activity. ETUI IPWS also offers an overview of tasks performed by platform workers and their frequency. Remote clickwork is found to be the most frequent type of platform work (almost 2% of respondents), followed by delivery, remote professional, on-location, transport, and ‘other’ platform work (Figure 4).

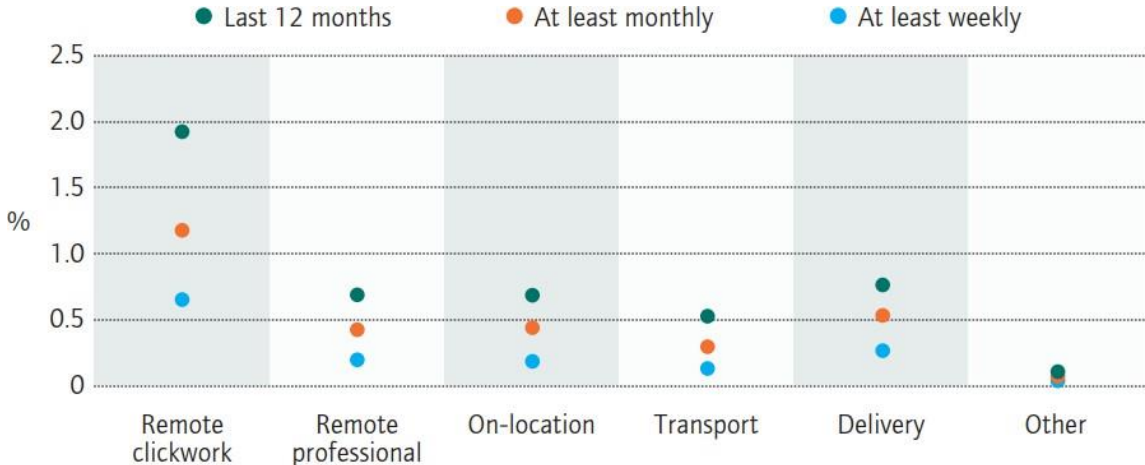


Figure 4 Platform work by task and frequency (ETUI, 2022)

One important takeaway from these surveys is that platform work may have a notable size, but only a small portion of the total workforce is economically dependent on it. Despite its relatively limited size, such a bundle of seemingly novel forms of work have ignited intense debates both in policy and academic circles, often becoming synonym for larger trends in contemporary capitalism such as work precariousness and widespread flexibility in working arrangements. Notwithstanding the magnitude of such discussions, very little research exists that places the development of platform work in longer-term capitalist trajectories. Starting from the premise that platform work did not develop in a vacuum, the following sections trace back the origins of the platform business model and place it in the context of technological and politico-economic transformations occurred in Western capitalism over the last four decades. Not only is this crucial to better understand the origins of platform work, but also, and most importantly, to have deeper understanding of the empirical focus of this dissertation, that is the contestation around the contract classification of platform workers.

2.4 From Liberty to Disenchantment: From the ‘Sharing Movement’ to the ‘Platform Economy’

The initial steps of platforms’ developments can be associated with the growth of the open source movement in the early 2000s and especially with the success of peer-produced content platforms like Wikipedia (Benkler, 2006; DiBona et al., 1999). Stressing how new digital technologies could empower individuals and help overcome once for all the Fordist model of capitalism, such platforms propounded a productive model in which horizontality replaces hierarchy, flexibility supersedes rigidity, and execution gives way to creativity and autonomy. In this vein, Benkler (2004) maintained that sharing and exchanging would soon become central in capitalist economies. Core to his argument was the fact that technological advancements in computing and software had “allowed various provisioning problems to be structured in forms amenable to decentralized production based on social relations, rather than through markets or hierarchies” (Benkler, 2004, p. 278). Driven by the intention of overcoming the twentieth century socioeconomic model, the idea of sharing - instead of owning – thus gained widespread popularity as its proponents portrayed a new way of running the economic system in the future: ‘the sharing economy’ (Botsman & Rogers, 2010; Stephany, 2015; Sundararajan, 2016).

Boosted by the 2007 financial crisis, which revealed the shortcomings of existing capitalist arrangements, the sharing movement grew bigger in the early 2010s. In their book, Botsman and Rogers (2010) embraced the ‘rise of collaborative consumption’ based on elements such as community logic, shared access and belief in the commons as a way of getting rid of environmental unfriendly consumerism that characterized post-war decades. Similar points were raised in ‘The Mesh’ by entrepreneur Lisa Gansky (2010), which turned out to be an influential book in the debate on the sharing economy. Building on her experience as a digital entrepreneur and investor, Gansky (2010) developed the idea that the future of capitalism laid no longer in firms creating a good or service, sell it and make profit out of it. Rather, what she called ‘Mesh businesses’ were soon to dominate the market. She identified four defining features of such firms. First, they offer goods and/or services that can be shared within a community. Second, they employ advanced web and mobile data networks to collect information on goods and their usage, customers, and products. Third, they focus on shareable physical goods that make local delivery relevant. Fourth, they make an extensive use of social networks services to communicate their offers and news. The reference to mesh has a metaphorical significance. ‘A Mesh’, Gansky (2010) went, “describes a type of network that allows any node to link in any direction with any other nodes in the system. Every part is connected to every other part, and they move in tandem”. Mesh businesses form such a

network that connects them to one another and to the rest of the world. This gives rise to an entirely new relationship system that deeply affects economic production.

According to Sundararajan (2016), this new phase corresponded to the emergence of ‘crowd-based capitalism’, which is no longer in the exclusive hands of traditional corporations but managed and constantly re-created by a crowd of digital entrepreneurs. In May 2014, some of these digital entrepreneurs met in San Francisco for the first ever conference devoted to the sharing economy. The conference, co-organized by PEERS and SOCAP, was entitled “SHARE” and meant to be a global catalyser for the sharing economy.⁷ PEERS Co-founder Natalie Foster opened the conference by stressing how the sharing revolution was not only much needed, but also already well under way and welcomed by a growing number of people. So she went: “people are turning to one another to build the sort of economy that we want to see...we are sharing our homes, our cars, our skills, our time, and our money”. Conference discussions centred around how to construe “a fairer, lower-carbon, more transparent, participatory and socially connected economy” (Frenken & Schor, 2017, p. 121). Digital platforms, thanks to their connectivity capacity, were at the centre of such discourses. Digitally-enabled sharing was expected to expand human sharing capabilities by making it possible to share among people who do not know each other (Belk, 2009; Frenken & Schor, 2017) - what sociologist Juliet Schor (2014) termed ‘stranger sharing’.

However, initial optimism around the idea of a sharing economy grown in the first decade of the twenty-first century began to fade as it became apparent that initial promises were at least partly not kept. At annual Ouishare conference in 2016, Peter De Grave - leading figure of the sharing economy in Europe – glaringly stated the collaborative economy was over as its developments had betrayed founding principles. Scepticism grew bigger among academics as well. As the sharing economy was mounting in size, an increasing number of scholars underlined how the ‘sharing’ label in fact concealed centuries-old elements of capitalist exploitation coupled with new data-driven forms of market domination and value extraction. This led to a certain disenchantment with the initial idea of sharing economy, which has now largely been set aside in favour of the more neutral ‘platform economy’ or the more critical ‘gig economy’.

⁷ <https://www.shareable.net/peers-the-share-conference-and-the-state-of-the-sharing-economy/>

2.5 Placing Platform Work in Broader Capitalist Developments

The growth of the ‘platform economy’ occurred in the context of larger, far-reaching transformations in Western capitalism. Such changes regarded multiple spheres of the economy and society and had numerous causes and implications. For analytical purposes, I divide such changes into two categories, namely technological and politico-economic. The former concerns the process that led to the invention and ‘massification’ of the Internet, while the latter regards the advent of neoliberalisation and the associated rise in standard work. Taken together, these two developments constitute the ground in which the platform business model came to light. Therefore, they are of critical importance to understand platform work and the contestation over the contract classification of platform workers. The next two sections concentrate on such trends in turn.

Creating Interconnectedness: The Invention and Massification of the Internet

Starting in the aftermath of the Second World War, ground-breaking technological developments in micro-electronics, computers and telecommunications – mostly happened in the US - led to what Forester (1985) termed the ‘information technology revolution’ (ITR). The invention of the transistor in 1947 and the integrated circuit in 1957 proved fundamental to the conception of the first microprocessor (‘Intel 4004’) in 1971. The latter was advertised as “a microprogrammable computer on a chip” that drastically increased the possibility of installing on-device information processing capacity (Faggin et al., 1996).

While transistors and integrated circuit were central inventions for the nascent computer industry in the first-half of the twentieth century, micro-processors, thanks to their capacity of putting a computer on a chip, paved the way for the global diffusion of micro-computers (Mazor, 1995). In 1975, engineer Ed Roberts created ‘Altair’, one of the first computers ever built around a microprocessor. Altair turned out to be source of inspiration for Steve Wozniak and Steve Jobs, who founded Apple Computer in 1976 (F. Rose, 1989). Apple Computer launched its ‘Apple I’ in 1976 and ‘Apple II’ in 1977, which turn out be the first two commercially successful microcomputers.

The growth of computer industry was also fuelled by innovations in computer networking technologies, among which the invention of electronic switches and routers and diffusion of fiber optics and laser transmission. By the mid-1980s, computers ceased to function in isolation and

began to work in an interconnected fashion. Such an interconnectedness “decisively shifted the computer age in the 1990s from centralized data storage and processing to networked, interactive computer power-sharing” (Castells, 2010, p. 43).

The convergence of technological developments in micro-electronics, computers and telecommunications was at the basis of the creation of arguably the principal means of communication emerged from the information technology revolution, i.e. the Internet. As previous research has shown (Abbate, 1999; Briggs & Burke, 2009; Naughton, 1999; Ryan, 2010), the Internet sprouted from a long and uneven process that started in the United States and United Kingdom in the aftermath of the Second World War. However, what is usually considered as the predecessor of the Internet, namely ARPANET, was launched by the US Defense Department’s Advanced Research Projects Agency (ARPA) on September 1, 1969. ARPANET aimed at stimulating research in computer science and military operations by putting a number of computer centres in contact via a resource-sharing network. The success of ARPANET catalysed the development of other networks working on a similar logic. The question of how to connect such networks soon took centre stage and eventually led to the creation of a ‘network of networks’: the Internet. In late 1977, ARPA successfully experimented its first three-way interconnection between ARPANET and other two networks (PRNET and SATNET): it was the first operational demonstration of the Internet.

By the early 1990s, the Internet had gained remarkable popularity. However, a group of computer scientists at the European Council for Nuclear Research (CERN) in Geneva was convinced that Internet potential was underexploited due to the scarcely user-friendly network applications. While personal computers were increasingly image rich, the Internet relied almost exclusively on text thereby resulting unattractive to novices. This was the main limitation Tim Berners-Lee, Robert Cailliau and colleagues at CERN tackled through the creation of the World Wide Web (WWW) in 1992.

The WWW was conceived as a hypertext system that would link multimedia files stored in computers around the world. The idea of ‘hypertext’ for organizing information from the hackers’ culture that developed in the US in the 1970s (Hafner & Markoff, 1991; Himannen, 2001). The system developed at CERN relied on three main building blocks: i) a shared format for hypertexts documents called ‘hypertext markup language’ (HTML) that served as a common language for computers to exchange information; ii) a communication protocol between web browsers and web

servers called ‘hypertext transfer protocol’ (HTTP); iii) a standard address formation, i.e. the ‘uniform resource locator’ (URL), for browsers and serves to find information on the Web. In summer 1991, CERN launched its Web software over the Internet: participation rapidly increased.

The WWW marked the transformation of the Internet into a mass medium of communication. Not only was such an unprecedentedly wide access to information and knowledge fundamental to the globalization of the economy, it also brought many to depict the Internet and WWW as liberating tools for individuals from the hierarchical and repetitive way of conceiving the economy typical of the Fordist society. This occurred in parallel to, and not independently from, deep politico-economic transformations that would mark the gradual overcoming of the Fordist organization of labour, though not necessarily resulting in more freedom for individuals. We now turn to describing such transformations.

The Making of Neoliberalism and the Rise of Standard Work

The diffusion of the Internet took place in a context of – and contributed to bring about – profound politico-economic transformations that marked the end of the post-war Keynesian compromise (Marglin & Schor, 1992) and the affirmation of what later came to be termed ‘neoliberalism’ (Harvey, 2005). The two oil shocks (1973, 1979) caused diffused economic malaise combined with enduring inflation (Bina, 1985; J. Campbell L., 2005). The shift from industrial to service-oriented economies occurred along with demographic changes that inaugurated a time of low fertility rates and augmented life expectancy (D. Bell, 1974; Livi Bacci, 2017). Family structures transformed accordingly and women’s participation into the labour market increased remarkably starting in the 80s (Crompton et al., 2007).

This happened in a context of mounting globalization of the economy, where the ever-larger capital mobility fuelled international competition and a massive, often speculative, financialization took place at the detriment of the ‘real’ economy’ (Baldwin, 2006; Cerny, 1995; Epstein, 2005). Huge transformations in business organizations and production processes occurred. The Fordist model that had sustained the post-war wage-led growth gradually eroded. In the 1980s-90s, the Network of Contracts (NOC) firm - defined by Rahman and Thelen (2019, p. 6) as “a complex set of interrelationships between lead brand firms and downstream counterparts supplying labour as well as upstream counterparts providing funds and investment”- gained traction spectacularly. In contrast with Fordist-type firms where top executives had solid authority and a large number of investors acted passively, the ‘shareholder revolution’ that fuelled the growth of NOC ushered in

a period where interests of the investors prevail over managers' leeway (Gillan & Starks, 2001; Heilbron et al., 2014).

In this context, labour market policies were widely used to liberalize flexible, short-term employment contracts and labour-shedding strategies coupled with an active support for individual entrepreneurship as the preferred way to grab market benefits in a market society (Hewison, 2015; Kalleberg, 2011). Some country examples are illustrative of such a trend.

At the turn of the century, Germany took a liberalizing direction (Streeck, 2009) - especially after the so-called Hartz reforms adopted from 2002 to 2005. Such measures shifted the German political economy towards an employment-fostering system based on the activation of unemployed and creation of jobs (also) through highly flexible and often precarious employment contracts (Jacobi & Kluve, 2006).

Starting in the mid-1990s, Italy has taken a similar road (Fana et al., 2016). The so-called 'Pacchetto Treu' adopted in 1997 (Law n. 196) was the first step in this direction. It introduced part-time employment, temporary contracts, apprenticeship schemes, and created private temporary work agencies tasked with matching available labour supply and demand (Fana et al., 2016). The Berlusconi II government further widened the scope of temporary contracts in 2001 and in 2003, the Legge Biagi (Law 30/2003) extended the use of part time work and self-leasing contracts. The severe consequences of the financial crisis brought structural reforms back on top of the agenda again. In 2012, the 'Legge Fornero' loosened the protection of the Article 18 (Law 300/1970), which was introduced in the 1970s to protect permanently-hired workers against invalid lay-offs. In 2015, the Renzi government introduced the so-called Jobs Act, which, among other things, further liberalised the use of fixed-term contracts along with non-contract forms like payment vouchers (Cirillo et al., 2017).

Labour market deregulation has taken place in Spain as well. The 1984 reform boosted atypical employment by easing the use of temporary contracts. This provoked dualising trends in Spanish labour market structure. Subsequent reforms sought to tackle dualisation by incentivizing the use of open-ended contracts over temporary ones (Muñoz-de-Bustillo & Esteve, 2017). This did not result, however, in less divergence between 'insiders' and 'outsiders'. Rather, the Spanish labour market was made more flexible in response to the crisis, especially by decentralizing collective bargaining and diminishing dismissal costs of open-end employees (Picot & Tassinari, 2017).

Since the 1990s, France has embarked upon a similar path. Scholars have described the end of ‘dirigisme’ as the shift from State-led economic policy-making to market mechanisms (Levy, 2008; V. Schmidt, 1997). In 2007, Sarkozy’s presidential manifesto was based on tackling welfare dependency and increasing incentives to work. In June 2008, the Law concerning the modernisation of the labour market (‘Loi portant sur la modernisation du marché du travail’) introduced significant flexibility in the French labour legislation. Under Hollande, two other major reforms, i.e. the Law on securing jobs (‘Loi portant sur la sécurisation de l’emploi’) in 2012 and the ‘El-Khomri’ act in 2016, went on in this direction (Vlandas, 2017).

With notable country differences (Thelen, 2014), labour market liberalisation took place across European countries. Because atypical work usually comes with reduced benefits, an increasing number of individuals found themselves inadequately sheltered from the vagaries of the market due to under employment and social protection. Especially in contexts in which liberalisation manifested as ‘dualisation’ (Emmenegger et al., 2012), this came with notable implications for the income replacement capacity of social security systems as well as for the capacity of social dialogue institutions of informing work regulation.

Thus, together with a bundle of other ‘New social risks’ (Armingeon & Bonoli, 2006; Taylor-Gooby, 2004), the growth of atypical work made the ‘recalibration’ of welfare states an alarming concern for policy-makers. In this regard, the scholarly debate first depicted welfare states as ‘immovable objects’ resistant the unfolding of liberalisation, then moved to consider ‘gradual-but-transformative’ changes in their architectures. Since the early 2000s, developments in social protection systems were often portrayed as the coming of the social investment state (Jenson & Saint-Martin, 2003; van Kersbergen & Hemerijck, 2012) whose goal is to ensure high-quality human capital development, relatively smooth life transitions, and protection in the form of minimum income schemes (Hemerijck, 2013) in order to prepare an adequately skilled and protected workforce for the knowledge economy. Nonetheless, this approach was criticized on several fronts (Hemerijck, 2017).

Among the various types of ‘non-standard work’, solo self-employment came to be increasingly promoted as a way to foster job creation in a context of high unemployment rates. Because solo self-employment often entails limited decisional and economic autonomy, its development contributed to blur the lines between employment and self-employment and increased the risk of false self-employment as a result. In this context, coverage imbalances between employment and

(solo) self-employment became increasingly problematic as the number of independent, economically vulnerable workers was on the rise. The next section focuses on the link between contract classification and protection, and expands on the problems it poses in a context of rising atypical self-employment.

2.6 The Enduring Link between Contract Classification and Protection: What is at Stake?

As anticipated, the introduction of non-standard forms of self-employment contributed to blur the lines between employment and self-employment and favoured the growth of ‘bogus’ self-employment. While the share of self-employment on total labour force remained more or less stable from 2002 to 2015 (Eurofound, 2017), and actually declined in self-employment intensive countries such as Italy (Boeri et al., 2020), the share of self-employed without employees increased relative to total self-employment in EU28. According to Eurofound (2017), self-employment without employees went from about 10% of the workforce to 11% from 2002 to 2015. Much of this growth was due to part-time self-employment without employees. In 2002, part-time self-employed with no employees represented 1.7% of the working age population, in 2015 this had increased to 2.4 % (Eurofound, 2017) (Figure 5).

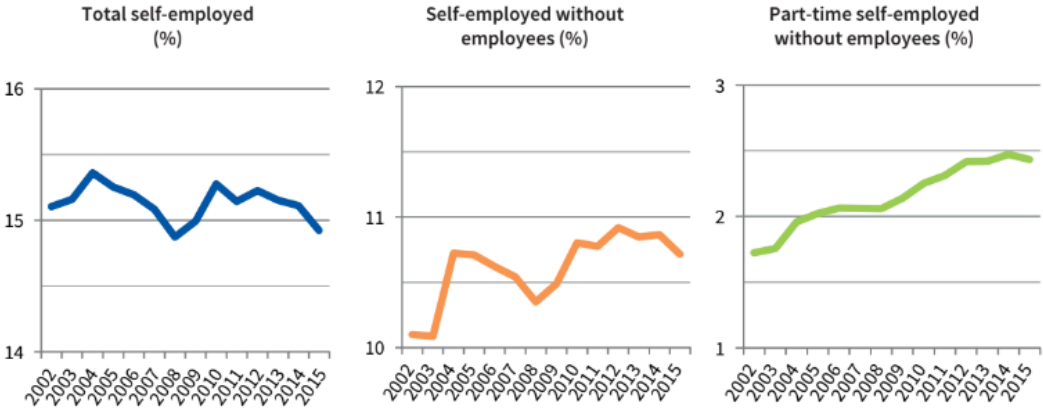


Figure 5 Share of self-employment from 2002 to 2015 (total, solo, part-time solo) (Eurofound, 2017)

Using OECD data, Boeri and colleagues (2020) found similar evidence pointing to a declining total self-employment rate and to an increasing share of solo self-employment relative to total self-employment. Table 7 provides data on self-employment and self-employment without employees in various EU countries from 2000 to 2017. It highlights countries selected for investigation in this dissertation, showing how they all experienced increase in self-employment without employees.

This is line with a more general trend also highlighted by Eurofound (2017): while the overall share of self-employment is relatively stable, its composition is changing towards ‘new’ forms of self-employment such as self-employment without employees.

	Self-employment as a share of total employment		Solo self-employment as a share of self-employment	
	2000	2017	2000	2017
Austria	10.56	10.57	53.03	56.67
Belgium	13.65	13.07	67.11	69.17
Czech Republic	14.36	16.14	70.89	81.29
Denmark	8.03	7.36	47.57	59.10
France	9.92	10.89	57.16	62.72
Germany	9.69	9.08	49.95	54.85
Greece	31.44	29.37	74.78	75.79
Hungary	14.40	9.66	65.00	53.31
Ireland	16.77	13.35	65.30	68.46
Italy	23.65	20.86	47.06	72.34
Latvia	10.20	11.83	59.71	60.86
Netherlands	10.04	15.51	68.23	74.53
Poland	21.83	17.38	82.27	77.45
Portugal	20.43	13.47	69.55	66.30
Slovenia	9.52	11.40	70.48	66.49
Spain	17.76	15.68	68.81	68.69
Sweden	9.87	8.60	60.39	59.77

Table 7 Self-employment and solo self-employment share on total employment (2000 and 2017) (Boeri et al., 2020)

Extant research on contract classification and protection in Europe shows that employees are generally covered more extensively than self-employed (Eurofound, 2017; Matsganis et al., 2016; Spasova & Wilkens, 2017), which is particularly problematic for economically dependent self-employed. Hence the relationship between contract classification and access to employment and social protection benefits has become increasingly politicized over the last decades. Protection discrepancies vary by entitlement type and country. To put it with Spasova and Wilkens (2017, p. 103), “in general the self-employed have the same statutory access to non-insurance (non-

contributory) based schemes as salaried employees. Most often, these are universal schemes, i.e. social assistance, long-term care and family benefit schemes, financed by general taxation and not dependent on employment status”. Coverage discrepancies in contributory schemes are especially marked for sickness, unemployment, occupational injuries and accident-at-work benefits (Eurofound, 2017; Matsganis et al., 2016; Spasova et al., 2017).

Depending on the degree of inclusion of self-employed in insurance-based schemes, Spasova et al. (2017) identified four country clusters (Table 8). In ‘Full to high access’ countries, self-employed must be insured under the principal social insurance mechanisms. In ‘High to medium access’ countries, self-employed can opt into one or more of the principal social insurance schemes. In ‘Low to no access’ countries, self-employed cannot opt into one or more of the principal social insurance schemes. In ‘Patchwork of medium to low access’ countries, self-employed can opt into some insurance schemes but are excluded from others.

Full to high access	High to medium access	Low to no access	Patchwork of medium to low access
HR, HU, IS, LU, RS, SI	AT, CZ, DK, ES, FI, PL, RO, SE	BE, CH, CY, EL, FR, IT, LI, LT, LV, MK, MT, NO, SK, TR	(BG, DE, EE, IE, NL, PT, UK)

Table 8 Access to social benefits for the self-employed (Spasova et al., 2017)

The rise in non-standard work and more recently of digital platforms served as a catalyser for the politicization of such coverage imbalances. Crucially, not all platforms described above had to with regulatory debates on contract classification of workers. In fact, the bulk of regulatory discussions and decisions concern platforms that intermediate offline work such as food-delivery or cleaning services. Recent research has shown how contract classification is of central importance for such workers to access employment and protection. The next section delves into this question, which is essential to understand why contestation over contract classification began in the first place.

2.7 Contract Classification Matters: Access to Employment and Social Protection in Platform Work

Despite difficulties in accessing data, empirical research on the access of platform workers to social protection benefits has grown over the last years. Large-scale data on the employment and social protection exists almost exclusively for online platform work. While the latter did not trigger as many regulatory responses as offline platform work, and it is therefore not my empirical focus, contract classification poses similar problems in both types of platform work. Thus, in the following I use data on online platforms as a proxy to show the extent to which contract classification is an issue in offline platform work.

In 2017, ILO conducted a survey on platform workers working conditions (Berg et al., 2018). 3500 respondents came from 75 countries around the world and worked via five English-speaking platforms, i.e. Amazon Mechanical Turk, CrowdFlower, Clickworker, Microworkers and Prolific. The survey found evidence for lack of social protection across platforms. First, social protection benefits were reported to be relatively low. In 2017, six out of ten respondents had a health insurance, and 35% of them had a retirement plan. Most of available protection was attached to respondents' main occupation in the offline economy, to job-related benefits of family members, and to state-financed universal measures. Second, social protection coverage tends to negatively correlate with dependence on platform work. That is: the more individuals rely on platform work as their main income source, the less protected they are. For instance, 16% of workers for whom platform work was the main occupation was covered by a retirement plan. Among those for whom platform work is a secondary income source, 44% could count on a pension scheme. Similar evidence was found in the case of health insurance coverage, which covered 66% of respondents using platforms as a secondary source and 52% of those working on platforms as first occupation. Figure 6 shows data on access to various social protection schemes by work intensity, that is how much time an individual works on the platform. Furthermore, platform workers are more likely to be covered by social assistance scheme, particularly food-related assistance. Coverage also varied by region. In Africa and Asia and the Pacific region only a very small proportion of workers contributed to retirement scheme (21% Africa; 32% Asia and the Pacific).

	Crowdwork is main income source	Crowdwork is secondary income source	Total
Health	52.1	65.6	61.3
Pension/ Retirement plan	15.6	44.2	35.1
Other social insurance	31.9	39.4	37.0
Unemployment	9.7	19.1	16.1
Worker's compensation / employment injury	15.5	23.1	20.6
Disability benefits	11.2	14.5	13.5
Others	4.2	3.1	3.5
Social assistance and other government programmes	33.4	27.0	29.0
Food-related	13.6	6.4	8.7
Housing-related	6.3	5.0	5.4
Child-related	8.4	8.8	8.7
Disability-related	7.7	5.3	6.1
General income support	6.6	6.1	6.3
Extended income tax credits	3.1	3.7	3.5
Other	3.1	1.9	2.3

Figure 6 Access to social security benefits by platform work intensity (Berg et al., 2018)

Following a similar approach, Forde et al. (2017) investigated platform workers' working conditions via an original survey in 2017. 1200 respondents across four online gig platforms (Amazon Mechanical Turk, Clickworker, Crowdfunder; Microworkers) were involved. Different schemes were taken into consideration such as healthcare, sickness, disability, old age, pregnancy, caring, unemployment, and housing. Depending on their funding, such schemes were assigned to four categories: workplace, private, state, none. The 'none' category means that the individual gets no social protection. Except for healthcare, the reported access to social protection benefits was low. About 70% of platform workers said they could not access pregnancy, caring, and housing (Figure 7).

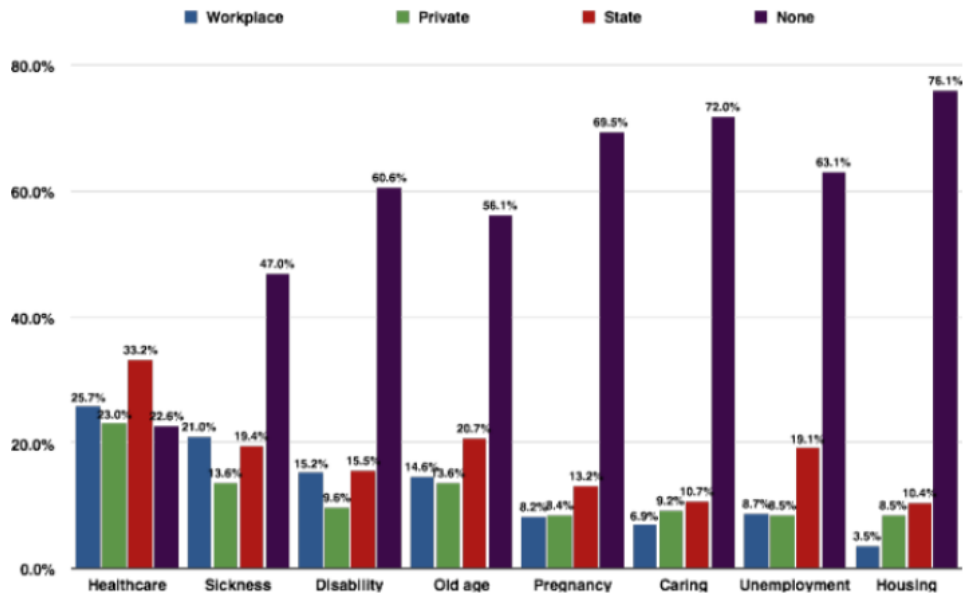


Figure 7 Access to social protection by benefit type (Forde et al., 2017)

Based on the degree of dependency on the platform and the amount of work performed, Forde and colleagues (2017) identified three clusters of workers (Figure 8). ‘Moderate beneficiaries’ (37.3% of the sample) earn a small amount of money on platforms and usually have a job in the ‘traditional economy’. Therefore, they face a low degree of dependence from platform work. ‘Random surfers’ (38.2 % of the sample) present an even lower degree of dependency on platforms, and higher probability of having experienced long-term unemployment in the past. ‘Platform-dependent workers’ (24.5%) rely on platform work as their main income source (more than 70%). They usually have no other occupations, and compared to the other two clusters experience more difficulty in making essential domestic payments. Findings show that ‘Platform-dependent workers’ were only slightly disadvantaged in terms of social protection access. This may be surprising as workers in the other two clusters normally have another job aside of platform. It suggests, nonetheless, that other jobs in the ‘traditional economy’ were just as insecure and precarious. Platform work, thus, is not an isolated form of precariousness, but thrives into a context where insecure working conditions are widespread. This shows the importance of placing it in broader trends of contemporary capitalism.

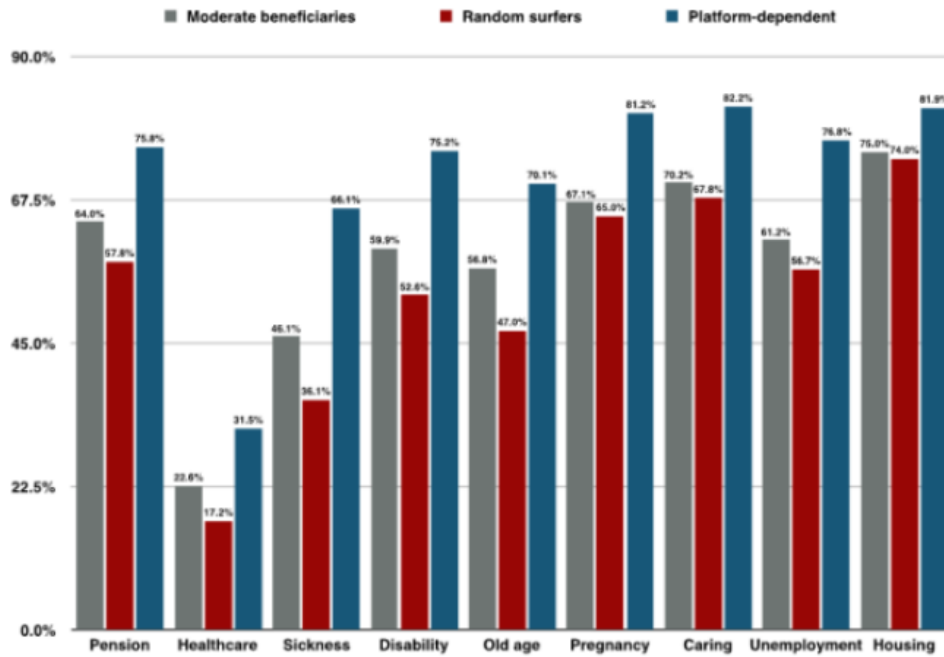


Figure 8 Access to social protection benefits by clusters of platform workers (Forde et al., 2017)

These studies well illustrate how the link between contract classification and protection is problematic in online platform work – as well as in offline platform work. Due to the greater visibility of the latter, a host of regulatory responses were adopted to tackle the question of contract classification. Several actors with diversified and often mutating positions animated the debate on how to provide platform workers with adequate employment and social protection. Actors involved, although to varying extents and with diverging modalities, have had to find ways to combine appreciation for - or at least non-refusal of - technology-driven employment opportunities with adequate employment and social protection. In an effort to underline their countries’ technological appeal and simultaneous attention to (platform) workers’ rights, governments have been key actors in framing the terms of the debate and drawing the lines of the responses. Unions have been central actors in the politics of platform work regulation. From their perspective, the emergence of a new category of (digital) service workers with limited protection amounts to a further challenge to their representational capacity, but also to an opportunity to develop new practices of unionism in the prospective digital society. With significant cross-country variations, unions have insisted either on classifying platform workers as employees or on granting them more coverage regardless of their contractual arrangement. Especially in contexts where traditional unionism is less effective in atypical employment representation, independent, social movements-like platform workers’ unions have been important actors in bringing to the fore the issue of bogus

self-employment in the platform economy. Platforms, of course, were not external observers in these debates. By contrast, they increasingly organized to push their priorities up in the political agenda. In a nutshell: various actor coalitions emerged, each seeking to transpose its vision of the future of work into regulation.

The political and policy saliency of such regulatory processes has opened up room for social science explanation. To date, however, close to no study set out to scrutinize the drivers of such processes. One notable attempt came from Thelen (2018), who applied an institutionalist lens to such a question. In the concluding section of this chapter, I briefly explain why an existing institutionalist explanation *a la* Thelen proves at least partly unsatisfactory when it comes to explaining platform regulation and suggest we need a novel way to approach it.

2.7 Conclusion: Uncertainty, Future-oriented Agency and the Future of Work

With the aim of taking stock of the current knowledge on platform work, this chapter has surveyed the relevant scholarship on the matter. It has thrown light on the origins of the platform business model, its characteristics – both transversal and platform-specific features – as well as its estimated size. In order to fill a notable gap in the literature, the chapter has then situated the development of platforms in broader capitalist developments, especially focussing on technological and politico-economic developments occurred over the last four decades. Finally, it has elaborated on the link between contract classification and protection and dwelled on the reasons why it is important in platform work – and beyond.

The question of the contract classification of platform workers has triggered a host of regulatory responses. Despite the flourishing literature on platform work, there is currently very limited work that tries to understand their drivers. As anticipated, one of the few attempts to understand what explains platform regulation was made by Thelen (2018). In her work, Thelen (2018) argued that challenges stemming from platforms gave rise to different institution-specific regulatory ‘flashpoints’ that led to the formation of institution-specific actor coalitions which were in turn responsible for various regulatory responses. Thus, regulatory responses depend on the particular institutional setting of a country.

While Thelen (2018) acknowledges the importance of actors in institutional change, what emerges from her work is that actors matter insofar they are translators of institutional dictates. This

overlooks the capacity of actors to actively interpret, re-interpret and leave their own mark on institutions in particularly uncertain contexts. Previous literature has indeed underlined how room for agency increases especially when uncertainty ramps up (Culpepper et al., 2008; Hemerijck, 2013). When platforms started to emerge, governments, social partners as well as platform workers' independent unions found themselves in challenging times: on the one hand, they possessed very scant knowledge about the growing phenomenon; on the other hand, they were called to take swift measures to somewhat control it.

In such a scenario, actors initiated – more or less intentionally - a process of ‘collective puzzlement’ (Hecló, 1974) in which novelty triggered uncertainty, which in turn fostered contestation and politicization. And so on. In other words, the great deal of uncertainty surrounding platforms and their regulation opened up room for actors to shape institutions. By overlooking uncertainty and actors' creativity, Thelen's (2018) work neglects the cognitive capacity of actors to learn from mistakes and develop innovative solutions that ultimately may affect institutions. The microfoundations of regulatory processes, therefore, remain something of a black box. The approach I develop in the next chapter opens up such a black box by focussing on actors' institutional work and its learning foundations. Not only does this throw light on the various ways in which actors mould institutions, it also enhances our understanding of the (learning) drivers of such actions.

Actors are of course not simply free to learn without constraints. In her approach, Thelen (2018) solely focuses on how the past influences present regulatory discussions and decisions. While a rich literature in the social sciences has proven the validity of such a theoretical angle, a past-oriented approach rules out an important factor, that is how actors' orientation towards the future affects regulation. A growing sociological literature, however, has stressed how actors use projections of the future in order to reduce radical uncertainty in the present. This is what Emirbayer and Mische (1998) define ‘future- oriented’ agency, which describes the ability of actors to shape the present through imagination. Because the politics of platform workers' contract classification is part of the larger debate on the ‘future of work’, a focus on how actors use future imaginaries to interpret and re-interpret institutions is needed to explain regulatory processes responses we are interested in. Thus, in my theoretical framework, learning is anchored in different ideas of the future of work - what Beckert (2016) calls ‘imagined futures’ - that actors use as a compass to orient their action.

Building upon these considerations, the next chapter develops an ‘Imaginative Institutional Work’ theoretical approach to investigate the microfoundations of institutional action behind regulatory processes of platform work regulation

3. Theoretical Framework. An Imaginative Institutional Work Angle

3.1 Introduction

The discussion on the definitions, functions, and implications of institutions populating the socio-political world is one of the richest and longest standing in political science and sociological literature. A fundamental puzzle facing institutionalist scholars pertains to the relationship between institutions (*structure*) and actors (*agency*). The central question has to do with whether and to what extent structure, which carries certain sets of constraints, determines individual action or the latter, by contrast, is capable of affecting institutions through its purposive and/or unintentional action.

This theoretical framework has its roots in and engages with such theoretical discussions. It does not (aim to) provide a definitive answer to the diatribe around institutions and agency. Rather, it sets out to elaborate on how actors shape institutions. This is not to neglect or ignore the independent power of institutions, but to throw light on the various ways in which actors actively shape them. The assumption underpinning such a goal is that working on either-institutions-or-agency explanations is no longer theoretically fruitful. What is instead more useful is to specify how and under what conditions agency has a particularly impacting effect.

Chapter 2 noted how current accounts of the process of platform work regulation have two main shortcomings. First, existing research such as Thelen (2018) does not recognize the fundamental role of uncertainty in driving actors' action. Hence, it fails to account for how actors actively interpret and re-interpret institutions: what actors actually do to affect institutions and why remains something of a black box. Second, by insisting on how in-place institutions shape present outcomes, an approach *à la* Thelen does not acknowledge the importance of actors' projections of the future in affecting regulation. In debates on the 'future of work', actors follow the assumption that today's action lays the groundwork for tomorrow's society. Because they aim to have an impact on how the world will be, they will act in the present depending on how they would like the world to be in the future. Hence the importance of considering the future-oriented dimension of agency as outlined in Emirbayer and Mishce (1998).

The present chapter seeks to make up for these flaws by construing a theoretical framework that recognizes the centrality of uncertainty faced by actors, their capacity to actively shape institutions and their future-oriented disposition. This theoretical framework, which I term ‘Imaginative Institutional Work’, posits that under conditions of uncertainty, creative and reflexive actors shape institutions through institutional work. The latter is driven by learning mechanisms, which allow actors to *cope with* the freezing effect of uncertainty. Such mechanisms are not free-floating but anchored in different projections of the future - ‘imagined futures’ (Beckert, 2016) - that help *reduce* uncertainty.

The remainder of the chapter develops such an approach and is organized as follows. The next section focuses on the question of ‘injecting’ agency into institutionalist accounts. It proposes to consider ‘uncertainty’ as a key element of the microfoundations of institutional action. Section 3.3 introduces the concept of ‘institutional work’ as a tool to account for how actors affect institutions. Section 3.4 concentrates on the drivers of institutional work by elaborating on its learning foundations. Section 3.5 expounds on the future-oriented dimension of agency by focussing on the importance of projections of the future (‘imagined futures’) to *reduce* uncertainty.

3.2 Injecting Agency in Institutional Accounts: Uncertainty as the Missing Piece

We have seen how the rise of platforms caused widespread uncertainty, which in turn opened up room for agency. To understand platform regulation, then, we need to develop an approach that focuses on how agency actively shapes institutions under conditions of uncertainty. Over the last twenty years, the discussion on how to inject agency into institutional explanations has been intense among institutionalist scholars (Farrell, 2018; Hall & Thelen, 2009; Steinmo et al., 1992).

Stimulated by the structuralist character of the so-called three ‘new institutionalisms’ (Hall & Taylor, 1996), a landmark contribution to go ‘Beyond Continuity’ came from Streeck and Thelen (2005). These two authors identified a number of mechanisms of incremental institutional transformation that would serve as analytical tools to account for the importance of agency in affecting institution (see also Mahoney & Thelen, 2010). In parallel, scholars advanced arguments that zero in on ideational and discursive features of agency as decisive factors to explain institutional change (S. Bell, 2012; Blyth, 2003; Culpepper, 2008; Hacker, 1997; V. Schmidt, 2008). Research in organizational sociology has investigated dynamics of institutional change as well. Building on work by Eisenstadt (1980), Di Maggio (1988, p. 14) introduced the concept of institutional entrepreneurship to characterize activities of “organized actors with sufficient

resources (institutional entrepreneurs)” who see in institutions “an opportunity to realize interests that they value highly”. Among the strategies institutional entrepreneurs adopt to bring about the desired institutional change there is coalition building (Boxenbaum & Battilana, 2005; Fligstein, 1997). Historical institutionalists have increasingly turned to the importance of social coalitions too (Hall, 2016; Thelen, 2009). In these accounts, coalitions are mostly conceived of as stabilizers, that is the room for agency to deviate from established patterns is very limited. Furthermore, mechanisms through which actor coalitions can modify existing arrangements are not elaborated. Actors, in other words, matter insofar as they act as translators of ‘institutional orders’.

While departing from previous structuralist orientations, these studies have failed to provide an account of the processes through which actors actively shape, that is maintain, create or disrupt, institutions. To put it with Emmenegger (2021, p. 622), “agency, understood as the motivation and the creativity that drive actors to break away from structural constraints, is still conspicuously absent from these accounts”.

To understand such a motivation and creativity, we have to introduce uncertainty as a foundational element of our understanding of institutional action. With some notable exceptions (Beckert, 1996; Blyth, 2002), institutionalist scholarship mentioned above has largely neglected the causal role of uncertainty permeating the socio-political world. The assumption of rationality and fixed material interests and the focus on self-enforcing path-dependent dynamics have left very limited room for not pre-determined outcomes. Take the landmark contribution by Streeck and Thelen (2005) as an example. By pinpointing mechanisms of ‘gradual but transformative’ institutional change, the two scholars importantly broke with a punctuated equilibrium understanding of institutional dynamics (Hacker et al., 2015; Schickler, 2001; Thelen, 2002). This entailed a challenge to the conception of material interests as given in favour of a more dynamic understanding of their formation. However, as Hemerijck (2013: 97) aptly put it, “although they do not see material interests as stable per se, Streeck and Thelen largely fall back on a materialist conception of distributive interests [...]. Like power resource theorists before them, they do not allow for the institutional ambiguities they underscore to help (re)shape the cognitive understandings and normative orientations of relevant policymakers.” In other words, actors’ creativity and reflexivity, which are two fundamental attributes to cope with uncertainty, remain largely undertheorized. Therefore, the driving role of uncertainty is substantially neglected.

The present chapter underlines how a thorough theoretical consideration of uncertainty is a pre-condition for a more refined understanding of institutional action. Following Blyth (2002, p. 9),

uncertainty is here understood as entailing “situations regarded by contemporary agents as unique events where the agents are unsure to what their interests actually are, let alone how to realize them”. This conception of uncertainty – named ‘Knightian uncertainty’ after Knight (1921) - differs from an understanding of ‘uncertainty as complexity’ as posited by theorists like North (North, 1990) and Simon (2000). ‘Uncertainty as complexity’ theories describe uncertainty as risk situations in which agents know their interests but do not know how to realize them. Under Knightian conditions, however, uncertainty is qualitatively different from risk. To put it with Blyth (2002, p. 32), “Because the situation is “in a high degree unique” agents can have no conception as to what possible outcomes are likely, and hence what their interests in such a situation in fact are”. This entails that interests are not necessarily given; by contrast, they undergo repeated, context-specific (re)formation phases in which actors have the room to leave their mark on institutions in a non-predetermined fashion. ‘Knightian uncertainty’, thus, opens up room for creative agency.

Only by assuming that actors involved in the process of platform regulation moved under knightianly uncertain conditions is it possible to account for their creativity and reflexivity in the interpretation and re-interpretation of institutions. After having introduced uncertainty, we now turn to the question of *how* (uncertain) actors affect institutions in practice. To tackle this question, the next section introduces the concept of ‘institutional work’ as developed by Lawrence and Suddaby (2006).

3.3 How Do (Uncertain) Actors Shape Institutions? An Institutional Work Perspective

A useful concept to address the question of how actors shape institutions is ‘institutional work’ (Lawrence & Suddaby, 2006). According to Lawrence and Suddaby (2006, p. 215), institutional work is “the purposive action of individuals and organizations aimed at creating, maintaining, and disrupting institutions”. More recently, however, Lawrence and colleagues (2009) refined the definition of institutional work by stressing how the latter does not necessarily follow from purposive action but can also happen unintentionally and lead to unexpected consequences. Actors performing institutional work are conceived of skilled and reflexive individuals or organizations that “creatively navigate within their organizational fields” (Lawrence & Suddaby, 2006, p. 219). While ‘institutional work’ does not explicitly elaborate on ‘Knightian uncertainty’, its understanding of actors as creative and reflexive turns out to be well compatible with such a concept. Indeed, actors need creativity and reflexivity to navigate ‘Knightian uncertainty’ wrought by the emergence

of novel social phenomena. Hence this this theoretical framework assumes actors performing institutional work to act under Knightian uncertainty conditions.

An institutional work perspective builds upon the tradition of sociology of practice developed since the 1970s (Bourdieu, 1977; Giddens, 1984). In this vein, practices are conceptualized as “embodied, materially mediated arrays of human activity centrally organized around a shared practical understanding” (Schatzki et al., 2001, p. 2). “Thus, studies of practice focus on the situated actions of individuals and groups as they cope with and attempt to respond to the demands of their everyday life” (Lawrence & Suddaby, 2006, p. 218). Adopting a practice perspective to institutions means to investigate *inside* institutional processes “the work of actors as they attempt to shape those processes, as they work to create, maintain and disrupt institutions” (Lawrence & Suddaby, 2006, p. 219). As Lawrence and Suddaby (2006:219) note, “this does not mean that the study of institutional work is intended to move back to an understanding of actors as independent, autonomous agents capable of fully realizing their interests through strategic action; instead, a practice perspective highlights the creative and knowledgeable work of actors which may or may not achieve its desired ends and which interacts with existing social and technological structures in unintended and unexpected ways”.

In an institutional work perspective, institutions are not mere self-reproducing independent mechanisms, but constantly re-created entities in which actor’s creativity plays an important role. The aim is then to develop theoretically informed and empirically grounded analyses of how agency affects institutions. To put it with Lawrence et al. (2009, p. 7), “if one thinks of institutions and action as existing in a recursive relationship [...], then we are centrally concerned in the study of institutional work with second arrow, that from action to institutions”. “We neither deny nor ignore”, they go, “the effect of institutions on action, [...] but our analytical focus in the study of institutional work, [...] is on how action and actors affect institutions” (Lawrence et al., 2009, p. 7).

According to Lawrence and Suddaby (2006), there exist different modalities of institutional work depending on whether actors at play aim at creating, maintaining or disrupting institutions. Based on previous literature, nine ‘creating institutional work’ types are identified (Table 9). ‘Vesting’, ‘defining’, and ‘advocacy’ entail political activity aimed at redefining rules to access material resources. ‘Constructing identities’, ‘changing norms, and ‘constructing networks’ entail a re-configuration of actors’ belief systems. ‘Mimicry’, ‘theorizing’, and ‘educating’ have to do with activities that affect the foundations of meaning systems at stake

Insitutional work practices (Creating institutions)
Vesting; Defining Advocacy: Political activity aimed at redefining rules to access material resources
Constructing identities; Changing norms Constructing networks: Re-configuration of actors' belief systems
Mimicry; Theorizing; Educating: Activities affecting the foundations of meaning systems at stake.

Table 9 'Creating' Institutional work practices (Lawrence & Suddaby, 2006)

Lawrence and Suddaby (2006) refer to six types of practices aimed at 'maintaining' institutions (Table 10). While 'enabling', 'policing', and 'deterring' pledge that rule systems are complied with, alourizing/demonizing', 'mythologizing', and 'embedding and routinizing' aim at ensuring reproduction of existing norms and belief systems.

Insitutional work practices (Mantaining institutions)
Enabling; Policing; Deterring: Activities pledging that rule systems are complied with
Alourizing/Demonizing; Mythologizing; Embedding and routinizing: Ensuring reproduction of existing norms and belief systems.

Table 10 'Maintaining' institutional work practices – (Lawrence & Suddaby, 2006)

The third type of institutional work concerns disrupting institutions and involves three main practices, namely 'disconnecting sanctions', 'disassociating moral foundations', 'undermining assumptions and beliefs' (Table 11).

Insitutional work practice (Disrupting institutions)
Disconnecting sanctions; Disassociating moral foundations; Undermining assumptions and beliefs: Activities pledging that rule systems are complied with

Table 11 'Disrupting' institutional work practices (Lawrence & Suddaby, 2006)

By adopting an institutional work perspective to the study of the contestation over the contract classification of platform workers, the present approach amends the contribution of Lawrence and Suddaby (2006) in three ways.

First, as anticipated, it explicitly assumes actors to be ‘knightianly uncertain’ about what to do. Second, it posits that no actor will aim at disrupting institutions without proposing an alternative. Hence institutional work is understood as having two main alternative goals, i.e. ‘maintaining’ or ‘creating’ institutions – which I term respectively ‘sheltering’ and ‘challenging’. This supersedes the tripartite division between creating/maintaining/disrupting advanced by Lawrence and Suddaby (2006). In this dissertation, the key institution upon which practices are acted is the set of rules governing the relationship between the contract classification and protection. This means that actors ‘work institutionally’ to affect such rules. Actors pursuing ‘sheltering’ goals want to maintain the status quo, that is a privileged connection between employment and social protection and the employment contract. They stress how the maintenance of such a link is the only way to adequately protect platform workers, who should qualify as employees. By contrast, actors having ‘challenging’ objectives aim at weakening the relationship between employment contract and protection by proposing more contract-neutral approaches. They emphasize how a less strict connection between the contract classification and protection is the most appropriate manner to ensure that platform workers be properly protected while not losing their independence. These actors are normally in favour of classifying platform workers as self-employed. The empirical chapters will identify various practices of institutional work and associate them with challenging and/or sheltering objectives. This will provide evidence on how actors at play have sought to shape institutions and with what objectives. A third element modifying the approach of Lawrence and Suddaby (2006) has to do with the fact that the present framework conceives of practices as transversal, that is not solely related to a particular institutional work objective like in the original formulation, but potentially linked to different objectives. The same practice, in other words, can serve two opposite institutional goals.

To conclude, institutional work turns out to be a useful concept to investigate *how* creative and reflexive actors affect institutions under Knightian uncertain conditions. That said, such a concept remains deficient when it comes to pinpointing the drivers of institutional action under conditions of uncertainty. Actors may well have objectives, but how do they pursue them if they *do not* know what to do in knightianly uncertain circumstances? In other words, what drives institutional work when no readymade solution is available? The next section addresses these questions by recurring to the concept of learning.

3.4 How to Cope With Knightian Uncertainty? The Learning Foundations of Institutional Work

As previously stressed, platform work emerged as a novel phenomenon set to disrupt elements of ‘oldness’ permeating our societies. The rules associating various work contracts with different sets of employment and social entitlements were– and are – at the core of such disruptive attempts.

Faced with these challenges, actors ranging from governments to trade unions and employer organizations had simply no readymade solutions due to insufficient knowledge: it is this novelty-generated uncertainty that opened up room for agency to shape institutions, hence for institutional work. In order to *cope with* Knightian uncertainty and carry out the desired institutional work, actors needed to improve their understanding of the phenomenon at stake. In other words: they needed to *learn* before acting and they needed to *learn* how to act. This is why learning turns out to be a central concept to spot the mechanisms driving institutional work on the question of contract classification of platform workers.

The literature on learning presents a “voluminous, eclectic, and multidisciplinary” character (Freeman, 2008). Scholarship on learning is generally indebted to the work of Hugh Hecló (1974, p. 305), who famously argued that “politics finds its sources not only in power but also in uncertainty – men collectively wondering what to do [...]”. In this conception, politics cannot be reduced to a contest for power, but it should also be understood as puzzling activity that seeks to reduce inevitable uncertainty. “Policy-making”, so he went, “is a form of collective puzzlement on society’s behalf; it entails both deciding and knowing” (Hecló, 1974, p. 305). In this vein, political interaction and policy decisions are the result of learning processes, where learning is defined as “a relatively enduring alteration in behavior that results from experience; usually this alteration is conceptualized as a change in response made in reaction to some perceived stimulus” (Hecló, 1974, p. 305).

Theories of learning have grown in several sub-disciplines throughout the 1980s and 1990s. In an often-quoted review article, Bennet and Howlett (1992) systematized the then existing corpus of learning approaches and identified three variants of them, i.e. government learning, lesson-drawing, and social learning. In a government learning perspective, it is the State as a complex organization that learns how to structure itself in the most effective possible fashion as it develops and changes (Etheredge, 1981). Differently, lesson-drawing learning stems from dissatisfaction with the status quo and entails knowledge-based networks of experts that seek to develop alternative solutions by

either i) turning to the past ii) envisioning new future outlooks or iii) looking at others' experiences. Lessons, as Rose (1991) suggests, are directed to impacting policy programs and instruments. Policy objectives are not called into question. Social learning, of which the most renewed elaboration was developed by Hall (1993), sees both state and societal actors puzzling about policy means (first and second change) and objective (third order change).

Concerned with Hecló's heritage about 'collective puzzlement', Hall (1993) defined learning as "a deliberate attempt to adjust the goals or techniques of policy response to past experiences and new information" (Hall, 1993, p. 278). While Hall's definition of learning crucially captures the centrality of knowledge in learning processes, it fails to pinpoint the critical role of its opposite, that is *lack of knowledge*. Not only does learning occur via knowledge acquisition, but it also comes into being when there is no or very limited knowledge on a specific matter. Under uncertainty-ridden conditions, policy actors would ideally wait until appropriate information is gathered; most of the times, however, this proves impossible due to societal pressures around the policy issue at stake. Thus, decisions are taken as a way of resolving in the most acceptable way the trade-off between knowledge necessity and political urgency. When knowledge is wrong, insufficient, or poorly employed, responses turn out to be truncated and subject to frequent reconsideration. This triggers trial-and-error dynamics that are central to learning processes because they make more learning necessary. In this vein, not only are mistakes a pre-condition for further learning, but they amount to learning facts themselves. It follows that learning should be associated to already-acquired knowledge as well as to knowledge gaps that lead to possibly mistaken policy avenues. Therefore, amending Hall's definition, I define learning as "a deliberate or unintentional attempt to develop policy responses to pressing policy matters thanks to new information and/or through trial-and-error attempts". Differently from Hall, my focus is not on detecting the impact of ideas, but on empirically scrutinizing the learning foundations of institutional work carried out by knightianly uncertain actors.

Theorizing Institutional Work Learning Drivers

Based on such a definition of learning and conceiving of actors as reflexive and endowed with the cognitive resources to actively shape institutions, I here propose three analytical types of learning mechanisms that can enhance our understanding of the micro-foundations of institutional action under conditions of uncertainty (Figure 9).

I call the first dynamics ‘learning by puzzling’ as it refers to the role of puzzling as a means to develop hypothetical solutions that serve as compass. When faced with novel problems, actors puzzle on what to do until they reach a possibly applicable solution. They formulate, in other words, a number of questions on how to approach the problem at stake. Because it lays the groundwork for future understanding of the phenomenon at stake, puzzlement here becomes a form of learning.

I term the second dynamics ‘learning by experimenting’. Hypothetical solutions envisaged while puzzling must of course be applied – at least some of them. Because of time pressure to act and given the recent nature of the phenomenon at stake, actors will most likely not have a well-rounded understanding of it. Therefore, they will engage in trial-and-error processes that will support or refute the validity of their decision. Because it provides information on what works and what does not to tackle the novel challenges, experimentation here becomes a form of learning.

I name the third dynamics ‘learning by researching’. Information collected unintentionally via experimentation and/or accumulated intentionally through active engagement with the phenomenon (e.g. data collection, research activities) leads to knowledge accumulation. The latter is a form of learning as it consists of piling up different data that help understand how to tackle to phenomenon at stake.

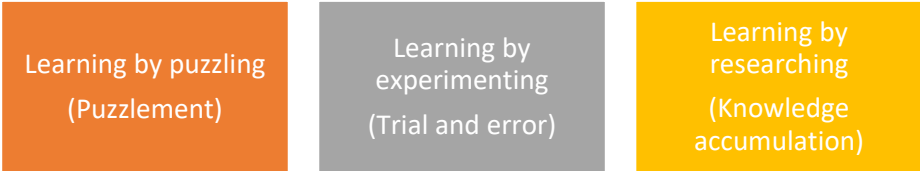


Figure 9 Learning mechanisms. Own elaboration.

Such learning mechanisms are strictly intertwined– although they can also occur on their own. When a novel phenomenon emerges, the first challenge actors have to face is insufficient knowledge, that is ‘learning by puzzling’. The latter crucially allows to accumulate the minimum amount of knowledge (‘learning by researching’) to experiment (‘learning by experimenting’). Experimentation, then, leads to a more refined understanding of the situation until a new puzzlement manifests itself. In others words, ‘learning by puzzling’ leads to ‘researching’ that leads to ‘experimenting’ that leads to further ‘researching’, from which new questions arise. This is what

I call the 'learning circle' driving institutional work (Figure 10).

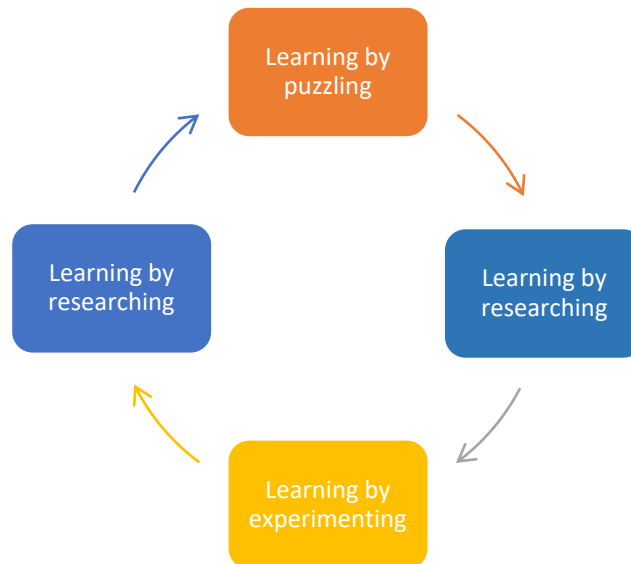


Figure 10 Learning Circle. Own elaboration.

For actors that aim at affecting institutions, such learning mechanisms are crucial to *cope with* knightianly uncertain conditions. Without investigating various alternatives, trying different options and acquiring a better understanding of the phenomenon at stake, actors would simply not be able to navigate Knightian uncertainty. This is why I refer to the 'learning foundations of institutional work' (Figure 11).

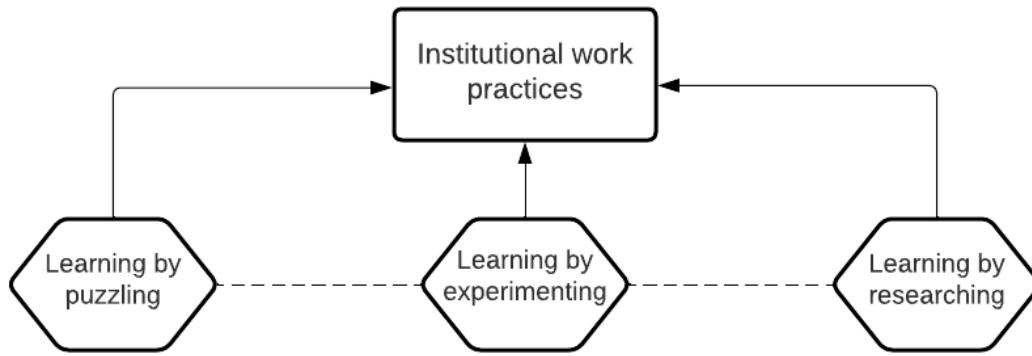


Figure 11 The Learning foundations of institutional work. Own elaboration.

So far, I proposed that we look at how actors shape institutions through the lens of ‘institutional work’. The latter is driven by learning mechanisms that help *cope with* Knightian uncertainty. A crucial point remains nonetheless to be made, i.e. learning is not free-floating, but occurs within certain boundaries. This brings us to the second pillar of this theoretical framework, namely the centrality of actor orientation towards the future. While the bulk of institutionalist scholarship has depicted past-oriented actors whose action is constrained by in-place rules and norms, Emirbayer and Mische (1998) stressed the importance of future-oriented agency as well. The latter stresses how imaginaries of the future shape the way actors act in the present. Imaginaries are cognitive instruments that help actors *reduce* uncertainty by developing hypothetically true projections of the future. Providing certainty against ‘Knightian uncertainty’, such projections work as a temporal compass for actors to orient themselves in their learning processes. Thus, learning processes are not free floating, but anchored in different ‘imagined futures’: while learning is necessary to *cope with* Knightian uncertainty, projections of the future are used as cognitive references to *reduce* the degree of uncertainty by giving a normative direction to learning processes. Given the markedly projective character of the debate around platform work regulation, I assume that actors performing institutional work on the question of contract classification of platform workers have a future- oriented agency. In what follows, I elaborate on the concept of ‘imagined futures’ and their relationship with learning.

3.5 How to Reduce Knightian Uncertainty? Imagined Futures and the Learning Foundations of Institutional Work

Political scientists and sociologists have traditionally built theories that explain socio-political outcomes by pointing to the determining role of past occurrences. In this vein, what happens today results from past trajectories just as today's events forge tomorrow's scenarios, and so forth. The rise of three neo-institutionalisms has reinforced such a past-oriented attitude. Especially in its sociological and historical versions, neo-institutionalism puts an emphasis on the role of institutions in shaping actors' behaviour and therefore social and political outcomes. No doubt the temporal orientation towards the past has both theoretical appeal and empirical purchase: the whole literature on neo-institutionalism largely demonstrates it.

The dominance of the past in the institutionalist scholarship, however, has arguably hampered theoretical innovations and innovative empirical findings. In their seminal article, Emirbayer and Mische (1998) delineate two facets of agency that go beyond its past-oriented character (iterational agency). According to these authors, agency can also be rooted in the present (practical-evaluative) and anchored in the future (projective). 'Practical-evaluative' agency implies "the capacity of actors to make practical and normative judgments among alternative possible trajectories of action, in response to the emerging demands, dilemmas, and ambiguities of presently evolving situations" (Emirbayer & Mische, 1998, p. 971). Such a dimension comes with a present-oriented intention that "lies in the contextualization of social experience" (Emirbayer & Mische, 1998, p. 994). The communicative transactional aspect is central to such processes and takes place via "deliberation with others (or sometimes, self-reflexively, with themselves) about the pragmatic and normative exigencies of lived situations" (Emirbayer & Mische, 1998, p. 994). 'Projective' agency refers to "the imaginative generation by actors of possible future trajectories of action, in which received structures of thought and action may be creatively reconfigured in relation to actors' hopes, fears, and desires for the future" (Emirbayer & Mische, 1998, p. 971). Projective intentionality "lies in the hypothesization of experience, as actors attempt to reconfigure received schemas by generating alternative possible responses to the problematic situations they confront in their lives. Immersed in a temporal flow, they move "beyond themselves" into the future and construct changing images of where they think they are going, where they want to go, and how they can get there from where they are at present" (Emirbayer & Mische, 1998, p. 984).

A growing sociological literature has recently stressed the need to focus on the projective dimension on agency with a view to scrutinizing how perceptions of the future inform the present state of things or, put differently, how imaginaries of the future shape present social outcomes

(Beckert, 2016, 2020). Beckert (2016) has advanced one of the most compelling arguments on ‘the future as a social fact’ (Beckert & Suckert, 2021) and its consequences in the present. Before detailing the mechanisms through which perceptions of the future inform present occurrences, we shall further delve into the reason for zeroing in on the future in the first place: Why is it that the future matters? Beckert (2016) shows how the future-oriented agency became particularly relevant with the advent of capitalism. In traditional societies, the future was conceptualized as a closed circularity of occurrences began in the past and doomed to repetition in the future. Such an understanding drew on “practical experiences on the circular movements of nature: what has been will come again; what will come in the future has existed before” (Beckert, 2016, p. 23). The development of capitalism altered this state of circularity. The development of capitalist societies marked a breakthrough in actors’ temporal dispositions, bringing a vision of the future which is open and replete with risks and potential opportunities. To succeed in economic – and social – terms, individuals and organizations must be able to properly calculate risks and catch opportunities. Since calculation can never eliminate all possible risks, actors must learn how to deal with radical uncertainty (Beckert & Bronk, 2018). Thus, the future becomes a land of unknowns as opposed to the landscape of diffuse certainty that characterized pre-capitalist societies.

From a historical standpoint, the Enlightenment disrupted preceding close and static notions of future thereby laying the groundwork for superseding the traditional order. As Beckert (2016, p. 29) notes, in fact, “there was, not incidentally, an important wave of utopian descriptions of future social orders produced in the eighteenth and early nineteenth centuries”. The widespread affirmation of human rationality in others words, opened up the possibility of imagining previously unthinkable futures. More recently, in his analysis of Kabyle society in Algeria, Bourdieu (1979) documented the observed transformations in actors’ temporal order following the introduction of capitalist logics. Especially with the expansion of monetized market exchange, the Algerian peasants’ relationship with the future changed remarkably. Once used to plan for the future in terms of ‘direct goods’ (Bourdieu, 1979) such as food stock and land investments, they gradually moved towards a more abstract conception of the future entailing supposedly rational calculus as the preferred means for wellbeing. Thompson (1967) provides another example of how the advent of industrial capitalism affected humans’ temporal disposition. In his work on industrialization in Great Britain, Thompson (1967) showed how industrial production temporalities were utterly not aligned with workers’ temporal disposition. This led to enduring struggles in which capitalists sought to enforce capital’s conception of time and workers set out to resist to such transformations. These examples well highlight how the diffusion of philosophies of progress coupled with the novel forms of social domination introduced by the capitalist economy as well as its reliance on

relentless competitiveness and expansion radically transformed actors' temporal orientations. Hence, the answer to the question above: the future matters because we live in capitalist societies where actors think and act (also) following projections of future states of the world that allow them to reduce (Knightian) uncertainty.

Knightian uncertainty is central to Beckert's (2016) work on the future. According to Beckert (2016), actors are boundedly rational and constantly exposed to a certain degree of uncertainty in the decision-making process. Thus, other than learning to *cope with* such an uncertainty, actors also need to *reduce* it. To do so, actors develop projections of the future and act in the present as if they were going to happen. In contrast to rational expectations, Beckert (2016) terms such projections of the future 'fictional expectations'. In this vein, the term 'fictional' has not to do with false or invented stories, but it refers to imaginaries of a future that cannot fully be foreseen. In Beckert's (2016, p. 9) words, "fictional expectations refers to the images actors form as they consider future states of the world, the way they visualize causal relations, and the ways they perceive their actions influencing outcomes. The term also refers to the symbolic qualities that actors ascribe to goods and that transcend the goods' material features. [...] Actors use imaginaries of future situations and of causal relations as well as the symbolically ascribed qualities of goods as interpretative frames to orient decision-making despite the incalculability of outcomes." Beckert (2016) terms such imaginaries 'imagined futures'.

What Beckert (2016) calls the 'politics of expectations' can be characterized as a confrontation among diverging 'imagined futures'. This well applies to the contestation over the contract classification of platform workers. While starting from a common expectation, that is that platform work will become the dominant work paradigm in the digital society, different actors have divergent expectations about *how* platform work should happen in the future. To mitigate the indefiniteness of the future wrought by Knightian uncertainty, actors develop 'imagined futures of work' and adopt them as a compass in their institutional work. As previously stressed, other than learning how to *cope with* uncertainty, actors use projections of the future to *reduce* it. The learning foundations of institutional work, thus, are anchored in competing 'imagined futures of work'.

3.6 Conclusion: An Imaginative Institutional Work Explanation

To sum up, this chapter has developed a theoretical approach to account for institutional work of reflexive and creative actors seeking to affect institutions under conditions of Knightian uncertainty. In this approach, institutional work is driven by learning mechanisms, which are necessary to *cope with* uncertainty. In turn, learning mechanisms are anchored in ‘imagined futures’, which help *reduce* uncertainty by offering a projected imaginary to pursue while learning. I term such a theoretical perspective ‘Imaginative Institutional Work’ (Figure 12). By focussing on the causal relevance of agency, an imaginative institutional work angle aims at enhancing our understanding of the microfoundations of social action.

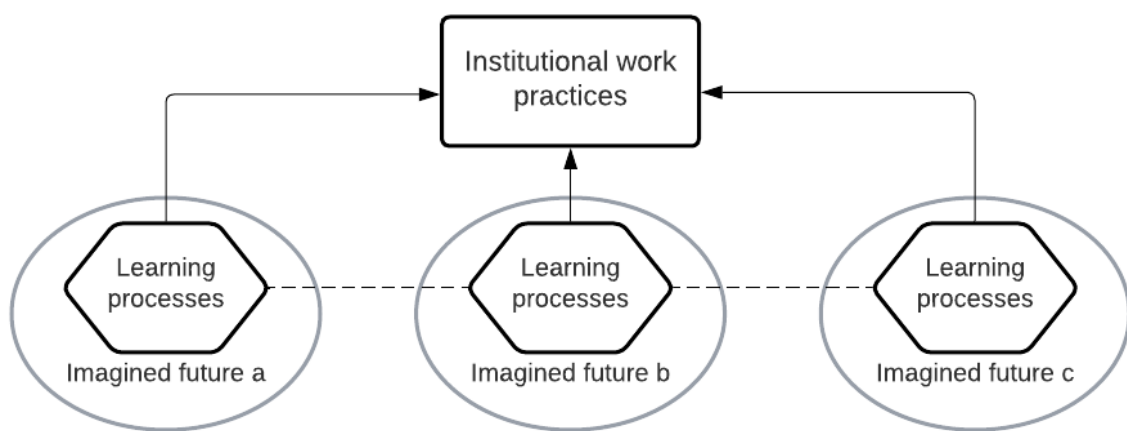


Figure 12 Imaginative institutional work. Own elaboration.

In the next chapter, I elaborate on the practical application of this theoretical framework by presenting the research design and methodology adopted in this work. Empirical chapters will then apply an ‘Imaginative institutional work’ angle. In so doing, they will identify institutional work objectives and practices and unveil their learning foundations and related ‘imagined futures of work’.

4. Research Design and Methodology

4.1 Introduction

This dissertation adopts a comparative qualitative case study research design to answer its research questions (Barlett & Vavrus, 2017; Kaarbo & Beasley, 1999). This approach combines in-depth analysis of selected case studies with systematic comparison across them. This chapter illustrates the characteristics of such a design and details the motivations behind its adoption. Moreover, it delves into the process of data collection and methodology used in this work.

To this end, the chapter is organized as follows. The first section presents the ontological and epistemological foundations of this dissertation. The second section defines the object of research and explicates the case selection rationale. The third and fourth sections respectively expound and motivate the research strategy guiding case study and cross-case comparison. The fourth section illustrates the process of data collection and data analysis performed. The fifth section concludes.

4.2 Ontology and Epistemology: Post-positivist, Critical Realist Foundations

In delving into the politics of platform workers' contract classification, this dissertation subscribes to a post-positivist ontology (Della Porta & Keating, 2008). Like positivism, a post-positive ontology values causal explanations (Hollis, 1994). However, it departs on several fronts from a positivist understanding of causality and (social) reality more in general. On the one hand, positivism posits that social reality is governed by mechanical regularities that exist outside the human mind and can be in principle discovered in its entirety. In this sense, a positivist ontology aims at discovering 'nomological' laws (Hall, 2003) that operate regardless of social and historical contexts. On the other hand, a post-positivist ontology attributes potential causal relevance to multiple contingent factors ranging from material resources, discursive and ideational factors, actors' strategic action as well as normative orientations. Explanations are therefore not universally valid, but are probabilistic at best as they arise from complex contexts and (Della Porta & Keating, 2008; Kurki, 2006).

The 'critical realist' epistemology that informs this work subscribes to such an understanding of causality and social reality (Archer et al., 1998; Bhaskar, 2011, 2014). Critical realism seeks to

develop causal, context-sensitive explanations which can always be refined as knowledge is perfectible by definition (Gorski, 2013). Importantly, critical realism departs from a positive ontology also when it comes to the relationship between structure and agency. In a critical realist perspective, social structures do not exist independently of activities they perform and of how actors signify such activities (Archer, 1995; Hay, 2002). This means that agents' subjective interpretation crucially mediates how objective forces shape reality. In turn, this implies a non-deterministic understanding of the relationship between structure and agency: both matter in moulding social facts and it is up to the researcher to develop context-centred explanations that identify to what extent and how they matter. On the one hand, structures such as institutional settings and material power resources constraint and enable agency. On the other hand, agency is attributed causal power as structures are not immutable but subject to change and different forms of re-interpretation (Archer, 2002; Archer et al., 1998). Such an epistemological positioning not only goes beyond positivist determinism, but also distances itself from interpretivist approaches according to which the reality is essentially subjective (Della Porta & Keating, 2008).

A critical realist epistemology rooted in a post-positivist ontology is compatible with the aim of this dissertation, that is to investigate the decision-making processes of platform work regulation by adopting an actor-centred institutionalism (S. Bell, 2011; Crouch, 2007). While actors involved in such processes moved within specific, constraining institutional environments, macroeconomic conditions and policymaking styles, their action cannot be reduced to mere execution of institutional dictates. By contrast, especially when faced with uncertainty triggered by the emergence of novel phenomena, actors' capacity to actively interpret and reinterpret structures amounts to an important factor to grasp socio-political outcomes. While acknowledging the importance of structures – particularly of labour market and social protection systems – this work focuses on how agency exercises its causal role through learning processes anchored in different imaginaries of the future. Such an approach also emphasizes how the temporal orientation of actors must be problematised and not considered as past-oriented by default like in the bulk of institutionalist studies (see Chapter 3).

4.3 Object of Research and Case Selection Rationale

This thesis' research focus, that is the contract classification, has been a highly debated matter over the last years. The question of platform workers' contract classification, that is whether they should qualify as employees or independent contractors, came to epitomize broader trends in contract misclassification and therefore in employment and social protection. Governments, trade unions, employer organizations, platforms, national media have all contributed to the saliency of the topic. The debate has been lively at an international, national and local level. Because the national level is where the most significant changes to rules defining the contract classification of platform workers can happen, in this dissertation I focus on contestation happened and decisions taken at country level.

Four countries were selected for investigation, i.e. Denmark, France, Italy, and the Netherlands. The case selection results from the combination of deductive, macro politico-economic characteristics of such countries and inductive, empirical preliminary observations of respective regulatory processes of platform workers' contract classification. In what follows, I concentrate on them in turn and elaborate on their relationship.

Varieties of Liberalisation

Denmark, France, Italy, and the Netherlands are mature capitalist economies that have gone through increases in non-standard work and, most notably for this work, in the share of self-employment without employees (see Chapter 2). These countries present differences and similarities in a number of institutional realms. Because of my interest in the contestation around the contract classification, here I focus on labour market structure and social protection systems. In this regard, the four countries present two macro pair-based differences. This means that labour market structures and social protection systems in one pair (France - Italy) differ from labour market structures and social protection systems in the other pair (Denmark – Netherlands).

A wealth of scholarly literature has illustrated these differences. Research has shown that France and Italy present dualised and/or highly fragmented labour markets (Brunetti, 2019; Erhel & Zajdela, 2004; Gallie, 2009; Gazier, 2019; Gazier & Petit, 2007; Jochen et al., 2018; Le Barbanchon & Malherbet, 2013). Notwithstanding developments - especially in the France welfare system - introducing universalist elements, French and Italian social protection systems both cause and

reinforce fragmentation via their logic of income maintenance typical of continental Welfare states (Emmenegger et al., 2012; Jessoula et al., 2010; Palier, 2010; Palier & Thelen, 2010).

Some fragmentation exists in Denmark and the Netherlands too – especially in the latter country where the rising share of self-employed has been a matter of concern (Borstlap Committee on Work Regulation, 2020; Jansen, 2020; Spasova et al., 2017; Vonk & Annette, 2017). Nonetheless, Denmark and the Netherlands’s social investment welfare state architecture is generally expected to better accommodate labour market divides (Cox, 1993; Esping-Andersen, 1990; Greve, 2004; Madsen, 1999; Visser & Hemerijck, 1997)(Table 12).

Such pair-based differences in labour market and social protection systems are well captured by Thelen’s (2014) work on ‘varieties of liberalisation’. Starting from the premise that western political economies have liberalized, Thelen (2014) set out to understand *how* they have done it. To this end, she identified three variants of liberalisation – e.g. deregulating liberalisation, dualising liberalisation, embedded flexibilisation - resulting from the interaction of developments in coverage extension and ‘strategic’ coordination among policy actors (Figure 13).

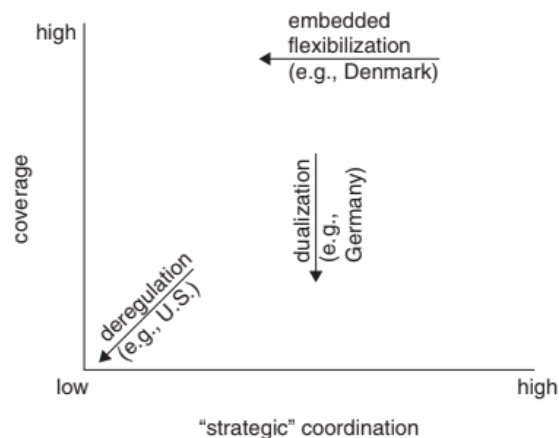


Figure 13 Varieties of liberalisation (Thelen, 2014)

Adopting Thelen’s (2014) typology, France and Italy can be said to have gone through dualising liberalisation, while Denmark and the Netherlands can be purported as cases of liberalisation via ‘embedded flexibilisation’ (Table 12). In Thelen’s (2014, p. 14) terms, liberalisation through dualisation “involves continued strong coordination on the employer side but in the context of a distinct narrowing in the number of firms and workers covered under the resulting arrangements”.

Besides traditional institutions, “an unorganized and unregulated periphery is allowed to grow outside their ambit, one that is characterized by inferior status and protections for firms and workers outside the core” (Thelen, 2014, p. 14). For its part, liberalisation through embedded flexibilisation entails “the introduction of new forms of flexibility within the context of a continued strong and encompassing framework that collectivizes risk” (Thelen, 2014, p. 14).

	DK	NL	FR	IT
Variety of liberalisation	Embedded flexibilisation	Embedded flexibilisation	Dualisation/ Fragmentation	Dualisation/ Fragmentation

Table 12 Selected countries and varieties of liberalisation

The ‘varieties of liberalisation’ of our selected countries give us important indications as to how such countries may respond to challenges of new atypical forms of jobs such as platform work. In the next section, I concisely report some preliminary empirical observations about such responses to see whether and how they match theoretical expectations arising from the ‘variety of liberalisation’ literature.

Preliminary, Empirical Observations on Platform Workers’ Contract Classification

On a general level, the four countries under scrutiny are western mature political economies that present a strong strategic interest in digitalisation. The interest in and concern with digitalisation entailed that the four countries were all interested in and exposed to the rise of platform work. In light of differences in liberalisation trajectories presented above, a question arises as to how countries that have taken different paths have responded to the growth of platform work and particularly to the question of contract classification. How did dualising countries respond? Did they treat platform work as a form of outsidersness, as one would expect? And ‘embedded flexibilisation’ countries, did they integrate platform workers into their flexicurity systems? According to Thelen’s (2014) typology, we would expect embedded flexibilisation countries to include platform work in their enabling and inclusive systems and ‘dualised’ countries to provide them with residual protection fostering outsidersness. Yet some preliminary, empirical observations

of how these countries responded suggests that facts are not as straightforward as aforementioned theory suggests.

Denmark

In Denmark, both governments and social partners have generally showed relatively pro-platforms attitudes. The Rasmussen liberal government (2016-2019) openly supported platform work noting that the sharing economy fosters both growth and wealth (Rasmussen & Kongshøj Madsen, 2017). Tellingly, the government has normally adopted the expression ‘sharing economy’ to refer to platform work. The use of such a label has triggered tensions with unions, which argued that gig platforms do not entail sharing experiences but proper profit-centred work relations. Danish unions have proved optimists about platform work, as long as it respects the so-called Danish model. In their view, therefore, platform workers should be fully integrated in it.

When in April 2018 the first collective agreement with a platform was signed in Denmark, unions’ exhortations took tangible shape. Specifically, the 3F-Hilfr agreement regulated working conditions of cleaners working through cleaning services app Hilfr (Munkholm & Schjøler, 2018). After 100 hours of service, cleaners become automatically employees – unless they choose otherwise. In signing such an agreement, parties expressly stated that it represents the first attempt of connecting digital platforms to the Danish model. Other collective agreements have been signed afterwards such as the agreement between 3F and Just Eat, according to which Just Eat food-delivery couriers are employees. From a first, preliminary glance at the politics of platform workers’ contract classification, Denmark features as a case of ‘embedded flexibilisation’ that has treated platform work as dependent work.

Netherlands

In the Netherlands, as Gundt (2019, p. 74) stresses, “there is a lively debate in the Netherlands on the status of people working for and providing services via digital platforms”. Governments have taken a liberal stance and supported the developments of platform work in the already highly flexible Dutch labour market. Sceptics, among which the FNV union features prominently, have constantly warned against self-employment in platform work and pushed for it to be recognized as

employee labour. The Socio Economic Council (SER) has played an important agenda-setting role on the matter. Courts are also playing an important role, but, as elsewhere, judges tend to take into account specific circumstances of each situation, which does not favour the development of a clear national regulatory framework.

While much discussion has taken place, the Dutch tripartite bargaining settlement, however, has not yet led to countrywide regulation of platform work. Gundt's (2019, p. 83) words are instructive in this respect: "Nothing is currently clear in the Netherlands. There is agreement on the fact that labour law in its current state is not suited to the challenges posed by platform work. But other than that, agreements are hard to find. [...] At present, all we know are questions but no answers. And even less, ideal answers." The Netherlands, thus, emerges as an example of 'embedded flexibilisation' that has not adopted an ad-hoc measure to tackle the question of platform workers' contract classification. This automatically leaves room for platforms' preferred solution, i.e. self-employment.

France

France has been the first European country to regulate platform work. Tensions around the question of contract classification have nonetheless been marked. Both Hollande and Macron governments have actively pushed for making France a digital frontrunner – which is not now. Platforms, of course, are part of such a far-reaching promotion of digitalisation. The political saliency of platform work rose dramatically after 2016 'El Khomri Act' classified it as self-employment and introduced corporate social responsibility as a way to protect platform workers. Trade unions, and especially the CGT, have been highly critical of platform work and advocated for self-employment contracts to be turned in employee contracts. Non-traditional forms of unionism have supported – though not always and indiscriminately – the action of CGT. CLAP has been the most prominent example. Important court rulings argued against platform work being classified as self-employment. However, the latter remains the norm to date. Hence France emerges as a case of dualising liberalisation that addresses the question of platform work via a self-employment solution.

Italy

The possibly precarizing consequences of platform work have sparked preoccupation in the already relatively insecure and segmented Italian labour market. Generally speaking, the two centre-left governments (Renzi 2014-2016 and Gentiloni 2016-2018) aimed at fostering the collaborative economy (Borelli, 2019). During these two governments, two main legislative proposals were presented (Guarascio, 2018). While the so-called Airaudo proposal (n.4283, 2/2017) aimed at recognizing the dependent nature of platform work, Ichino proposal put forward the creation of a *tertium genus* between dependent and self-employed work.

Politically, the Five Star Movement (FSM) seems to have been the most active actor on platform work regulation. FSM has repeatedly highlighted the necessity to recognize platform workers – specifically, riders – as dependent work. Such a goal went high on the governmental agenda when FSM's leader Luigi di Maio became Minister for Labour and Industry. Di Maio first sought to regulate platform work via State law, but it did not work out due to Lega's tepid support on the matter. He then began a roundtable with platforms and trade unions a new legislative proposal that aimed at extending the notion of subordination. Yet platforms made their participation in such an initiative conditional on the proposal being withdrawn. As a result, the proposal has never been discussed (Borelli, 2019, p. 64).

Legislation on riders' activity was eventually passed in November 2019. It extended employment and social rights associated to dependent work to workers earning more than 5000 euro per year via a digital platform. Hence Italy stands out as a case of dualising liberalisation that has mostly treated platform work as dependent work.

Varieties of Liberalisation and Responses to Platform Work

Such preliminary empirical observations suggest that policy processes and regulatory outputs have diverged in a somewhat puzzling fashion across such countries. While the Netherlands and France –though presenting very different dynamics – have showed tendency for self-employment, Italy and Denmark – and though following diverse political dynamics – seem to have moved towards dependent work (Table 13). In other words, the two 'embedded flexibilisation' countries opted for different solutions, just like it happened to 'dualised' countries. This makes the comparison between such four countries particularly important as it sets out to throw light not only on inter-

pair but also intra-pair unexpected results. More generally, such a case selection allows to understand the relationship between a given way of organizing (neo)liberal capitalism and a novel and growing phenomenon like digital platforms, which is a politically salient manifestation of the liberalisation era.

	Dependent work	Self-employment
Embedded flexibilisation	DK	NL
Dualisation	IT	FR

Table 13 Varieties of liberalisation and platform regulation in selected countries

My research will involve two main stages. In the first stage, I will produce detailed country case descriptions of the politics of platform workers’ contract classification. I will then apply an Imaginative institutional work angle to explain the dynamics described. In so doing, I will first investigate the learning foundations of institutional work and then delve into the temporal dimension of agency by focussing on ‘imagined futures of work’. In the second stage, I will undertake a cross-case comparison by comparing Imaginative institutional work of the four countries in light of the case selection rationale here described. The next section details such a research strategy.

4.4 Case Study and Cross-Comparison Research Design: What and Why?

The first stage of my research will involve case studies. A case study approach suits this dissertation’s aim in that it allows to achieve detailed descriptions and fine-grained explanations of ‘institutional work’ and its learning foundations in each country case (George & Bennett, 2005; Gerring, 2004; Hamel et al., 1993).

Literature on case study is extensive. Disagreement on what a case study is, however, remarkable to the point that one of the reference books on the matter tellingly defines case study as “a definitional morass” (Gerring, 2004, p. 342). Case study is associated with a variety of methodologies and/or research practices. To name a few: case studies have been (a) equated to qualitative small-N studies (George & Bennett, 2005; Yin, 1994), (b) intended as a way of performing in-depth, almost exhaustive examination of a phenomenon (Ragin, 1987, 1997; Stoecker, 1991; Verschuren, 2003), (c) employed to indicate the use of a specific sort of evidence, that is non-experimental, historical, process tracing, or participant observation (George & Bennett, 2005; Hamel et al., 1993; Yin, 1994), (d) described as scrutinizing a single observation (D. T. Campbell & Stanley, 1963).

In this dissertation, I conducted case-study research via process tracing (George & Bennett, 2005). At a high conceptual extension (Sartori, 1970), process tracing can be defined as a research method that entails “attempts to identify the intervening causal process—the causal chain and causal mechanism—between an independent variable (or variables) and the outcome of the dependent variable” (George & Bennett, 2005, pp. 206–207).

Process tracing is a densely populated methodological area whose population has grown spectacularly over the last three decades (Collier, 2011; Faletti, 2016; Jacobs, 2015; Mahoney, 2012; Tansey, 2007). This led to a plethora of definition and research practices – suffice it to note that Trampusch and Palier (2016) identified 18 different definitions of process tracing. Scholars have found such attempts to differ along a number of lines (George & Bennett, 2005; Gerring, 2004). Beach and Pederson (2013) have identified three variants of process tracing: theory-testing, theory-building, explaining-outcome process tracing. The three variants differ according to whether they are (i) ‘theory-centric’ or ‘case-centric’, (ii) interested in ‘testing’ or ‘building’ casual mechanisms, (iii) concerned with generalizable conjectures or outcome-specific mechanisms (Beach & Pedersen, 2013).

This dissertation adopts a theory-building variant of process tracing. Theory building process-tracing seeks to develop theoretically informative causal mechanisms linking two phenomena relying on evidence observed in a case. In adopting a theory-building process-tracing, I subscribe to an ‘interpretativist’ epistemology. While the focus of a ‘positivist’ process-tracing is on identifying mechanisms, an ‘interpretativist’ posture makes it possible to study *how* such

mechanisms occurred. In this vein, “it becomes possible to use process tracing to examine the reasons that actors give for their actions and behaviour and to investigate the relations between beliefs and behaviour” (Vennesson, 2008, p. 233). Such an epistemology is therefore compatible with an actor-centred institutionalism primarily concerned with investigating the role of actors in moulding institutional arenas.

Country case chapters are conducted with such a research method and epistemology. Such chapters contain country description and explanation of the politics of the contract classification of platform workers in Denmark, France, Italy, and the Netherlands. Each chapter is divided into three sub-chapters. Part 1 reconstructs the process that led from the emergence of platform work as a policy issue to the (non) adoption of regulatory responses. Part 2 seeks to make sense of such a reconstruction by identifying the drivers of actors’ action in light of my theoretical framework. Part 3 focuses on one specific institutional work practice, that is ‘projecting’ and identifies different ‘imagined futures of work’ in which institutional work was rooted.

Each country case chapter contains references to other country case chapters when a useful comparative observation can be made. This makes the comparison between case studies unstructured, by which I mean not systematic but based on sporadic observations that advance parallels with other cases. Such an approach allows to connect findings from single cases while maintaining the necessary country depth to investigate institutional work and learning foundations.

The second stage of the research will involve cross-case comparison, whereby case studies are systematically compared with the aim of generating conjectures that extend beyond cases under scrutiny. Starting from the country chapter findings, the last chapter of this dissertation compares Imaginative institutional work across the four cases by focussing on governments, social partners and novel actors – i.e. platforms and platform worker organizations. In so doing, it seeks to develop theoretical and empirical conjectures that may apply to a larger class of events and that future research can engage with. In methodological terms, comparability is made possible by the fact that the same interview questions were posed across countries. Interviews were the principal means of collecting data adopted in this work. The next section delves on data collection and methodology and describes the process of data analysis.

4.5 Data Collection and Analysis

As previously hinted at, this dissertation employs a qualitative methodology. The latter turns out to be the most suitable approach to understand actors' regulatory action faced with a novel phenomenon like platform work.

Data were collected following two main methods: semi-structure elite interviews (Richards, 1996) and 'qualitative document analysis' (Wesley, 2010). The two methods worked in tandem in an iterative process that allowed for consistency check across the various analytical dimensions analysed. In what follows, I delve into both methods and elaborate on their relationship.

68 semi-structured elite and expert interviews were collected with government officials, trade unions and employer organizations' representatives, platform managers, platform activists, civil society actors, and experts. Interviews were carried out both during fieldwork stays and, due to the start of the pandemic, online (Table 14).

	Government officials	Trade unions' representatives	Employer organizations' representatives	Platform managers	Platform activists	Experts	Civil society
DK	3	9	4	1	-	1	-
FR	6	2	-	1	2	8	3
IT	4	3	2	1	2	3	-
NL	3	3	2	2	-	3	-

Table 14 Interview table

Interviews aimed at understanding actors' position and action on platform work and particularly on the question of platform workers' contract classification. A focus was put on actors' motivations for action and coalition building. Annex A presents the interview questionnaire used to conduct such interviews.

The first fieldwork phase went from February to March 2020. Almost all interviews on the French case were collected over that one-month stay. Data collection in Paris turned out to be particularly fruitful thanks both to contacts established before leaving and support received by the hosting institutions, i.e. Ecole Normale Supérieure (ENS). Interviews on the French case were entirely conducted in French.

Fieldwork was supposed to go on for another month (March-April) in Amsterdam, yet the outburst of the pandemic interrupted it after one week. Over that week, one in-person interview was collected. The rest of the interviews were conducted online as I had to return home.

Fieldwork re-started in October 2020 with a two-month stay at Employment Relations Research Centre (FAOS) in Copenhagen. Despite restricted contact possibilities due to the contagion, the period spent in Copenhagen turned out to be important to get a first-hand grasp of the Danish context. In Copenhagen, I conducted two in-person interviews. The rest of the interviews were conducted online.

All interviews on the Italian case were conducted online. This choice was taken to face Covid-19 movement restrictions and thesis-related time constraints. While fieldwork would have been a better option, my already good knowledge of the country context made up for shortcomings of online interview data collection.

In-person and online interviews followed the same rationale and pursued the same objectives. Interviews were meant to understand a number of aspects related to the question of the contract classification of platform workers. Dimensions related to: (a) the position of the actor in the contract classification debate; (b) the relationship with other actors involved in the debate; (c) the role – if any – played in the process that led to the selected regulatory outcome; (d) the *role* – if any – played in supporting proposals that eventually did not result in any regulatory outcome. Interviews with experts aimed at achieving a rounded understanding of actors' beliefs and motivation for action.

The choice of interviewees followed a non-probability snow-ball sampling technique (Biernacki & Waldorf, 1981; Tansey, 2007). Such a technique “involves identifying an initial set of relevant respondents, and then requesting that they suggest other potential subjects who share similar characteristics or who have relevance in some way to the object of study. The researcher then interviews the second set of subjects, and also requests that they supply names of other potential interview subjects. The process continues until the researcher feels the sample is large enough for the purposes of the study, or until respondents begin repeating names to the extent that further rounds of nominations are unlikely to yield significant new information” (Tansey, 2007, p. 770).

Elite interviews were triangulated with a number of secondary source to check for data reliability. Secondary sources included policy documents of the organizations of interest, newspaper articles, and public speeches. This data was collected mostly through quality newspapers - e.g. *Corriere della Sera* (IT), *Le Monde* (FR) -, the 'Platform Economy Repository', a Eurofound database that puts together main occurrences around the platform economy by country, and the Gig Work News-Tracker developed by Antonucci and Charlton (2021). These databases are available online for free.

The triangulation went as follows. A preliminary context reconstruction was undertaken ahead of starting fieldwork. This provided the necessary country knowledge to develop interview questionnaires properly. Once collected the interviews, interview data were compared and contrasted with secondary sources. Accordance between the two types of data was taken as a 'reliability check'. In case of inconsistency between the two types of data, further inquiry was carried out either via additional interviews or through further document scrutiny until consistency was reached.

Once I was done with interview collection and reliability checks, I started working on a coding scheme that would allow me to analyse data in such a way that would answer my research question. I developed my coding scheme using MAXQDA software and following the prescriptions of thematic analysis (Miles & Huberman, 1994).

The strategy followed for generating the coding scheme was the following. I first created four country groups containing interviews of each of the four country cases. Then I started assigning codes loosely referred to the social protection of platform workers and countries' social protection systems more in general. To make sure codes were consistent across cases, I repeated this process three times. Cross-case code consistency was important to ensure that data from each country was subject to the same analytical treatment. This led to an elevated number of descriptive codes picturing the major issues related to my research topic. While such codes provided a lot of informative description, they provided no answer to my theoretical concerns. In the subsequent iteration I thus inserted the first theoretically-relevant codes. Following an iterative process consisting of tentatively developing theoretically meaningful codes, I obtained three theory-driven macro-codes that would help me answer my research question, namely 'institutional work', 'learning mechanisms', and 'imagined futures'. 'Institutional work' had two sub-codes, i.e. 'Actions' and 'Objectives'. 'Learning mechanisms' had three sub-codes, namely 'learning by puzzling',

'learning by experimenting', and 'learning by researching'. 'Imagined futures' had three sub-codes 'Start-up Nation', 'Creative digitalisation' and 'Embedded digitalisation. While sub-codes of institutional work and learning mechanisms were obtained deductively from the theory, those related to 'imagined futures' were inductively developed from the data.

Once I obtained theoretically meaningful codes, I began juxtaposing them to descriptive codes so as to start identifying significant links between empirical facts and theoretical concepts. In this phase, I eliminated numerous descriptive codes that proved repetitive and/or too fine-grained to be analytical meaningful. The final version of the coding scheme presents a tripartite division between 'Context', 'Platform Regulation', and 'Theory' codes. The first two were especially useful to write the descriptive accounts of the politics of the contract classification of platform workers in the four country cases. Such codes proved indeed crucial to collect information about what happened, who made it happen and how it related to the politico-economic context of the country. The 'Platform Regulation' and 'Theory' codes were particularly important to the analytical country case chapters as they allowed me to systematically observe relations and connections between facts and theoretical constructs of interest.

4.6 Conclusion: Pros and Cons of Selected Methodological Approach

As previously stressed, a qualitative methodology rooted in an interpretivist epistemology turned out to be the most suitable approach to understand actors' regulatory action and its drivers faced with a novel phenomenon like platform work. To conclude, it should nonetheless be noted how interviews and secondary sources collected cannot be considered representatives of all actors involved in the politics of platform workers' contract classification in the four countries. Interviews were indeed often subject to respondents' availability. Although I used secondary sources to make up for lack of data or inconsistencies, some information remained inaccessible. This is especially true for platforms, whose availability to research interviews was very limited and often non-existent. This means that the findings should be taken as empirically-grounded indications of the directions taken in the debate of platform workers' contract classification, rather than as straightforwardly generalizable trends applying to the politics of digitalisation tout court. This is consistent with the critical realist ontology and epistemology this dissertation rests on. Because actors interviewed were protagonists of the discussions on contract classification, however, the findings of this dissertation can be used to generate theoretical and empirical conjectures on how mature capitalist economies

are responding to employment and social protection challenges of platform work. Such conjectures can serve as starting points for future research to further delve into the topic. The following chapters present the results of my empirical analysis conducted adopting the research design and methodology detailed in this chapter.

5. FRANCE

Introduction

This chapter digs into the contestation over the contract classification of platform workers in France, which has mostly concerned platform work in food-delivery and ride-hailing sectors. It focuses on how governments, social partners as well as platforms, platform worker organizations and civil society actors have problematised and acted upon the question of contract classification, that is whether on-location platform workers should qualify as employees or self-employed. In so doing, it first identifies the main conflict lines and actor coalitions and dwells on the regulatory measures adopted (Part 5.1). Then it analyses the politics of platform workers' contract classification in light of the theoretical framework developed in Chapter 3. In Part 5.2, it identifies institutional objectives and practices and digs into their drivers i.e. their learning foundations. In Part 5.3, it concentrates on 'imagined futures of work' that have guided the regulation of platform work in France.

5.1 The Politics of Platform Workers' Contract Classification in France

Part 5.1 is structured as follows. Firstly, it provides background knowledge on how France embarked upon liberalisation starting in the 1980s. In so doing, it concentrates on the development of non-standard work with a focus on the rise in solo self-employment and its implications for the social security system. Secondly, it describes the contestation on the question of contract classification of platform workers. Based on 22 semi-structured elite interviews combined with secondary sources, it delineates actors' positions and coalitional patterns and presents regulatory measures adopted. Thirdly, it concludes.

5.1.1 Liberalizing 'Dirigisme': French Labour Market Policies since the Early 1980s

As described in Chapter 2, Western political economies embarked upon a liberalizing pattern since the 1980s. France was no exception in this regard. Changes associated with the rise of neoliberalism marked the end of post-war 'dirigisme' in which the French State played a pivotal role in economic policy-making (V. Schmidt, 1997). Scholars have described this transition as the shift from State-led economic policy-making to market-mechanisms-driven economic policymaking (Levy, 2008;

V. Schmidt, 1997). However, this did not translate into a retreat of the State, rather it implied a change in the objectives and means of its influence in the economy (Culpepper et al., 2008).

Among such objectives, employment creation and productivity increase were placed at the core of the labour market policy agenda (Levy, 2006, 2008). Starting in the mid-1980s, a number of labour market reforms⁸ made the French labour market more prone to non-standard and often precarious working arrangements. Hence the share of non-standard work rose remarkably, especially due to subsidised contracts aimed at ‘activating’ the youngest and oldest workers as well as the long-term unemployed (Amable et al., 2012; Caune & Theodoropoulou, 2018). In 1970, non-standard jobs including fixed-term, part-time and agency work amounted to 3 % of all employment, by 2007 that figure had reached 25 percent (Palier & Thelen, 2010). A look at OECD data shows how temporary employment as a percentage of total dependent employment was 3.4% in 1983, reached about 15% in 2000 and then levelled off. Compared to temporary employment, the increase in part-time employment (as a percentage of total employment) was less steep as it went from about 10% in 1983 to about 14 % in 2000 and then it flattened out (Figure 14).

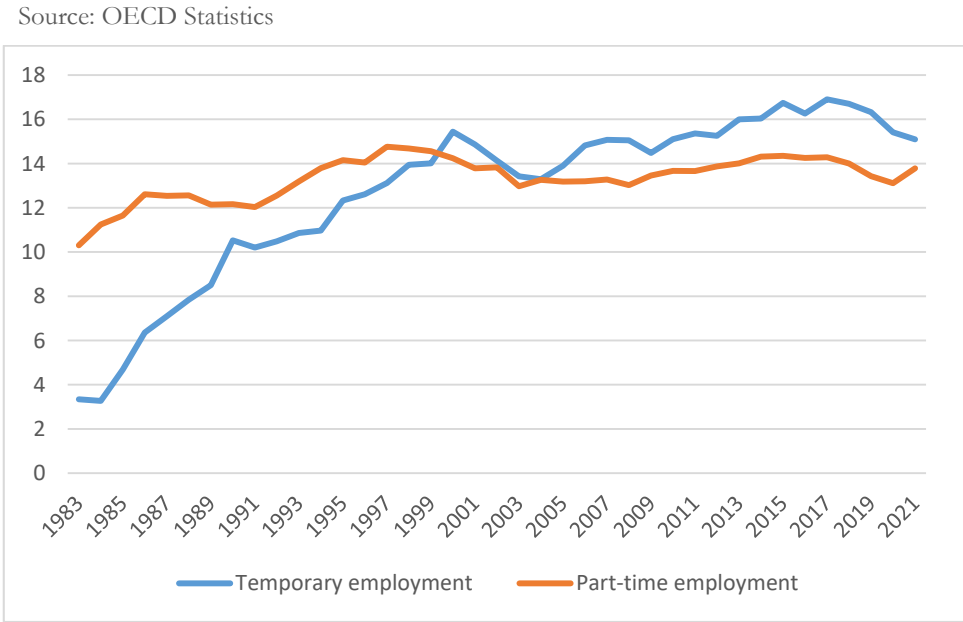


Figure 14 Proportion (%) of temporary and part-time employment respectively on total dependent employment and total employment (1983-2021)

⁸ For a detailed account of French labour market reforms, see Amable et al. (2012).

Especially the growth of part-time employment had a marked gender dimension in France. Indeed, over the last three decades, female part-time employment has constantly been four times higher than male part-time employment (Amable et al., 2012; Levy, 2008; Palier & Thelen, 2010; V. Schmidt, 1997) (Figure 15).

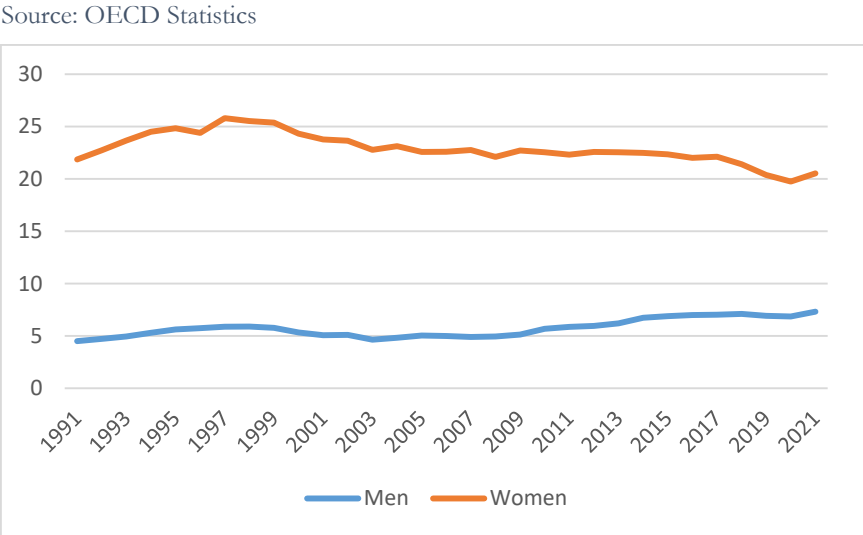


Figure 15 Proportion (%) of part-time employment on total employment (1991-2021), by gender

Part and parcel of the rise in atypical work was a growing focus on self-employment and entrepreneurial spirit as means of employment creation. From 2001 to 2015, self-employment accounted for 34% of net job creation in all non-agricultural sectors, while the creation of self-employed jobs was (nearly) twice as great as growth in paid employment from 2009 to 2015 (OECD, 2018). However, according to Boeri and colleagues (2020), the share of self-employment on total employment increased only marginally from 2000 to 2017(see Chapter 2). The relative growth in self-employment was due to the rise in solo self-employment, that is of self-employed without employees especially after the introduction of the micro-entrepreneur status in 2009 (OECD, 2018) (Figure 16).



Figure 16 Self-employment and micro-entrepreneurs as a share (%) of total employment (1989-2015) (OECD, 2018)

The status of ‘auto-entrepreneur’ (renamed ‘micro-entrepreneur’ in 2016) was introduced by Law 2008-776 ‘on the modernization of the economy’⁹ in 2008. It followed two measures already in place, i.e. the micro-fiscal regime (1991) and micro-social regime (2003). Such a legislative framework was part of a broader political posture in favor of occasional entrepreneurship promoted by public authorities since the late 1990s whose aim was to make it easier to initiate an independent activity so as to boost employment creation (Abdelnour, 2013; Chagny, 2019). The micro-entrepreneur status consists of a regulatory regime that individual entrepreneurs can choose in trade, craft, and services up until a certain turnover - 176.200€ for sales activities and 72.500€ for services.¹⁰ Importantly, micro-entrepreneurs can benefit from certain fiscal and bureaucratic reliefs such as:

- VAT, corporation tax, and business tax exemption
- No need to register to the Chamber of Commerce/Trade
- Social contributions strictly proportional to turnover (22% for services, 12.8% for sales)
- Means-tested, flat-rate withholding income tax
- Possibility to cumulate the status with benefits for unemployed setting up or taking over a business¹¹

⁹ LOI n° 2008-776 du 4 août 2008 de modernisation de l'économie

¹⁰ More details – in French – can be found at this link: <https://www.autoentrepreneur.urssaf.fr/portail/accueil/sinformer-sur-le-statut/lessentiel-du-statut.html>

¹¹ More info can be found at, <https://www.auto-entrepreneur.fr/aide/aide-financiere/accre.html>

Because their activity is autonomous and entails relatively limited turnover, platform workers especially in food-delivery and ride-hailing tend to work as micro-entrepreneurs. On the one hand, this entails tax incentives and limited bureaucratic duties. On the other hand, this translates into restricted access to social protection due their classification as independent workers. Indeed, despite a gradual inclusion of independent work, the French social security system remains more generous with wage earners. These imbalances are at the roots of the contestation on platform workers' contract classification on which section 5.1.2 will concentrate. In the remainder of the present section, we dig into such imbalances by throwing light on their historical roots.

As the self-employed deliberately chose not to be integrated in the general system of social security in 1945, wage earners have historically been the core beneficiaries of the French social security system. However, occupation-based compulsory pension schemes for self-employed were established since the beginning and, in the 1960s, independent workers gained access to health and accident insurance protection (Palier, 2005). Yet these schemes were not fully part of the general regime of social security and presented lower contribution rates, which entailed lower benefits. Starting in the late 1970s, the social protection of the self-employed has been gradually aligned with the general system. This process culminated on 1 January 2020, when the former 'Régime social des indépendants' (RSI) was integrated into the general system of social security.¹² In this regard, it is important to note how the contestation over the contract classification of platform workers began at a time when independent workers were still not attached to the general system of social security. To understand the main lines of contestation, it is thus worth looking at the 2018 OECD report on non-standard work on the differences between the protection of wage-earners¹³ and self-employed. In its report, OECD shows that i) in the realm of health care and family policy there are no relevant protection differences between self-employed and employees, ii) more contributory rights such as cash benefits and pensions, benefits are generally lower due to overall lower levels of contributions, iii) in areas of social protection such as unemployment, work accidents, incapacity and death there are no compulsory collective protective system for self-employed and therefore they receive more limited protection than employees. Testifying the efforts of equalizing protection for employees and self-employed, however, the reform of unemployment benefits has made it

¹² This does not mean a full equality between the two categories.

¹³ This of course strongly depends on the type of dependent contract. With the flexibilisation of labour occurred over the last decades, levels of protection have worsened among wage earners too. In particular, the disparity between well-paid, often open-ended contract and other forms of more precarious arrangements has grown big and generated dualisation dynamics (Emmenegger et al., 2012).

possible for the self-employed who close their business due to court-ordered liquidation or administration proceedings to apply for unemployment.

All in all, the French social security system is relatively generous to self-employed but the latter often pay lower contributions and face stricter accession criteria to protection. This is especially problematic for the most socio-economically vulnerable self-employed such as platform workers and economically dependent self-employed more in general. It is from this imbalance between the protection of employees and (solo) self-employed, and from the firm intention of platforms to work with independent platform workers, that the conflict around their contract classification emerged. The rest of the chapter is devoted to describing and understanding such a contestation.

5.1.2 Employees or Contractors? Contesting the Contract Classification of Platform Workers in France

As illustrated, platform work developed in a context of unbalanced protection between employment and self-employment and of rising share of solo self-employment. Thus far, data on the actual diffusion of platform work remains scattered and markedly dependent on definitions. This is why figures that follow should not be compared but taken as an indication of different measurement attempts. According to 2017 COLLEEM Survey (Pesole et. al, 2018), the (weighted) percentage of French adult active Internet user that has ever worked in an online platform is 8.8%. Yet if we take the total adult population as a yardstick, the figures decrease to 7%. If we take a look at Brancati, Pesole, and Fernández-Macías' work (2019), we observe how 7.6% of respondents has ever worked in a platform, while 6% has done so at least monthly. Moreover, one can see that 2.8% works/has worked in platform sporadically, 2.3% as a secondary activity, and 1.9% as a main job. In absolute terms, this translated into some 213.000 people involved in platform work Urzi Brancati and colleagues (Urzi Brancati et al., 2020). This is in line with national sources, according to which about 200.000 people were involved in platform work in France in 2017 (INSEE, 2018).

While platform work measurement remains something of an ongoing endeavour, available figures allow us to conclude that the diffusion of platforms adopting an independent-contractor-based business model – and for this reason posing challenges over the contract classification of workers – is relatively limited. Nonetheless, the contract classification of platform workers has gained political prominence over the last decade. Dating back to 2013-2014, the debate on platform

workers' contract classification in France has been one of the longest-standing and heated in Europe. Discussions have involved incumbent and novel actors ranging from governments and social partners to platform workers' representatives, platform themselves and novel actors aiming to renew social dialogue practices for the digital age. Such debates led to the first pieces of legislation explicitly devoted to the question of contract classification of platform workers in Europe. Based on 22 semi-structured elite interviews complemented with secondary academic and policy literature, this section presents the actor constellation and coalitions around the question of contract classification of platform workers as well as the regulatory responses adopted to tackle such an issue. First, it delves into the role of the government in the adoption of legislation on platform work. Second, it concentrates on the positions of traditional social partners and of novel actors such as platform worker organizations on legislation adopted by the government. Third, it focuses on the influence of selected civil society actors in the debate on contract classification.

The Governmental Approach: Socially Responsible Platforms for the Future of Work

Over the last decade, French governments have shown a profound interest in and a generally positive posture towards digital technologies (Abdelnour & Meda, 2019). In January 2013, the 'Inspection Générale des Finances' (IGF) presented a report underlining the urgency for France to adapt to the new digital economy.¹⁴ It suggested to do so by re-calibrating the tax system in such a way that it benefits society while favouring the growth of digital companies. In 2014, the 'Lemoine Report'¹⁵ stated that digitalisation presented more opportunities than risks for France and put forward a number of recommendations to seize such opportunities. In October 2014, the 'Conseil National du Numérique' (CNNum) published a report on how to make educational system work in the digital age.¹⁶

The first report devoted to the study of how digital technologies affected the world of work was commissioned by Minister of 'Work, Employment, Vocational Training and Social Dialogue' François Rebsamen to Bruno Mettling and published in September 2015. The so-called 'Mettling Report' investigated the impact of the digital transformation on the employment contract, working conditions and management functions and put forward a recommendations on how to transform firms in a digitally effectively fashion. Short after, in October 2015, Minister of 'Work,

¹⁴ The report was titled 'Mission d'expertise sur la fiscalité de l'économie numérique'.

¹⁵ The report was titled 'La nouvelle grammaire du succès : La transformation numérique de l'économie française'.

¹⁶ The report was titled 'Rapport Jules Ferry 3.0'.

Employment, Vocational Training and Social Dialogue’ El-Khomri commissioned a report on the challenges and prospects of the ‘sharing economy’ in France to Pascal Terrasse. This report advanced a set of recommendations on the i) need to create a favourable politico-economic environment for digital platforms to develop as well as, ii) policy options to ensure adequate social protection to platform workers. In May 2016, the ‘Inspection Générale des Affaires Sociales’ (IGAS) published its report entitled ‘Platforms, work, and social protection’, which provided the first in-depth exploratory analysis on social challenges of platform work. These reports were published in the context of the discussion of the ‘Loi pour une République numérique’ (Law for a Digital Republic), which was adopted in October 2016. Starting from the premise that the ‘Republic’ of the future “will necessarily be digital”, such a law aimed at setting ground for construing a rights-based inclusive digital future.¹⁷

While problematising various challenges stemming from digitalisation, these initiatives were all quite positive in describing it as the future France should embrace. This attitude is well described by the label ‘Start-up nation’. Launched under the Holland presidency and reinforced since Macron took office, ‘Start-up nation’ is a far-reaching political strategy that aims at making France “a country where everybody will be able to create a start-up”, as President Macron tweeted on 13 April, 2017. The three main pieces of legislation addressing the question of contract classification of platform workers, that is the ‘El Khomri Act’, ‘Loi Avenir Professionnel’ (AvePro), and ‘Loi d’Orientation Mobilité’ (LOM), embodied a ‘start-up nation’ approach. The next three sub-sections expound on their content and unveil their political drivers.

‘Loi Travail 2016’: Introducing a Social Responsibility Agenda

The so-called ‘Loi Travail 2016’ – also referred to as ‘El Khomri Act’ - (n.2016-1088) on ‘work, social dialogue modernization, and career paths securing’ first provided a regulatory framework for digital platforms in France – and in Europe. Classifying platform workers as independent contractors, article 60 granted them a threefold set of entitlements. First, platforms must cover insurance costs if a worker subscribes to a work accidents insurance or opts for the voluntary scheme provided for in the Labour Code. Payment goes up to a ceiling fixed by decree. Second, platform workers are provided with vocational training rights based on Article L. 7342-3 of the Labour Code, which delineates training entitlements for independent workers. In this framework,

¹⁷ <https://www.vie-publique.fr/eclairage/20301-loi-republique-numerique-7-octobre-2016-loi-lemaire-quels-changements>

platforms must contribute to vocational training costs (no minimum requirement is established) as well as pay for expenses related to the recognition of competence acquired on the job. These two rights are conditional to a minimal turnover which was set by Decree no. 2017-774 of 4 May 2017 (13% of the annual ceiling of social security). Third, platform workers are granted the right to strike as well as to form or join a trade union.

Crucially, all these provisions were taken in the name of the principle of platforms' social responsibility. While the idea of Corporate Social Responsibility (CSR) is all but new (Windsor, 2006), its application to digital platform regulation has been a French specificity (Guarascio, 2018). To understand the rationale behind article 60, we should delve deeper into how the concept of CSR was promoted in the French context. In 2013, France Stratégie, a consultative independent body attached to the Prime Minister, launched the so-called 'Plateforme RSE' (Corporate Social Responsibility Platform) defined as 'national platform of global actions for corporate social responsibility'¹⁸. According to its 'working principles', Plateforme RSE is "a specialised consultation and reflection body, based at France Stratégie, reporting to the Prime Minister, created at the request of a group of organisations and institutions representing the main corporate stakeholders and wishing to promote constructive dialogue between them with a view to promoting corporate social responsibility in France" (France Stratégie, 2015). Among other things, Plateforme RSE is committed to i) drafting a "national priority action plan" for CSR addressing both public and private actors ii) making recommendations aimed at strengthening good CSR practices of firms, iii) building a widely accessible documentary base to encourage the dissemination of a culture favourable to CSR. In 2018, Plateforme RSE set up a working group devoted to 'digital responsibility of enterprises' ('responsabilité numérique des entreprises', RNE). The focus on RNE aimed at fostering debate on, among other issues, the societal implications of the digital transformation of work.

Article 60 thus emerged in a context where CSR was not only widely debated, but also regarded as the preferred way for ensuring that firms pay their share in future digital society. In platform regulation terms, this meant that digital platforms should be held socially responsible for the protection of their independent workers. On the one hand, this approach granted platform workers with a minimum set of rights. On the other hand, it took platform work outside the scope of labour

¹⁸ <https://www.strategie.gouv.fr/reseau-france-strategie/plateforme-rse>

law and left it within the realm of commercial relationships between platforms and independent contractors. Platforms welcomed such a move.

As one interviewee states, Article 60 mirrored Hollande Presidency's political stance towards platform work, especially ever since Manuel Valls became Prime Minister in 2014 and Emmanuel Macron took office as the Ministry of the Economy and Industry. This change in government marked a shift as "they [Valls and Macron] have a much more liberal vision of how employment questions should be treated"¹⁹. Along these lines, one of the experts interviewed noted how the change in government was functional to the adoption of Article 60, whose goal was to "provide something to enhance the status of these independent workers with the aim of avoiding re-classification by the judges"²⁰. Indeed, one of the first drafts of article 60 – then rejected over parliamentary discussions- forbid judiciary re-classification of self-employed contracts into employment contracts.²¹

However, evidence collected indicates that it is not enough to refer to the political will of the government in power to understand the genesis of the social responsibility agenda. As a high-ranked official of the 'Inspection Générale des Affaires Sociales' (IGAS) notes, the competent Ministerial administration played a central role. In the words of the interviewee:

"The real architect of the social responsibility of platforms is the 'Direction Général du Travail' [DGT; General Directorate for Labour] [...] whose idea was not to interfere with the contract classification of platform workers, knowing that this would complicate things..."²²

The 2017 and 2018 DGT Activity Reports confirm the focus of DGT on corporate social responsibility – both in general terms and applied to digital platforms (Directorate General for Labour, 2017, 2018). While in 2017, the DGT participated in the work Plateforme RSE as the representative of all social ministries and was active in several CSR-related activities, the focus on CSR in relation to digital platform was more explicit in 2018.

Put bluntly, Article 60 mirrors the labour market political orientation of Hollande and Macron's presidencies. Interviews clearly indicate how it was the first element of a larger and taller building

¹⁹ FR-CS3

²⁰ FR-EXP5

²¹ FR-EXP4; PWO1

²² FR-GOV2

that has at least two other major pillars, namely the ‘Loi Avenir Professionnel’ (AvePro) and the ‘Loi d’Orientation de Mobilité’ (LOM). The two next subsections focus on them in turn.

Loi Avenir Professionnel and Amendment Taché: Implementing a Social Responsibility Agenda

While the ‘Loi Travail 2016’ laid the groundwork for the social responsibility of digital platforms, the ‘Loi pour la liberté de choisir son avenir professionnel’ (n. 2018-771) voted in August 2018, took it a step farther. The so-called ‘Loi avenir professionnel’ (AvePro) aimed at tackling three major political commitments that characterized Macron’s electoral campaign, that is the reform of unemployment benefits provision, skill formation and traineeship systems.²³ The overarching goal was to enable France to provide its citizens (workers) with the right skills to be employable in the twenty-first century knowledge economy. AvePro was part of a broader debate on ‘droits sociaux portatifs’ (portable social rights) whose supporters argued in favour of detaching employment and social protection from contract classification – and attaching it to citizenship (Caillaud, 2020).²⁴

In the context of AvePro, the ‘Amendement Taché’ (Taché Amendment – named after ‘En Marche!’ MP Aurelien Taché)²⁵ proposed a regulatory device to ameliorate the employment and social protection of platform workers, namely the so-called social ‘chartes sociales’ (hereinafter: social charters). The latter consists of an agreement between the platform and its workers through which the former commits to grant a given set of employment and social rights. “This charter”, the text of the amendment goes, “will be drawn up by the platforms, taking into account the constraints and specificities of their business model. It will be annexed to the service provision contracts of self-employed workers in order to make it enforceable against the parties. In order to secure the relationship between platforms and self-employed workers and to enable the development of the social responsibility of platforms, it is planned that this charter and the elements it contains do not constitute indications of reclassification of the contractual the contractual relationship into a salaried employment relationship”.

²³ <https://travail-emploi.gouv.fr/demarches-ressources-documentaires/documentation-et-publications-officielles/textes-et-circulaires/lois/article/loi-avenir-professionnel>

²⁴ The creation of the ‘Compte Personnel d’Activité’ (CPA) in 2015 goes in the direction of portable social rights. CPA is an account through which individuals can cumulate, for instance, training rights without losing them when changing job. Because of marked fragmentation in career paths, CPA sets out to attach rights to the person rather than to her/his employment. Initially available for salaried workers only, from January 2018 independent workers can use it too.

²⁵ Amendment n.2072 proposed on 7 June 2018.

Officially proposed in the Amendment Taché, the ‘social charters’ were the result of government and administration’s reflexions on how to conciliate flexibility and protection in the regulation of platform work²⁶. We learn from the interview with a former advisor to the Prime Minister²⁷ that the idea of the social charters originated from two existing provisions that were adopted in the previous years. The first provision was the set of rules on layoffs introduced by law n.598 in 2008. Such rules introduced a procedure (‘rupture conventionnelle’) that allowed the employer and the employee to agree jointly on the conditions for the termination of the employment contract between them.²⁸ The agreement is to be validated by the Direction Générale du Travail (DGT). The second set of provisions, adopted by law n.503 in 2014, introduced new rules for ‘collective economic layoffs’ that simplified the termination of employment contracts of at least 10 employees in firms of at least 50 employees. This could happen either through an agreement or through a unilateral document drawn by the employer. In both cases, such documents require the approval of the Direction Générale du Travail (DGT). These two reforms had features in common that inspired the development of the social charters. In the words of the former advisor to the Prime Minister, who was one of the designers of the social charters:

“What these two reforms have in common is that you had a great deal of flexibility granted to the culture of organising the termination of the employment contract. Yet in return you had a very strong requirement on formalism coupled with the fact that the parties who decide to go down this path do so in a totally informed way. The respect of this formalism being guaranteed by a third party, in this case the administration, which approves the termination and which, by approving the termination, does not rule on the substance, i.e. the reasons that led to this termination, but rather on the fact that the parties who agreed on this termination did so in a free and informed manner and with full knowledge of the facts. All in all, these two mechanisms have worked very well and have really provided both guarantees and legal security.”²⁹

Following this logic, the system of social charters was developed with the goal of ensuring social protection to platform workers and legal security for platforms via a document developed by the platform and subsequently homologated by the ‘Direction Générale du Travail’ (DGT). Words by the former advisor to the Prime Minister prove explicative again in this regard:

“The idea was to say that on the one hand we have the self-employed who wish to benefit from social guarantees. On the other hand, there are platforms who wish to benefit from a certain form of legal

²⁶ FR-GOV6

²⁷ Ibid.

²⁸ <https://travail-emploi.gouv.fr/droit-du-travail/la-rupture-du-contrat-de-travail/article/la-rupture-conventionnelle-du-contrat-de-travail-a-duree-indeterminee>

²⁹ FR-GOV6

security, i.e. to avoid being reclassified as an employer by the judge. So, to reconcile these two requirements, we had the idea of making it possible to draw up a charter with a certain number of social guarantees. If you [platforms] would do that, we will establish the principle that we do not take this circumstance into account [the fact that platforms provide social guarantees] in order to consider you as the employer.”³⁰

In line with the evidence emerged on the role of the DGT in the development of the social responsibility agenda, this interviewee stresses the importance of the DGT in the operational designing of the social charters.³¹ The DGT 2018 Activity Report confirms the important role of State administration in the development of the system of social charters: “Within the framework of the legislation on the freedom to choose one’s professional future [‘Loi Avenir Professionnel’], the DGT was involved in designing a legal mechanism that would allow “socially responsible” platforms to secure new rights for self-employed workers (professional training, the of occupational risks, information on the conditions governing the of activities, and complementary social protection), without such practices constituting evidence of a relationship of legal subordination” (Directorate General for Labour, 2018, p. 26).

The proposal of social charters was consistent with Article 60 of the El-Khomri Act on the social responsibility of platform workers. However, following the request advanced by a number of MPs to check constitutional conformity of the AvePro, the ‘Conseil Constitutionnel’ found the system of social charters to be unconstitutional. Specifically, Article 66 on social charters violated Article 45 of the French Constitution because it had no direct or indirect relation with the general objectives of the law (in France this is called a case of ‘Cavalier législatif’). Thus, the project of social charters was dropped.

Loi D’orientation Mobilité (LOM): Re-implementing a Social Responsibility Agenda

The decision of the ‘Conseil Constitutionnel’ came as a setback to the governmental approach and contributed to intensify the debate around social charters and the contract classification of platform workers more in general. After the rejection of Article 66 of AvePro, the government started to re-think the social charters in such a way that they would be constitutionally acceptable. The idea of social charters as protecting tool for platform workers re-appeared in 2019 in the so-called ‘Loi

³⁰ FR-GOV6

³¹ Ibid.

LOM ('Loi d'Ori ntation Mobilit '), a comprehensive law aimed at clarifying and simplifying transport regulation in France. In order to enhance working conditions and social protection of VTC ('Vehicule de Transport avec Chauffeur')³² drivers using a platform like Uber or Heetch, Article 20 of the preliminary text proposed social charters again. In early April 2019, nonetheless, the Senate rejected Article 20 due to its facultative dimension and inconsistency with the broader aim of the law, its harmful character for the Labour Code and its weakness when confronted to concrete possibility of reclassification. Yet discussions on social charters did not come to an end: the final text of the LOM approved on 19 November 2019 included a whole article (Art.44) that re-stated the willingness of setting up a system of social charters aimed at i) protecting workers from poor employment conditions and ii) platforms from reclassification by making it de facto illegal. If platforms respect charters, their workers cannot be reclassified as employees.

The DGT played an important role in this case as well. DGT 2018 Activity Report shows that "censured by the Constitutional Council for reasons relating to parliamentary procedure, this mechanism [social charter] was redesigned in 2019, in association with other interested ministries; it is to be included in another legislative vector, the Mobilities Act (Loi d'orientation des mobilit s —LOM)" (Directorate General for Labour, 2018, p. 26). Intervening in a panel called 'Should we get rid of the employment contract: freedom versus protection?' at a public event organized by INTEFP ('Institut Nationale du Travail et de la Formation Professionnelle')³³, the then General Director of DGT Yves Struillou re-stated that platforms have a social responsibility towards workers regardless of the contract classification, and that it will important to include social charters in the Loi LOM.

The question of contract classification remained nonetheless highly contested. A week after the vote on the LOM, more than 100 MPs asked the 'Conseil Constitutionnel' to check for the constitutional validity of Article 44. On 20 December 2019, the highest French judicial authority stated that the part of Art. 44 which impeded reclassification is unconstitutional and, therefore, not applicable. It should not be the legislator but the judge, so the Decision goes, to establish the nature of the contractual relationship on a case by case basis. Four days later, the LOM was promulgated without the article on social charters.

³² VTC equates to PHV, that is Private Hire Vehicle.

³³ <https://sessionnationale36.intefp.fr/ameliorer-droits-travailleurs-plateformes.html>

The social responsibility edifice built by the government met numerous and stark reactions from various actors. Among the State apparatus, the arguments of the Conseil National du Numérique (CNNum) were influential in orienting the debate on the contract classification of platform workers in a different direction than the one supported by the government.

Conseil National du Numérique (CNNum): Advancing Skepticism on the Social Responsibility Agenda

The ‘Conseil National du Numérique’ (CNNum) was set up in 2011 as an independent consultative commission that deals with digital affairs.³⁴ One of the interviewees explains the rationale for the establishment of CNNum:

“At a certain moment there was a realization that this [digitalisation] becomes a central theme in public policy making and, as a result, there was need to work on it.”³⁵

Interviews with experts and CNNum members show how the ‘Conseil’ has been a central actor in the debate on the digital transformation of work and specifically on the contract classification of platform workers. In 2015, as requested by the then Prime Minister, CNNum published the Report ‘Ambition Numérique’ (‘Digital ambition’) containing 70 recommendations for a French and European policy of the digital transition. Following the adoption of the ‘Loi pour une République Numérique’³⁶ (‘Law for a Digital Republic’), CNNum published a report in which it expressed appreciation for provisions contained in the law. In 2016, it also published one of the first comprehensive reports on the impact and prospects of the digital transformation of work in France. Starting from the premise that digitalisation is a major breakthrough that confronts societies with radical uncertainty, the report ‘Travail, Emploi, Numérique: Les Nouvelles Trajectoires’ stressed the need to regulate platform work especially as regards taxation and employment relationship (Conseil National du Numérique, 2016). Concerning the latter, it supported the development of cooperative platforms as a way to grant protection to economically-dependent platform workers (Conseil National du Numérique, 2016).

³⁴ Members are appointed by the Secretary of State for digital affairs who also sets the agenda of the Conseil. CNNum, however, can also decide its agenda autonomously.

³⁵ FR-GOV1

³⁶ Law n. 2016-1321

In 2018, CNNum coordinated the so-called ‘Etats Généraux de Nouvelles Régulations du Numériques’ (EGNum). Launched by ‘France Stratégie’ in July 2018, EGNum was a public consultation process involving a wide range of actors concerned with the digital affairs aimed at taking stock of digital challenges and proposing policy ideas for tackling them. One of the interviewees, who was directly involved in the EGNum, helps better understand the rationale behind such an initiative:

“The goal was to generate discussion and political interest around different digitalisation-related matters with a view to developing ideas to regulate digital platforms and digital work. This was also a way to identify an approach *à la française* and to present it on the EU and international stage.”³⁷

EGNum took place in two subsequent phases. In the first phase, several technical groups led by State administrations worked on identifying the most worth-debating themes around platform regulation. Six themes were chosen for discussion, among which ‘the protection of platform workers’. During the second stage, such scenarios were discussed via online and physical consultation with multiple stakeholders such as platforms, workers, trade unions, and State administration. ‘Protection of platform workers’ was among the themes identified and discussed. A wide array of actors participated in such a collective reflexion ranging from big corporations like la Poste, platforms such as Uber, Heetch and Deliveroo, cooperative platforms such as Coopcycle to social partners such as ‘Mouvement des Entreprises de France’ (MEDEF), ‘Force Ouvrière’ (FO) and ‘Collective des Livreurs Autonome de Paris’ (CLAP) and public authorities like the Ministry of Employment. The question of the contract classification took centre stage in the debate. Some actors highlighted that platform workers should qualify as employees as their work entails factual subordination. Other actors proposed that attached with employment contracts should be extended to economically-dependent self-employed. Moreover, the possibility of ensuring protection via social charters as well as with other social dialogue and cooperative-based mechanisms was put on the table by the government. While EGNum did not directly lead to any regulatory outcomes, it for the first time gave the most important actors concerned with digital matters the opportunity to discuss and exchange their views.

Not only did the CNNum sought to foster dialogue among a range of actors, it also took a clear stance against the social responsibility agenda of the government and specifically against the system of social charters. Warning against the risks of leaving decisions on social protection in platforms’

³⁷ FR-CS1

hands, CNNum firmly contrasted Article 20 (then 44) of the LOM and the principle of social responsibility connected to it. In an open letter to the Ministry of Employment and Members of the Parliament, CNNum argued that the voluntary character of the social charters is problematic as it leads to an excessively unbalanced relationship between platforms and app-dependent independent workers and risks paving the way for an increasingly disaggregated society. According to the CNNum, impeding reclassification of platform workers' contracts would codify power imbalances and worsen working conditions in the platform economy³⁸. Instead of implementing soft law tools like social charters, social dialogue mechanisms should be developed as a way to better take into account the interest of both parties. Furthermore, the idea of forbidding reclassification by law is untenable, the CNNum went, because decisions on the character of work contracts should stay in the hands of tribunals.³⁹

The same concerns emerged in the interviews with CCNum members. The former president of CNNum recounts how the proposal of social charters made the CNNum realize that the system of social rights in place for decades could actually be undermined at its roots:

“I think that the question of charters was a major trigger point, where all of a sudden everyone says: Well, we're adopting charters but a social legislation already exists...”⁴⁰

This awareness grew over time and led the CNNum to develop critical positions on the social charters. To put it with a former CNNum member:

“The fact of acquiring knowledge [on platform work and its regulatory challenge] made us taking a position against the ‘chartes’, asking for social dialogue mechanisms to be developed.”⁴¹

In conclusion, the CNNum was initially supportive of the government's action on digital matters but it later took issue with the social responsibility agenda and especially with the system of social charters. This position went close to that of trade unions and independent organizations of platform workers while proving quite distant from that of platforms and traditional employer organizations. The next section delves into social partners' reactions and actions to the social responsibility agenda of the government.

³⁸ See the Open letter to the Ministry of Transports and MPs by the CNNum President Salwa Toko, 4/9/2019. The CNNum also published an op-ed about the social charters on 'Le Monde', 29/04/2019.

³⁹ Ibid.

⁴⁰ FR-GOV3

⁴¹ FR-GOV4

Collective Representation in the Platform Economy: Traditional Social Partners, Novel Actors and the Contract Classification of Platform Workers

The rise of platform work has represented a challenge for social dialogue in France and beyond. Due to difficulties in involving platforms and platform workers in traditional collective bargaining channels, not only traditional trade unions and employer organizations were involved in the debate but also platforms and platform workers' representatives. This amounted to a novel constellation of actors whose configuration has rapidly and frequently evolved, often challenging 'traditional' representational patterns. With a view to throwing light on such dynamics, the next subsection focuses on how traditional unionism has responded to the social responsibility agenda of the government.

CGT, CFDT and FO: Trade Unions and Degrees of Opposition to Social Responsibility of Platforms

Scholarly research shows that trade unions had a hard time responding to the challenges platform work poses – both in terms of contract classification and beyond. Three reasons for this emerge from the interviews on the French case. First, French unions are used to think of themselves as representing the interest of dependent workers, which has distanced them significantly from independent contractors working via platforms⁴². Second, and relatedly, the development of strategies for protecting self-employed platform workers – or self-employed tout court – can be politically difficult to justify before unions' members⁴³. Third, even when such obstacles are overcome, the collective representation of platform workers can still turn out to be difficult due to high degree of atomization in their activities.

Despite such structural difficulties, however, French unions have gradually become central actors in the politics of platform workers' contract classification. The 'Confédération Générale du Travail' (CGT), 'Force Ouvrière' (FO) and 'Confédération Française Démocratique du Travail' (CFDT) emerged as the three representative confederations that were active on the topic of contract classification of platform workers. Among them, the CGT emerges as the most vocal. The CGT has repeatedly stressed how the nature of platform work is linked with subordination and not with independence. For this reason, the CGT has been in favour of classifying platform workers as

⁴² FR-EXP4

⁴³ Ibid.

employees so that they can access employment protection and be involved in collective bargaining as dependent workers.⁴⁴

By contrast, the CFDT has supported the independence of platform workers. A member of CFDT Union well clarified the position of the CFDT in one interview:

“The position of the CFDT is clearly in favour of the respect of workers’ independence and generally in favour of the choice of independent workers.”⁴⁵

Thus, the CFDT calls neither for re-classification of contracts nor for a presumption of employment clause. Underlying how independent platform workers often use the platform as a second flexible job to earn top-up income, the interviewee noted how

“If we do a presumption of employment on this second occupation, they [the workers] will have to abandon one of their two jobs due to working times constraints linked to subordinated work. This would increase their precariousness.”⁴⁶

Despite being in favour of the independence of platform workers, however, the CFDT was very critical towards the social charters due to the fact that they were not negotiated among social partners but unilaterally imposed by platforms. What CFDT proposes is that independent platform workers can have their own union representation and be fully involved in collective bargaining.

FO has positioned itself in between the positions of CGT and CFDT, namely it has neither argued in favour of re-classification or presumption of employment, like CGT, nor has it actively promoted the independence of platform workers, like CFDT. Instead,

“Our position has always been that of being in favour of the freedom of choice of workers, that is: if you want to remain independent, if have to remain so and be sure your work meets the legal characteristics of independent work; do you want to become an employee? We will be there for you, to support your legal actions...you must be free to become an employee even without filing an appeal.”⁴⁷

⁴⁴ <https://www.cgt.fr/actualites/france/services/mobilisation/les-travailleurs-des-plateformes-sorganisent>

⁴⁵ FR-TU2

⁴⁶ Ibid.

⁴⁷ FR-TU3

Interviews with experts and trade unionists generally indicate how employer organizations had a welcoming approach with platforms and the social responsibility agenda of the government. Unfortunately I was not able to obtain an interview with them, which would have had certainly refined such a general finding.

Platform Workers' Activism: The Cases of CLAP and SCVG

Despite union activism on the matter, the path to unionizing platform workers has been tortuous. Given these difficulties, a strong platform workers' movement has developed in France – especially in food-delivery and ride-hailing sectors. In what follows, we focus on two cases from the former sector.

The 'Collectif des Livreurs Autonome de Paris' (CLAP) has been active under various denominations since 2014, when its founder first had the idea of creating an association that would defend riders' interests collectively⁴⁸. The goal was to fight against bogus self-employment on which food delivery platforms tend to rely. In 2014, as a very first step, (s)he decided to sue the platform (s)he was working with, arguing that his/her activity could not be classified as independent but as subordinated, and (s)he thus had right to employee protection. A quotation from the interview well testifies to what extent the platform issue has grown in importance over the last years. So the interviewee goes:

“We first went to the Labour Court end 2014...the matter was really complex [...] When we got the first hearing it was 2015, and we had to explain them everything because they did not know what Uberisation is about, politicians did not know, trade unionists and researchers did not know...”⁴⁹

Although being probably exaggerated, these words well reveal the magnitude and rapidity of the question of the contract classification of platform workers in France. As the matter was becoming increasingly topical, the CLAP gradually started to question its original aim, that is to ask that couriers' freelance contracts would be re-classify into employment contracts. This shift began after CLAP activists realized that becoming an employee was not necessarily the preferred claim among couriers, who frequently associate employee work to domination instead of protection. To put it with the interviewee:

⁴⁸ FR-PWO1

⁴⁹ Ibid.

“Dependent work is apparently not something people of this generation dream of. [...] They [the workers] do not ask to be reclassified as employees [...]; this means that labour law and salariat transmit domination and subordination instead of protection, to the point that they [the workers] prefer not be protected rather than being recognized as subordinated.”⁵⁰

Therefore, the CLAP started to present itself as an entity who *supports* platform workers’ interests rather than one that *represents* them. In parallel, it also began proposing different pathways than reclassification. The Legislative proposal supported by the Communist Party goes in this direction. “In the Labour Code”, explains the interviewee, “there is a number of jobs which are recognized as salaried but in fact enjoy a high degree of autonomy in their work activity”. It is the case, for instance, of the VPR (‘Voyageur, Représentant, et Placier’) status which concerns sales representatives working under an employee contract. The aim of such a legislative proposal is to equate platform work to such professions and thus regulate it as an “autonomous but salaried” activity.⁵¹

In this context, the relationship between CLAP and traditional trade unions started as markedly suspicious and developed tepidly. The first years of CLAP activity were marked by strong mistrust in trade unions. The relation between the latter and platforms’ activists gradually mutated after the ‘Loi Travail’ 2016 entered into force. This first happened when a member of the ‘CGT-Service à la personne’ contacted the founder of the CLAP and expressed his concern with couriers’ claims. From that moment on, this CGT section and the CLAP have been constantly in contact and the former has also provided the latter with financial means to carry out its activities. In 2017, CLAP’ stance towards the CGT further evolved when the founder was invited for a meeting with other riders to CGT headquarters. On that occasion, (s)he could notice that the CGT tended to adopt its usual action pathways, that is: platform work is bogus self-employment and, therefore, independent contracts should sue platforms and ask for reclassification⁵². Yet, as noted above, this is not necessarily the best strategy when defending riders’ interests. This showed a certain incapacity of the CGT – at the federal level - to respond to new challenges. As CLAP founder notes:

“[Platforms] are disruptive, while the CGT is all but disruptive. It is an old lady who needs quite a lot of time to cross the street...”⁵³

⁵⁰ FR-PWO1

⁵¹ Proposal N. 717 presented to the Senate on 11 September 2019. Information on the proposal is limited in the interview and is in fact also hard to find further specification on the Internet.

⁵² FR-PWO1

⁵³ Ibid.

So, relations with the ‘CGT-Service à la personne’ continue to be good at present, while suspicion still drives contacts with the federal structure of the CGT. The main reason for distrust is that CGT may exploit couriers’ claims for political purposes while not providing them with concrete resources to carry out their activities. For this reason, the CLAP has decided, to the date of the interview, not to become a CGT affiliated, although it will soon become an independent union.⁵⁴ Things have developed differently in other cases of platform activism.

The experience of ‘Syndicat des Coursiers à Vélo de la Gironde’ (SCVG) recounts the same story of scepticism but with a different outcome. Following a Deliveroo’s unilateral decision to strengthen piecework pay while lowering remunerations, the first CGT-affiliated riders union was created in Bordeaux in February 2017. As the founder of such a group pointed out, the ‘Syndicat des Coursiers à Vélo de la Gironde’ (SCVG) stems from a collective of riders which was created informally to protest against working conditions imposed by platforms.⁵⁵ According to the interviewee, a couple of active members of the ‘Coursiers Indépendants Bordelais’ decided to contact the CGT to ask for a space to hold meetings. Their goal did not go much beyond that; they did not mean to set up a proper union. Such a proposal, notes the interviewee, mostly came from the CGT “which showed interest in seeking to organize our discontent”⁵⁶. This shows how attempts of unionizing couriers have been made. At the same time, the interviewee underlines that SCVG’s fights were mostly unsuccessful. “This is due to the fact that we did not manage to create a sufficient power relationship with platform”, (s)he stresses. Relatedly, the interviewee reflects on obstacles to a proper social dialogue with platforms:

“From the moment we officially became a union, we have been much less accepted to company meetings because the platform said that we are riders that elect a Secretary General...there a refusal towards us has started because they claimed that unions cannot work within platforms as we are independent workers...”⁵⁷

Such a quotation throws light on difficulties to collectively determine platform workers’ working conditions and social protection. This is chiefly due to platforms self-image which discarded the idea of being a social dialogue actor. Drawing on an interviewee with one Uber manager, the next

⁵⁴ FR-PWO1

⁵⁵ FR-PWO2

⁵⁶ Ibid.

⁵⁷ Ibid.

subsection presents the position of Uber on the contract classification matter in the platform economy.

Employer Organizations and the Case of Uber France

Unfortunately, I have collected no interviews with French employer organizations. Some reference to employers being close the position of the government were made in interviews with other actors. This is nonetheless not enough I therefore cannot advance empirically-grounded claims on their institutional work and related ‘imagined futures of work’. Recent secondary sources, moreover, note that French employers have expressed no public position on the question of contract classification (Chagny, 2022). As for platforms, an interviewee with a France Uber manager well recounts platforms tend to refuse to engage in social dialogue as they consider the latter as a typical employer duty. The interviewee clearly stated how “we think that it is our responsibility also to work on social protection and offer benefits”⁵⁸. In line with the project of social charters, this should happen in a context where contract classification is not contended and platform workers are independent contractors.

The manager interviewed clarifies the meaning of social responsibility for Uber. To the Californian app-based company, social responsibility is about i) “maximizing revenue for drivers ii) offering the benefits that we can in terms of social protection iii) taking into account their voice”.⁵⁹ Point i, which is a top priority for drivers according to Uber, would be seriously undermined if Uber will ever be forced to act as an employer. As a result, point ii can only entail a self-regulated way of providing social benefits. Point iii concerns (some forms of) social dialogue. In this regard, so the interviewee goes, Uber already has a number of mechanisms aimed at listening to drivers’ voices (e.g. surveys, so called National consultations), but they are insufficiently known by the public opinion.⁶⁰ Whatever the character of such tools, they do not have to resemble to traditional social dialogue mechanisms:

⁵⁸ FR-PLMAN1

⁵⁹ Ibid.

⁶⁰ It emerges from some interviews (FR-EXP1, GOV4, TU3) that other platforms like Deliveroo and Heetch also put in place mechanisms to foster workers’ representation. Their approach is similar to Uber’s: they accept to discuss with their independent contractors, but refuse to follow externally-imposed procedures for social dialogue.

“We do not want to be a copy and paste of the employee world...this is really a trap in France I think...employee or independent...we are trying to invent something new in terms of social dialogue, and maybe we do not have to call it social dialogue.”⁶¹

This shows how Uber understands – and supports - the social responsibility agenda as a tool to disrupt in-place institutions of social dialogue and labour law. As the Uber manager put it:

“I think France is an interesting country because the government really values platforms and how they create value in the economy, but at the same time we have a strong tradition about social protection, labour rights...so they have to find the right balance. The objective is to find a balance and...it's hard!”⁶²

The position of Uber and other platforms supporting a regulation that does not touch the contract classification of platform workers was and is supported by the ‘Association des plateformes d’Indépendants’ (API)’ (Chagny, 2022).

Sharers and Workers and ‘the Cooperativists’: Envisaging and Discussing Alternatives

As also emerged from the interview with Uber manager, one major reason for such heated discussions around platform work regulation in France is incommunicability among different stakeholders. An attempt to break with such mutual misunderstandings was Sharers and Workers (S&W). Launched in January 2016⁶³, S&W is a network set up to favour constructive (social) dialogue among various actors (e.g. unionists, researchers, platform owners and workers as well as digital entrepreneurs) engaged in the politics of platform regulation and concerned with digitalisation more in general. Initiated by the IRES (‘Institut de Recherches Economiques et Sociales’), S&W set out to reflect on and design policy solutions which depart as much as possible from usual confrontation⁶⁴. S&W did not develop as an intentional project, rather it leaped out of a series of events that its founding members organized because “we realized that the political debate needed such a space”⁶⁵. Since the outcomes of first events was satisfactory, S&W was created as a permanent forum for confrontation on digital matters related to work. The need of creating “such a [new] space” also came from the past. Interestingly, the interviewee notes that this type of networks already exist in the French trade unions universe since the 1980s; yet such structures are

⁶¹ FR-PLMAN1

⁶² Ibid.

⁶³ <https://sharersandworkers.net/la-journee-du-14-janvier-au-campus-fonderie-de-limage/>

⁶⁴ FR-CS1

⁶⁵ Ibid.

“aging” and struggle to keep pace with upcoming challenges.⁶⁶ Therefore, S&W should not be intended as something entirely new, but as something that seeks to better deal with novelty. Among the actors involved in the network, France Stratégie and IGAS have played an important role. In December 2016, S&W and France Stratégie decided to organize a collective reflexion on the recommendations advanced in the IGAS (‘Inspection Générale des Affaires Sociales’) Report on platform work. About 40 people in different working groups discussed patterns of collective action in the context of rising platform work as well as platforms’ commitment to ensure social protection to workers.

Part of such reflexions were also actors that advocate for a cooperative solution to platform work regulation. This would consist of creating digital platforms based on cooperative principles which would both guarantee the protection of workers and their independence. The ‘Coop des Communs’ (CDC) has been one of the most prominent actors in this field. Founded in 2016, CDC is an association that seeks to stimulate reflection on social economy and the commons in France⁶⁷. In late 2017, the ‘Plateformes en Communs’ (PEC) project was created within the CDC with the aim of fostering what Trebor Scholz had termed ‘Platform cooperativism’⁶⁸. PEC, in a nutshell, strives to foster the creation of a community of cooperative platforms in France through awareness-increasing projects. Nonetheless, its relations with (social) policy actors not belonging to the cooperative universe - e.g. trade unions, government - are quite limited⁶⁹; most of the contacts take place within the cooperative movement, notes the interviewee⁷⁰. There has been significant exchange with the CLAP, however, especially due to the latter’s proximity with Coopcycle.⁷¹ Following a legislative proposal by socialist MPs⁷², the debate on cooperativism and digital platforms has recently intensified. This proposal would make it compulsory for platformers to associate themselves to a ‘Coopérative d’activité et d’emploi’ (CAE) under the status of ‘Entrepreneur Salarié Associé’ (ESA)⁷³. The latter allows entrepreneurs to access social protection *as if* they were salaried workers, while preserving full independence vis-à-vis customers. Advocates present such a scenario as a win-win solution that would shelter these independent workers while

⁶⁶ FR-CS1

⁶⁷ CDC also deals with social protection issues. Its 2016 Report indicates a possible reform strategy for the French social security (Coop des Communs, 2016).

⁶⁸ <https://medium.com/@trebors/platform-cooperativism-vs-the-sharing-economy-2ea737f1b5ad>

⁶⁹ FR-CS2

⁷⁰ Ibid.

⁷¹ CoopCycle is the European Federation of Bike-Delivery Cooperatives. It often pops up in the interviews.

⁷² Proposal n. 226

⁷³ This position has also been expressed in an op-ed on Les Echos in May 2019. Available at: <https://www.lesechos.fr/idees-debats/cercle/conducteurs-de-vmc-un-statut-enfin-1022426>

protecting platforms from reclassification. CAEs, however, do not necessarily agree with this perspective. CAEs aim at mutualizing risks among individuals that possess strong know-how in a range of sectors - e.g. design, craftsmanship, consultancy - and are willing to contribute to the cooperative in the medium/long-term. This cannot be possible with platform work, which is often poorly remunerated and based on high turnover⁷⁴. For this reason, while it is positive to enhance platform workers' protection, CAEs turn out to be ill-suited to such a purpose. Instead, as the interviewee notes:

“What we could do instead would be to help platform workers to develop their own cooperative structure...rather than creating a mix within our cooperatives.”⁷⁵

All in all, CAEs support the cooperative way to protection of platform workers as long as they are not obliged to integrate the latter within their structure.

5.1.3 Conclusion

To conclude, the debate and regulatory outcomes concerning the contract classification of platform workers in France has taken place in a context where the government supported the digital transformation of work via business-oriented policy agenda. The social responsibility agenda aimed at providing protection to platform workers without intervening on their contract classification is a manifestation of such an approach. The social responsibility edifice, however, found fierce opposition to the point that its construction could not be completed in the way the government had foreseen. Trade unions and platform worker organizations, though with different positions, drove this opposition especially against the system of social charters. The CNNum took full part in it. The charters were also censored twice by the Conseil Constitutionnel, which further weakened their political credibility. After the setback of the charters, the government has continued to support regulation that does not interfere with contract classification. At the moment of writing, the idea to improve platform workers' protection via collective bargaining for independent workers seems to be the most plausible in France. In this regard, there seems to have been a convergence between government and CFDT positions.

⁷⁴ FR-CS3

⁷⁵ Ibid.

This chapter shows the importance to focus on contestation to understand the content – and implications - of digital work regulation. Especially when it comes to novel phenomena like digital platforms, contestation is central because actors lack an informed understanding of the issue at stake and therefore of regulatory solutions to tackle it. This means that it takes time and often several ‘attempts’ to design a regulatory framework that is sufficiently shared: it is in this time that contestation takes place and shapes regulatory outcomes. Focussing on contestation means avoiding the risk of ‘institutional determinism’, namely to mechanistically assign an explanatory power to the institutional makeup of a country. While the latter is undeniably important, digital work regulation is never pre-determined by institutions in place; rather, its content – and implications - can only be understood by looking at the process in which regulatory options are socially and politically negotiated.

The second part of this chapter (5.2) analyses the regulatory process described above in light of the theoretical framework developed in Chapter 3. It does so by identifying institutional work objectives and practices and digs into their drivers i.e. their learning foundations.

5.2 The Learning Foundations of Institutional Work in France

5.2.1 What Did Actors Do? Unveiling Institutional Work Objectives and Practices

Part 5.1 has shown how multiple actors were involved in the politics of platform workers' contract classification in France. As detailed in Chapter 2 and 3, actors sought to shape the rules linking the protection of platform workers with their contract classification. To do so, they put in place a number of institutional work practices (Lawrence and Suddaby, 2006). These practices have three goals, namely 'challenging', 'sheltering' and 'rising awareness' on rules (see Chapter 3). Actors who perform challenging practices want to change the rules linking the contract classification and protection in such a way that independent platform workers can be protected – to varying extents - even without qualifying as employees. Actors who perform sheltering practices want to keep the rules linking the contract classification and protection, meaning that platform workers should be protected as employees *because* they are de facto dependent workers. Actors who undertake rising awareness practices seek to stimulate reflection on the contract classification of platform workers as a way to enhance the understanding of the matter.

The thematic analysis of the interviews reveals how the majority of institutional work objectives coded corresponded to 'challenging'. 'Sheltering' objectives, however, followed closely. Generally speaking, this confirms what Part 5.1 has shown, namely that the politics of the contract classification of platform workers in France revolved around a relatively balanced confrontation between those who maintain that platform regulation requires novel regulatory devices and those who argue that the existing rules are adequate for the future of work. While the former front had more possibility to translate its objectives into policies, the latter was strong enough to oppose and contain them. To have a more meaningful understanding of institutional work objectives, however, we need to know how actor types were associated with different objectives. To this end, Figure 17 presents 'objectives' disaggregated by actor type as emerging from interview coding. Values are weighted frequencies of institutional work objectives in interviews belonging to the same actor category.

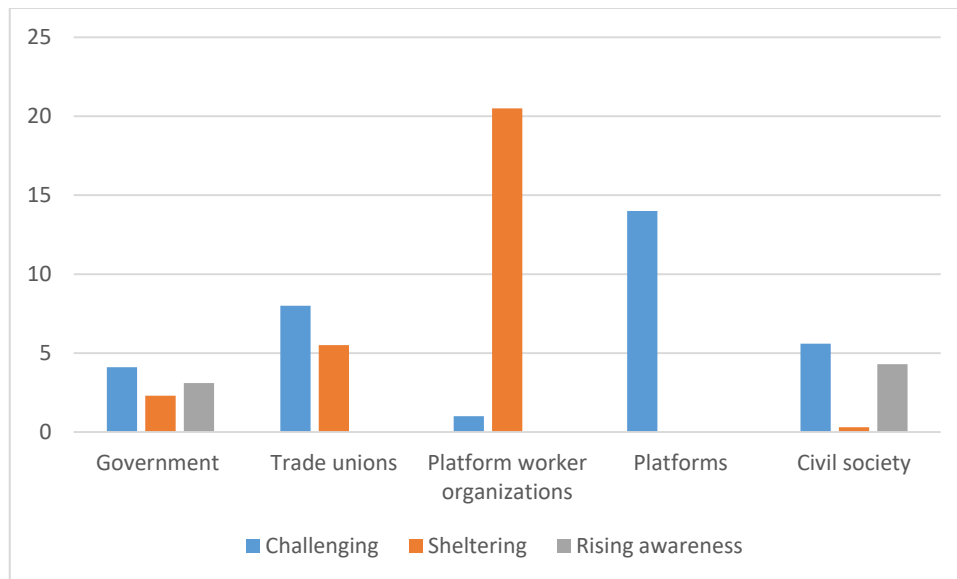


Figure 17 Institutional work objectives - weighted frequencies in interviews of the same actor category

Figure 17 shows that all actor types but platform worker organizations were involved in significant ‘challenging’ objectives. Because ‘challenging’ does not mean exactly the same thing for every actor, this finding requires some specification. Governments and platforms were aligned in pursuing a soft law approach to the regulation of platform work embodied by the system of social charters. Trade unions were always against this system. Nonetheless, especially CFDT supported the idea to strengthen the protection of the self-employed as a way to ameliorate protection in platform work. Because this approach questions the privileged link between dependent work and protection, it features as ‘challenging’. I found no evidence for trade unions in Denmark, Italy, and the Netherlands to embrace such an approach to the extent of CFDT (see Chapter 9). Furthermore, ‘challenging’ among civil society actors was associated with the willingness to overcome the current system of protection in favour of novel mechanisms that would guarantee a real balance between flexibility and protection. Cooperativism was the most important engine in this regard (see Part 5.1).

Moreover, Figure 17 reveals how platform worker organizations were the most important ‘sheltering’ agents. Among them, there was indeed an almost unanimous consensus around the need to qualify as employees. However, while ‘Syndicat des Coursiers à Vélo de la Gironde’ (SCVG) undoubtedly espoused sheltering objectives throughout, the ‘Collective des Livreurs Autonome de Paris’ (CLAP) went from ‘sheltering’ to ‘challenging’ with the move from contract-centred to non-contract-centred claims. As we have seen in the previous chapter, however, the CLAP move was

not caused by change in political priorities but driven by strategic reasons. This was the case of various ‘rider unions’ in Italy as well (see Chapter 6.1⁷⁶). In addition, Figure 17 shows that unions pursued more ‘challenging’ than ‘sheltering’ objectives. This finding needs to be corrected as it is highly sensitive to the fact that I was not able to interview CGT members. Had I been able to do so, ‘sheltering’ would have been the most relevant institutional work goal among unions. That said, the limited share of ‘sheltering’ visualized in Figure 17 comes from FO, which taking a somewhat intermediate position between CFDT and GCGT repeatedly warned against bogus self-employment in platform work.

Finally, the finding suggesting that the government also pursued ‘sheltering’ objectives calls for specification – given that we have seen how the government has consistently proposed – and adopted – a ‘challenging’ agenda. In fact, all ‘sheltering’ comes from the action of the Conseil National du Numérique (CNNum), which has repeatedly and publicly opposed the self-regulation approach and the charters. Although CNNum is not officially part of the government, I included it in such an actor category due to its closeness to the state apparatus. Thus, CNNum was the only State actor to campaign against the self-employment design of Hollande and Macron presidencies.

To pursue such objectives, actors put in place a number of institutional work practices. Figure 18 shows the distribution of institutional work practices in percent across the interviews. ‘Reflecting’ occurs when an actor’s focus is on stimulating reflection on a certain topic with the aim of furthering knowledge. ‘Organizing’ happens when an actor copes with the challenges of contract classification by pulling together individual interests. ‘Projecting’ takes place when an actor establishes a connection between future developments in platform work and current regulatory needs. ‘Generalizing’ happens when an actor justifies their position on platform work regulation by arguing that it is important for labour market and social protection tout court. ‘Creating’ refers to the active process through which an actor employs its institutional creativity to deal with challenges of platform work. ‘Mediatizing’ refers to the use of media to spread their own regulatory approach. ‘Deterring’ occurs when an actor seeks to establish constraining rules that impede the development of opposed regulatory stances.

⁷⁶ Chapter 6.1 refers to Part 6.1 of Chapter 6. This applies to all cross-references throughout this work, which use the word ‘chapter’ in place of ‘part’.

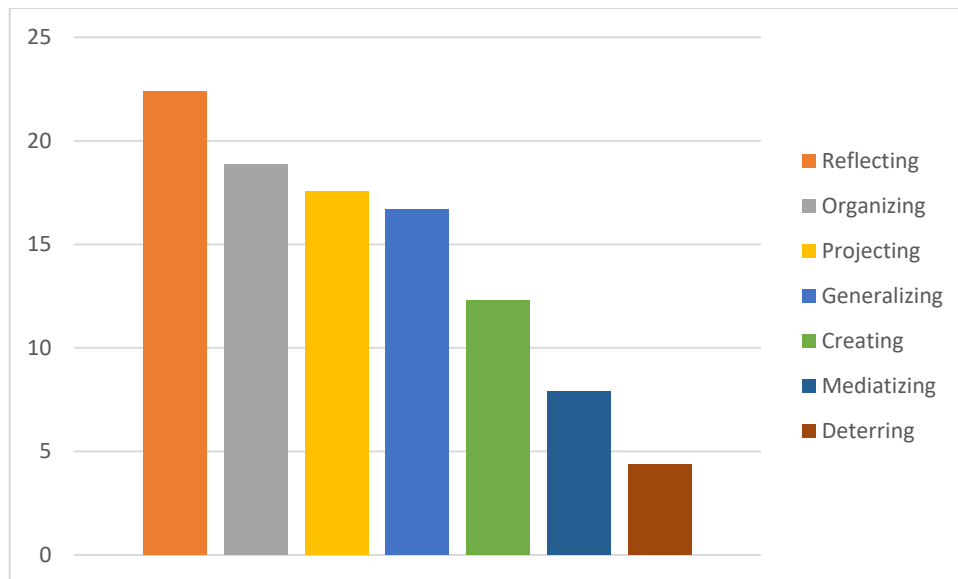


Figure 18 Institutional work practices across the interviews – distribution in percent

To have a more meaningful understanding of practices, we have to look at how practices are distributed across actor types: this will allow to understand who did what. Figure 19 connects institutional work practices and actor types by showing weighted frequencies of institutional work practices in interviews belonging to the same actor category. Figure 19 illuminates several findings that deserve specification. In what follows, I explain how different practices were associated to various actor categories. I proceed practice by practice.

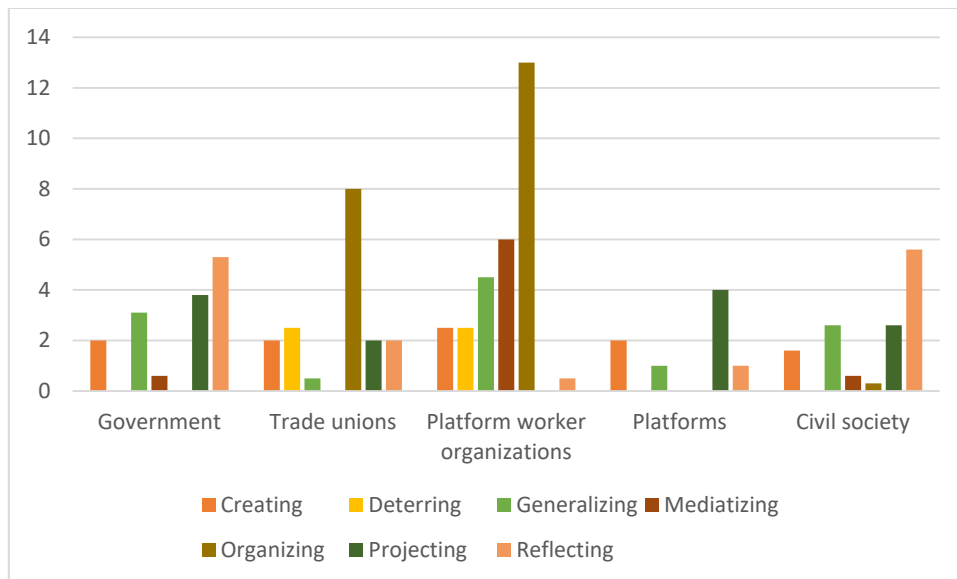


Figure 19 Institutional work practices – weighted frequencies in interviews of the same actor category

Creating

Creating was especially important for the concrete development of regulatory measures put forward by the government – e.g. Article 60 and the charters. In this regard, the Direction Générale du Travail (DGT) took “inspiration from the existing concept of corporate social responsibility and tried to apply it to platforms to improve workers’ conditions”⁷⁷ without interfering with contract classification. On a similar note, the former advisor to the Prime Minister recounts the development of the charters as the result of a creative process inspired by existing provision on layoffs (see Part 5.1). Referring to such provisions, the interviewees claims: “this is what inspired us in trying to find a system that we eventually termed ‘chartes’”.⁷⁸ The central role of DGT emerges also with regard to the development of social charters, which is confirmed by the two reports referred to in Part 5.1. The DGT also took a pro-charters public stance to push the charters forward. The participation of the then Director Général du Travail, Yves Struillou, to the aforementioned event⁷⁹ on the social protection of platform workers is an example.

‘Creating’ emerges as an important practice especially for trade unions and platform worker organisations. The latter showed creativity in the ex-novo creation of organizations aimed at defending platform workers’ interests. The creation of independent platform worker groups

⁷⁷ FR-GOV2

⁷⁸ FR-GOV6

⁷⁹ <https://sessionnationale36.intefp.fr/ameliorer-droits-travailleurs-plateformes.html>

resulted from creativity as well. Indeed, both interviewees highlighted how they did not know how to proceed in the beginning which called for creative personal initiative. In the case of SCVG such practices partly overlapped with those of ‘Confédération Générale du Travail’ (CGT), whereas CLAP maintained more of an independent and collective-like attitude. The most notable example of creativity from the unions is the CGT initiative supporting the creation of a CGT-affiliated rider union.

Deterring

Deterring has to do with the involvement unions and platform worker organisations in lawsuits against platforms. By bringing platforms to courts, these two actors sought to favour the development of constraining rules against platforms’ business model. Figure 19 shows that this practice had a very limited purview. Triangulation of interviews with secondary sources, however, reveals that ‘deterring’ was more diffused than interview data suggests. The European Commission Staff Working Document (European Commission, 2021) published during the social partners consultations preceding the adoption of the ‘Proposal for a Directive to improve working conditions in platform work in the European Union’ indeed shows that 24 court cases involving the contract classification of platform workers were held in France from June 2015 to January 2021. While it is hard to know the role of trade unions in each of these cases, it is reasonable to expect that they were significantly involved in them given the institutional and financial resources needed to sue platforms.

Generalizing

The politics of platform workers’ contract classification was often rooted in larger debates on the importance of digitalisation ‘tout court’ for the future of work. The importance of ‘generalizing’ practices stems therefore from the fact that the government frequently justified the focus on platforms by highlighting how they represent broader trends in capitalism which France has to catch up with to become a ‘start-up Nation’. The limited amount of interviews with platform managers were not able to capture the extent of platforms’ ‘generalizing’ practices. Yet given their constant effort in describing themselves as an important part of the larger digital future of work, it seems reasonable to argue that platforms carried out extensive ‘generalizing’ practices as well. Figure 19 also shows how platform worker organizations frequently framed the question of

contract classification as part of a broader phenomenon that concerns the future of work as a whole. Unions were less involved in so doing. Finally, we observe how ‘generalizing’ practices emerge as transversal across actor types which suggests that the connection between platform work and future of work more in general was a ‘fil rouge’ running through the debate here under scrutiny.

Mediatizing

‘Generalizing’ proved functional to platform workers organisations media success. As Figure 19 shows, ‘mediatizing’ was especially associated with such organisations. While this does not mean that other actors did not use media to spread their institutional work practices, it suggests how workers were particularly able to do so. The capacity to describe their work as a manifestation of broader and detrimental trends in contemporary capitalism, that is ‘generalizing’, was key to a successful ‘mediatizing’. CLAP in Paris played a fundamental role in this regard. Food-delivery worker organisations in Italy were also very effective in ‘mediatizing’ their claims (see Chapter 6.2).

Organizing

Figure 19 shows how unions and platform worker organisations were most frequently associated with organizing practices, which refer to the activity undertaken by both actors aimed at defending worker rights by constructing a collective representation. This finding has two kinds of implications in this regard: platform workers were active since the beginning in seeking to defend their rights in a field where trade unions seems to be lagging behind; after initial difficulties, trade unions began playing their characterizing of collective workers’ interest representation. In a context of a novel emerging phenomenon like platform work, organizing frequently occurred on a pair with creating practices (see above on ‘creating’).

Projecting

‘Projecting’ emerges as the practice most frequently associated with the government. This reveals the remarkable extent to which the government has developed a future-oriented narrative around the need for France to become a ‘Start-up Nation’ (see Part 5.3). In this vein, digital business is considered an engine of socioeconomic development in the future of work. Hence the supportive

attitude towards platforms and their contractor-based business model. As one of the interviewees puts it, “the idea of making non-binding ‘charters’, this is part of the ‘Macronian’ reasoning against State intervention: state intervention is too heavy, labour law is too rigid. It’s just better if they [platforms] organize protection themselves”⁸⁰. Part of the governmental projecting, however, went into the opposite direction. To support its anti-charters stance, CNNum has made extensive projecting by portraying the self-regulatory approach supported by the government as part of a process of social and employment rights weakening that will be developed in full swing in the digital society.

‘Projecting’ was also the most frequent practice in the interviews with platforms. The projecting activity of platforms has aimed at depicting themselves as the – almost inevitable - future of work. In so doing, they were in line with government projections of the ‘start-up nation’. This common projection of the future well describes how the social responsibility agenda resulted from a solid coalition between the government and the platforms. While ‘projecting’ was a common practice of platforms in the other country cases as well (see Chapters 6.2, 7.2, 8.2), such a similarity between governments’ and platforms’ projecting does not emerge in the other country cases. We will discuss the comparative significance of this finding in Chapter 9.

Despite to a lesser extent, trade unions undertook ‘projecting’ as well. Projecting CGT practices mostly pointed to the destruction of the salariat, should the platform economy be left unrestrained as it is. ‘Projecting’ CFDT practices pointed to the need to and to need to strengthen the access of independent workers to collective bargaining as a means to preserve and value work autonomy in the digital age. From the interview to FO, it emerges how platform work is “a fundamental issue for the future of trade unions”⁸¹. This shows an awareness of the need to act in the present in such a way to the shape the future (‘projecting’).

Reflecting

As Figure 19 shows, reflecting was the most frequent practice across interviews of the French case. This well mirrors the extent and magnitude of the debate occurred in France in which many actors were actively involved. Figure 19 shows how the government had an important role in stimulating

⁸⁰ FR-EXP1

⁸¹ FR-TU2

a public reflection on how to regulate the contract classification of platform workers. Especially in the beginning, the IGAS played a central role in ‘reflecting’. The CNNum, whose ‘reflecting’ moved from ‘rising awareness’ to ‘sheltering’ objectives, was important in this regard as well. The interview with the former advisory to the Prime Minister shows how ‘reflecting’ was very important for the government in the designing the social charters. Civil society actors gave the other most notable contribution in terms of ‘reflecting’. This is related to discussions on cooperativism as well as on Sharers and Workers initiative. Given that trade unions have long been active to find ways to tackle platform work challenges, the small share of unions’ ‘reflecting’ has most likely to do with the limited number of interviews with trade unionists, and it may therefore be worth further investigation.

In conclusion, this section has showed institutional work objectives and practices that permeated the politics of platform workers’ contract classification in France. The next section moves on to consider the drivers of such an institutional work, namely its learning foundations.

5.2.2 Why Did Actors Do It? The Learning Foundations of Institutional Work Practices

After identifying institutional work objectives and practices, this section investigates their drivers. To do so, it unveils what I term the ‘learning foundations’ of institutional work as emerging from the thematic analysis of the interviews conducted on MAXQDA. Figure 20 illustrates learning mechanisms per actor category. It shows how the five actor categories had remarkably different learning mixes. Values are weighted frequencies of the three learning mechanisms in interviews belonging to the same actor category. In what follows, I delve into and further elaborate on these findings by presenting qualitative evidence on the learning foundations of each actor type’s institutional work.

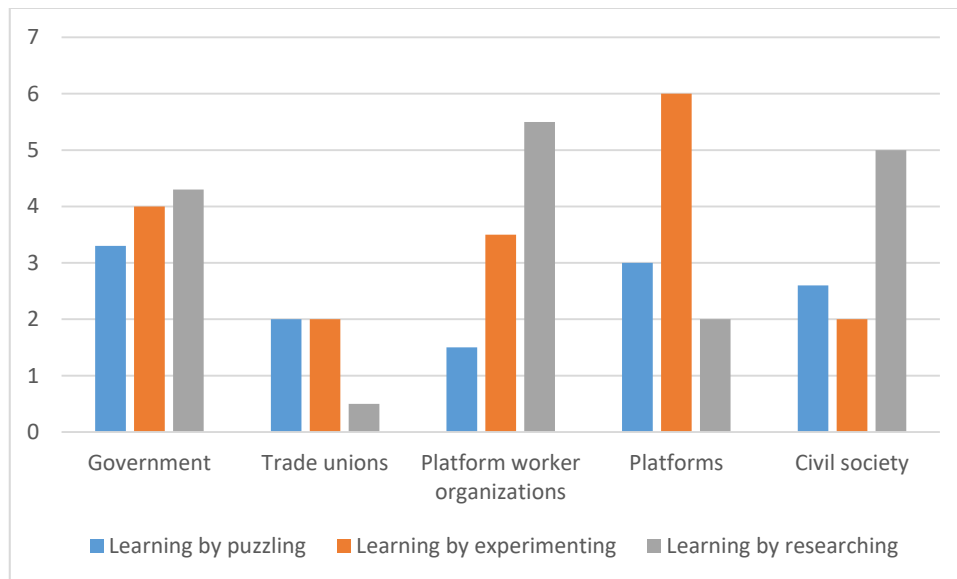


Figure 20 Learning mechanisms by actor type – weighted frequencies in interviews of same actor category

The Learning Foundations of Government’s Institutional Work

Interview data with government actors suggests that around 2014-16 there was a puzzlement phase in which governmental actors sought to understand the main challenges related to the development of platform work. The ‘Inspection Générale des Affaires Sociales’ (IGAS) played a central role in this phase. The former ‘Inspécteur Générale des affaires sociales’ (General Inspector for Social Affairs) noted how the IGAS:

“Started to have an interest on the topic in 2014-15 following an initiative of mine [...] I thought it was important that the administration crafts an exploratory work on a topic that looked to me an evolution of the world of work... [...] it was also important to encourage research on the topic and try to mobilise different administrations...back then, very little was known about the subject...very little explored and very few publications. For this reason, I proposed we make a report on digital platforms, work and social protection.”⁸²

The ‘reflecting’ institutional work of IGAS was then driven by learning by puzzling mechanisms, which led to knowledge accumulation (learning by researching) and experimentation (learning by experimenting). Such an institutional work was instrumental to the conception of the social responsibility agenda introduced by the 2016 Loi El Khomri. As the former advisor to the Prime Minister said that “it [the Loi El Khomri] was a first brick in the attempt to regulate platforms”⁸³.

⁸² FR-GOV2

⁸³ FR-GOV6

These words well recount how the government did not know in advance how to act and how to develop regulation that would serve as an ‘ice-breaker’ to respond to the question of the contract classification of platform workers. While Article 60 reflected a specific political posture, the government had no certainty about its real-world implications. In this sense, the government learnt ‘by experimenting’.

The same logic of trial-and-error also emerges with regard to the social charters, which were mentioned as “the second brick” of such an attempt.⁸⁴ ‘Creating’ practices that led to charters reveals learning foundations as the government “took inspiration” from existing provisions to “try to find a system” to regulate the question of platform workers’ social protection.⁸⁵ This system should respond to the double need of security and flexibility, which is why “we had the idea to develop a charter with a certain number of social guarantees”. On the one hand, the reference to in-place provisions points to the centrality of knowledge accumulation as a means to creatively develop regulatory solutions when faced with high uncertainty (‘learning by researching’). On the other hand, the characterization of the development of social charters as an attempt reveals ‘learning by experimenting’ dynamic at play.

Trial-and-error-driven creating practices emerge also as regards the role of the DGT in the development of charters. As emerges in the interview with the former ‘Inspécteur Générale des affaires sociales’, creating institutional work performed by DGT was mostly driven by learning by experimenting mechanisms in so far as the administration did not know in advance the implications of its creativity-led experimentation. Of course, this does not mean that learning by ‘puzzling’ and ‘researching’ were just absent in the institutional work of DGT. Indeed, experimentation needs ‘puzzlement’ and a minimum amount of knowledge in the first place. Moreover, it emerges from the interviews that ‘learning by researching’ mechanisms drove the realization of the government of social charters’ limitations. After the rejection of the Conseil Constitutionnel, the government gradually realized and problematised the flaws of charters: “It had a problem [...] that is was unilateral, meaning that it was elaborated by platforms only”.⁸⁶ Showing the centrality of knowledge accumulation, this also reveals how actors’ preferences are not fixed but subject to continuous re-configuration especially when faced with novel phenomena that cast doubts on existing regulatory solutions.

⁸⁴ FR-GOV6

⁸⁵ Ibid.

⁸⁶ Ibid.

Finally, the CNNum performed part of the institutional work that in Figure 20 falls into the ‘government’ category. Interviews with CNNum members clearly bring to light the learning foundations of such institutional work practices. Most notably, the former president of CNNum clearly points to the fact that the Conseil went through a knowledge accumulation (‘learning by researching’) process on the question of contract classification of platform workers, which fostered a shift in the objectives from rising awareness to sheltering. The so-called ‘Etats Généraux de Nouvelles Régulations du Numériques’ (EGNum) played an important role in this regard. Following such a collective discussion, internal exchanges within the CNNum contributed to refine the understanding of the then presidency on the question of contract classification.

“During the Etats généraux this topic emerged...I had a hard time understanding it in the beginning [...]; I then gradually start to understand a scenario on which I had little knowledge about: we call them independent but in fact they are not.”⁸⁷

The realization of such a problem (‘learning by researching’) greatly informed the position of the CNNum on the charters, which in turn was highly influential in the public debate. While at the EGNum “it seemed that there was a wide consensus on the fact that we have found a solution named ‘chartes’ which is going to make everyone content”, the CNNum started to take an overtly critical posture on charters ever since. As interviews show, the CNNum “decided to improve its knowledge on the social question. As a result, we said: let’s try and see what regulatory solutions we could propose so as that everyone can actually benefit from platform work”. This suggests both (‘learning by puzzling’ and ‘learning by experimenting’ driving institutional work of CNNum. To be able to work on the subject with such an approach, the CNNum had to opt for a self-referral while normally it would receive a commission from the government. This testifies the detachment of the Conseil from the government objectives (‘sheltering’ vs. ‘challenging’).

The Learning Foundations of Trade Unions and Platform Workers’ Institutional Work

Figure 20 shows how institutional work of trade unions was especially driven by learning by puzzling and experimenting mechanisms, while platform workers’ organizations were particularly driven by experimenting and knowledge accumulation.

⁸⁷ FR-GOV3, 4

The CGT has been very critical towards the self-employment approach since the beginning and has sought to find novel channels of representation to pursue its sheltering goals. ‘Learning by puzzling’ and ‘experimenting’ mechanisms drove creating and organizing practices of CGT. Indeed, the establishment (‘experimenting’) of a CGT-affiliated rider union aimed at coping with uncertainty (‘puzzling’) on how to organize platform workers. The founder of SCVG-CGT well recounts the beginning of this unionization attempt:

“We created a somewhat bizarre union where the members of the affiliated union answered to the members of an assembly who were not union members...this was unusual for the CGT, but this how we began...”⁸⁸

Data collected on FO points to knowledge accumulation both at the level of the union and more broadly. As the interviewee puts it, “our knowledge of platforms and related issues has evolved with the rise of the platforms themselves.”⁸⁹ On a larger societal level, the interview describes an increasing understanding of the challenges of platform work which has forced platforms to approach negotiation tables to discuss workers’ representation.⁹⁰ The increasing visibility of collectives of platform workers was central for such an awareness to develop. While such organizations were becoming more prominent in the discussion, FO did not immediately liaise with them as it deemed not an optimal choice to ‘impose’ traditional union schemes on these newly born groups. However, “the day we started to discuss with them, we realized that, even if this [awaiting] was not a strategy from us, it turned out to be strategic as the CLAP was in fact very interested in talking to us and vice versa.”⁹¹ This well illustrates how puzzlement and knowledge accumulation drove FO’s institutional work practices.

Also, it emerges how learning by experimenting mechanisms drove creating and organizing practices of the CFDT – especially the setting up of ‘Union Indépendants’. When discussing the position of CFDT on charters, the interviewee said that “the CFDT was against the ‘chartes’; Union did not exist officially yet...we were in a phase of experimentation. But we did opposed the ‘chartes’ back then”.⁹² This shows how ‘Union’ was established as an attempt (‘learning by experimenting’) to cope with uncertainty (‘learning by puzzling’) about how to pursue CFDT objectives in platform regulation (see Part 5.1).

⁸⁸ FR-PWO2

⁸⁹ FR-TU2

⁹⁰ Ibid.

⁹¹ Ibid.

⁹² FR-TU1

Interestingly, in conclusion, it emerges how platform worker organizations were significantly less involved in puzzling than trade unions. This mirrors the fact that they need not deep organizational reflection to devise an adequate reaction to the new phenomenon as they *were* the phenomenon themselves. Because they could have a relatively immediate understanding of challenges of platform work, they had a more action-oriented approach. This is why their institutional work was largely driven by experimentation. Their immediate understanding of platform work also meant that they accumulated considerable knowledge throughout the process. For instance, when the interviewee first talked to a labour lawyer, (s)he suddenly realized how problematic her/his working conditions were ('learning by researching'). Another remarkable example of 'learning by researching' refers to the CLAP leaders' realization of the unappealing character of subordination and ensuing shift in CLAP priorities.

The Learning Foundations of Platforms' Institutional Work

Platforms' challenging institutional work practices were driven by learning mechanisms as well. The interview with an Uber manager suggests how the platform gradually realized that the platform business model as developed in the US context was not viable in Europe, where the institutional strength and political saliency of social protection architectures are stronger. This emerges as a case of puzzlement ('learning by puzzling') which led to knowledge accumulation ('learning by researching'). As an Uber France manager put it:

“A lot of people in the media don't understand...in the US we are talking about real gig economy where actually you and I have a car and we can drive two hours do 2 hours of driving and have a little revenue apart from our main activity...in FR it's impossible: I mean you have so much barriers from the drivers so much investments to become a drivers that you never do.”⁹³

The interviewee also points to how such differences can cause difficulties within platform themselves:

“I think sometimes it's hard for Uber in the US that we are facing very different challenges... [...] there is this really strong and deep tradition about labour rights...and we are really in a world very dual world...either you are an employee or you are independent...I think that you have a lot of debate cause Uber is completely disrupting this idea of dual.”⁹⁴

⁹³ FR-PLMAN1

⁹⁴ Ibid.

The duality in the French labour market has made Uber – as well as other platforms – wonder (‘learning by puzzling’) how to conciliate its business model with the in-place institutional arrangements:

“Because there is this difference of power between Uber and independent workers you need to really create a mechanism to dialogue, but we don't want to be a copy paste of employee world... this is really I think a trap in France...employee or independent and we are trying to invent something new in terms of social dialogue and maybe we don't have to call it social dialogue...”⁹⁵

Platforms gradually developed solutions to address such questions by experimenting. As the interviewee put it:

“Actually we already had a lot of mechanisms through which taking into account the voice of drivers and couriers. But my point is: these mechanisms are not really known by drivers and couriers...not really clear...this is really something that I try to explain to my colleagues... We are in the process, we need rules, we need to be clear about them publicly. So I think we have a lot of tools but they are not well known by our drivers and couriers and definitely we need to improve them in the coming months...This is really a key issue for us...”⁹⁶

Similarly, puzzlement and especially experimentation have also driven ‘creating’ and ‘organizing’ practices of Deliveroo. The establishment of the ‘Forum Deliveroo’⁹⁷ is a case in point. Because I was not able to obtain first-hand information from the company, I limit myself to describing the initiative as portrayed on the website. The Deliveroo Forum was conceived to allow Deliveroo partners to share their ideas and experiences directly with Deliveroo. The forum is made up of 25 representatives elected by partners themselves whose aim is to bring to and discuss with the company solutions to enhance riders’ experience with Deliveroo. The Forum Deliveroo stemmed from the realization that a disruptive-at-all-costs platform business model could not work in Europe made Deliveroo learn ‘by puzzling’ to develop viable policy routes. The Forum Deliveroo was the attempt (‘learning by experimenting’) that resulted from such a puzzlement.

The Learning Foundations of Civil Society institutional work

As Figure 20 shows, civil society stands out as the actor category featuring the highest frequency of ‘learning by researching’ and the lowest frequency of ‘learning by experimenting’. Because actors interviewed took part in the politics of the contract classification of platform workers mostly by

⁹⁵ FR-PLMAN1

⁹⁶ Ibid.

⁹⁷ <https://deliverooforum.com/fr-fr/>

performing reflecting institutional work practices, they accumulated a great deal of knowledge on the matter ('learning by researching'). At the same time, given that they have limited institutionalized power, their room to influence the regulation by concrete action, that is by experimenting, was very limited.

Because of the initial focus on collaboration and sharing, actors interested in the commons and cooperativism more in general became interested in the sharing economy. Yet it soon became clear that the element of sharing was not prominent in the platform business model. To put it with a member of the 'Coop des Communs' (CDC):

“We realized that the so-called sharing economy is not very collaborative when it comes to corporate governance.”⁹⁸

This shows how such actors accumulated knowledge on the matter, which allowed them to better develop their positions. Knowledge accumulated proved useful in discussing the law proposal put forward by the Socialist Party according to which platform workers would become part of 'Coopérative d'activité et d'emploi' (CAE). This would allow them to have adequate protection while retaining their autonomy. CAE, however, were sceptical of such a proposal. As a CAE Director noted, people working in CAE have a strong personal link with their profession which is often not the case for platform workers. For this reason, the CAE model is not the best regulatory option. To put with the interviewee:

“Our organizational model is not necessarily the best for platform work; what is instead more interesting is that we help platform workers self-organize and create an organization that truly speaks to their occupation and work with them.”⁹⁹

These questions were tackled at Sharers and Workers (S&W) meetings. In the interviews, it clearly emerges how S&W started from a puzzlement about how to combine new digital business models and social protection (“How can we think about social protection in these models?”). The setting up of S&W was basically an attempt ('learning by experimentation') to provide an answer to such a question. To put it with the interviewee:

“The idea of S&W started in 2015. Because of the size of the digital transformation, we thought it was a good idea to connect different actors interested in the topic. [...] we actually realized that these

⁹⁸ FR-CS2

⁹⁹ FR-CS3

kind of spaces were really needed. In the beginning, we just aimed at organizing one event...whose organization took us much time. The first event finally took place in January 2016.”¹⁰⁰

Because such an experimentation had a greater response than expected, its size kept growing:

“We organized different events where several actors were present. [...] We created this kind of space where actors could discuss. Something that is quite common in the trade union world, but that networks are getting older because they were created in the 1980s in the ‘golden age’ of social dialogue.”¹⁰¹

Such an experimentation turned out to quite successful. In the words of the interviewee describes how their attempt turned out to be successful in institutionalizing dialogue among actors that were not in touch before:

“At a certain moment we just realized how we had filled a gap as in fact there are no places in which actors can meet and discuss these matters, and we did it unintentionally. Like Monsieur Jourdain in Molière who did prose without realizing it, we were making social dialogue without realizing it.”¹⁰²

5.2.3 Conclusion

This chapter has first identified institutional work objectives and practices. Then, it has unveiled their learning foundations.

It found that the politics of platform workers’ contract classification was characterized by ‘challenging’ institutional work objectives that aimed at modifying the existing privileged link between employment relationship and protection. Trade unions and especially platform worker organizations were nonetheless largely opposed to such goals.

Such goals were pursued via a number of institutional work practices. ‘Creating’, ‘Generalizing’ and ‘projecting’ emerge as notable practices across actor categories, while the government and civil society actors were the two actors engaging the most in ‘reflecting’ practices. Trade unions and platform workers organizations were particularly active in ‘organizing’, which in the case of workers’ organizations went on a pair with remarkable ‘mediatizing’ practices.

¹⁰⁰ FR-CS1

¹⁰¹ Ibid.

¹⁰² Ibid.

Institutional work practices were largely driven by learning mechanisms. The government presents a relatively balanced learning mix in which puzzlement, experimentation and knowledge accumulation have a similar weight. By contrast, trade unions' institutional work seems to have been driven by puzzlement and experimentation, which nonetheless led to little knowledge accumulation. Evidence on platform worker organizations, on the other hand, suggests that they accumulated significant amount of knowledge as a result of large experimentation – while puzzling is marginal in their case. Moreover, platforms emerge as notable experimenters as well, while civil society actors' institutional work was mostly driven by 'learning by researching' mechanisms.

By showing how (different type of) learning mechanisms were central drivers of institutional work, the chapter casts light on the centrality of uncertainty in decision-making processes. Despite action being institutionally embedded, this chapter finds that the content of regulation can only be understood by empirically scrutinizing learning processes that actually shape it. This is not to argue that institutional structures do not matter; rather, to emphasize how learning processes as drivers of institutional action have been downplayed by the bulk of institutionalist explanations, which has significantly hampered our understanding of the microfoundations of institutional action.

The last part of this chapter (5.3) is devoted to understanding the boundaries of learning processes. To do so, following the theoretical approach developed in Chapter 3, it concentrates on 'imagined futures of work' that have guided the regulation of platform work in France.

5.3 How Do Actors Project? Imagined Futures of Work in France

5.3.1 Introduction

‘Projecting’ emerges as one of the most frequent institutional work practices identified in Part 5.2. As it interrogates the temporal dimension of agency, which is crucial in the discussions on the future of work, ‘projecting’ is of particular relevance particularly to this dissertation. As we have seen, ‘projecting’ reveals that actors have frequently drawn connection between their present action and its implications for the future of work. More precisely: they have used their vision of the future as a compass to orient their action in the present.

In a context where platform work is widely regarded as the future of work, there is no agreement among various social and political actors as to *how* such a future should look like. ‘Projecting’, in other words, conceals diverging ‘imagined futures of work’ actors have used to *reduce* uncertainty about the future of work. This chapter reconstructs the ‘politics of expectations’ (Beckert, 2016) of the future of work in France by unveiling different ‘imagined futures of work’ that have informed actors’ projecting.

The remainder of the chapter is organized as follows. The first part zooms in into ‘projecting’ practices and introduces the concept of ‘imagined futures of work’. The second part illustrates the different ‘imagined futures of work’ in which learning-driven institutional work was anchored. The third part summarizes the results.

5.3.2 Theorizing ‘Imagined Futures of Work’

Part 5.2 showed that ‘projecting’ was the second most frequent institutional work practice in France and different actors contributed differently to ‘projecting’ practices – government and platforms were the two most-projecting intensive actors. Such actors were future-oriented in the sense that they put forward diverging visions of how to make France thrive in the digital society and used such visions to orient their action. Drawing on Beckert (2016), I introduce the concept of ‘imagined futures of work’ to understand *how* actors projected. I define an ‘imagined future of work’ as an

imaginary of the future digital society centring on a specific idea of how tomorrow’s work and protection should be. ‘Futures’ differ along two dimensions. A first dimension pertains to whether actors have optimistic or pessimistic attitudes towards platform work and digitalisation in general. The second dimension regards the way actors understand employment and social protection in the future of work, namely individuals-centred or jobs-centred. While the former entails that workers should be protected as individuals, the latter prescribes that workers should be protected according to their occupation, i.e. their contract classification. By crossing these two dimensions, we obtain four ideal-typical ‘imagined futures of work’ (Table 15).

	Protecting jobs	Protecting individuals
Opportunity	Digitalisation: optimistic attitude Protection: employment contract	Digitalisation: optimistic attitude Protection: regardless of contractual arrangement
Threat	Digitalisation: pessimistic attitude Protection: employment contract	Digitalisation: pessimistic attitude Protection: regardless of contractual arrangement

Table 15 Dimensions of 'imagined futures of work'. Own elaboration.

Based on this ideal-typical classification, I identify three ‘imagined futures of work’ emerging from my analysis of actors’ temporal orientation towards the future, i.e. Start-up Nation, Creative digitalisation, Embedded digitalisation. ‘Start-up nation’¹⁰³ presents an optimistic attitude towards digitalisation and conceives of protection as independent from contract classification. Detachment from contract classification is necessary as it allows for more flexibility for firms and autonomy for workers. ‘Creative digitalisation’ concurs with the need to identify novel ways to organize protection that go beyond contract-centred approaches, but approaches digitalisation with a sceptic to pessimistic outlook. This results in more cautious regulatory postures. ‘Embedded digitalisation’ comes with a pessimistic understanding of digitalisation and posits that protection should not be

¹⁰³ The expression ‘Start-up Nation’ originally comes from the French context, as explained in Part 5.1. However, because it straightforwardly connotes a certain idea of the future digital society, I here use it in a more general and abstract fashion to refer to imaginaries of the future presenting the two characteristics outlined in the text.

decoupled from the employment contract as the latter is a fundamental protection tool in itself. Table 16 places them in the quadrants presented above.

	Protecting jobs	Protecting individuals
Opportunity	-	Start-up Nation
Threat	Embedded Digitalisation	Creative Digitalisation

Table 16 Typology of ‘Imagined futures of work’. Own elaboration.

Figure 21 shows the weighted frequencies of codes on ‘imagined futures of work’ by actor type. It finds that: i) the government and platforms have shared the same vision of the future of work; ii) trade unions and civil society actors have both espoused a ‘creative digitalisation’ vision of the future of work; iii) platform worker organizations’ vision of the future of work was somewhat in line with the vision of the government. Because of the non-representativeness of the interview sample, points ii) and iii) are misleading as they distort empirical reality. In what follows, I further elaborate and correct such findings by presenting qualitative evidence on ‘imagined futures of work’ in France.

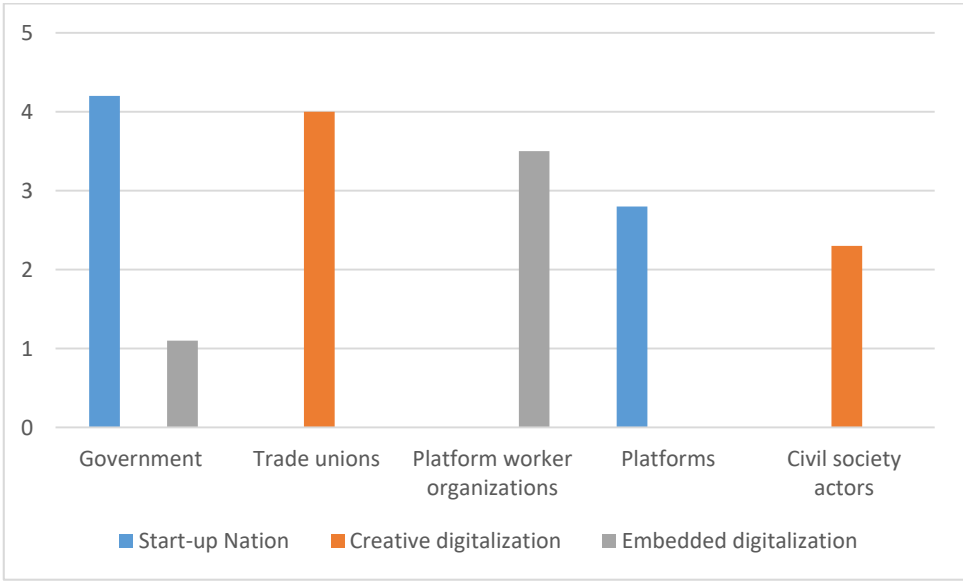


Figure 21 Imagined futures of work - weighted frequencies by actor type

5.3.3 Identifying ‘Imagined Futures of Work’: the ‘Start-up Nation’ Future

The ‘start-up nation’ future has been the most prominent vision of the future of work in France. As Figure 21 illustrates, the most active supporters of such a future were the governments, under both Hollande and Macron administrations, and the platforms. Interviews collected well document the characteristics of such a future and its importance in the politics of platform workers’ contract classification in France. According to experts interviewed:

“There is a welcoming approach in France towards digital technologies... [...] The idea of the Start-up Nation: this is why our Parliament and government do not want to regulate platforms. They are considered as a positive thing creating employment opportunities [...] For this reason, they have been trying to adopt a self-regulatory model where platforms are central in establishing the level of worker protection.”¹⁰⁴

This approach by Macron administration is in line with the posture taken by the Hollande administration. As another expert notes,

“From a legislative content viewpoint [Hollande and Macron] it’s really the same government when it comes to the approach to labour market policies.”¹⁰⁵

Platform worker activists concur with such a description by noting how:

“The government and the majority of MPs are in favour of the Start-up nation paradigm.”¹⁰⁶

A member of a cooperative who was involved in the debate on platform workers’ contract classification presented the concept of ‘Start-up nation’ as an encompassing paradigm developed and supported especially by the government. In the words of the interviewee:

“This is what they call the ‘Start-up Nation’, which also influences how public money is distributed: they give some money to a number of start-ups and then they try to find out the one that is going to become a global leader in its field. This happens in a very traditional way, there is no space for thinking digitalisation differently.”¹⁰⁷

Interviews with experts also shed light on the fact that the ‘start-up nation’ future has its roots in the broader politico-economic context I presented in Part 5.1.

¹⁰⁴ FR-EXP 1, 2, 3

¹⁰⁵ FR-EXP4

¹⁰⁶ FR-PWO2 – The French government introduced the label ‘Start-up Nation’ as a policy objective for France to follow to succeed in the digital transformation (see Part 5.1). In this chapter, the expression ‘Start-up Nation’ is given a more abstract meaning, indicating a vision of the future of work entailing an optimistic view of digitalisation and a individuals-centred understanding of protection.

¹⁰⁷ FR-CS3

“The action of the government towards platforms is part of an effort to integrate platform work into a more general promotion of independent work, externalisation of workers, decrease of social contribution and social protection. This is the context in which platform work is developing in France.”¹⁰⁸

Interestingly, the expert draws a link between a ‘start-up nation’ vision and the regulatory agenda on platform work put forward by the government:

“The idea is that platforms are great powers...great powers able to self-regulate...[...] so it’s about platforms asking for their power to be acknowledged. The social responsibility agenda is how their requests manifest themselves politically.”¹⁰⁹

Social charters are part and parcel of such a vision of the future:

“This is idea since the beginning, that we have these ‘chartes sociales’, which are voluntary regulatory measures. This is part of the broader Macron attitude on interventionism, which sees State intervention as too heavy, the labour code as too rigid...it’s better if platforms self-organize their protection.”¹¹⁰

As we have seen in Part 5.1, the *Direction Générale du Travail* (DGT) has been central to the development of the social responsibility agenda and particularly of charters. Therefore, it can be argued that its learning-driven institutional work was anchored in a ‘start-up nation’ future.¹¹¹

The interview with an Uber manager confirms that the government and Uber (and the like) have a similar vision of the future of work (Figure 21). In this regard, the interviewee notes how:

“We really think the French initiative [the social charters] it’s truly interesting: it is something that we want to use...”¹¹²

Furthermore, the interviewee notes how the idea of decoupling protection and contract, typical of the ‘start-up nation’ future, also informs Uber’s vision of the future of work:

“[In France] there is this really strong and deep tradition about labour rights...and we are really in a world very dual world...either you are an employee or you are independent...I think that you have a lot of debate cause Uber is completely disrupting this idea of dual.”¹¹³

¹⁰⁸ FR-EXP4.

¹⁰⁹ Ibid.

¹¹⁰ Ibid.

¹¹¹ FR-GOV2

¹¹² FR-PLMAN1

¹¹³ Ibid.

The ‘Association des plateformes d’Indépendants’ (API)¹¹⁴ also supports such an idea and therefore a ‘start-up nation’ future of work.

Despite differences in tone, the social responsibility agenda put forward by the government has similar ‘challenging’ goal than platforms (Part 5.2). Currently, while acknowledging the limitations of social charters, the government is still pushing for a regulatory intervention that does not touch the contract classification of workers. In the words of a former advisor to the Prime Minister, ‘a French solution’ would consist of

“a status that preserves flexibility and independence and foresees, at the same time, some – not all – of the protection typical of dependent work. This should be negotiated among interested parties.”¹¹⁵

Consistently, the interviewee criticizes the recent EU Proposal for a Directive on platform work, which puts forward the adoption of a presumption of employment mechanism:

“the text as it was proposed is not going to allow for a smart and balanced regulation aimed at preserving independence and bring social protection. So I think what we need is to revise the project of EU Directive on platform work, otherwise we are going to kill the whole business model.”¹¹⁶

Along these lines, the interviewee notes that:

“Many have the impression to have won a battle, but it’s a no-tomorrow victory meaning that platforms will no longer exist, so there will not be any protection because there will not be any platforms; there will be no economic activity of this kind because the business model will not be viable.”¹¹⁷

In conclusion, the government and platforms’ institutional work was firmly anchored in a ‘start-up nation vision of the future of work. Current legislation in France mirrors such an ‘imagined future of work’. The French government is also pushing for it to inform the prospective EU Directive on platform work (Spasova & Marengo, 2022).

¹¹⁴ <https://www.apiasso.org/>

¹¹⁵ FR-GOV6

¹¹⁶ Ibid.

¹¹⁷ Ibid.

5.3.4 Identifying ‘Imagined Futures of Work’: the ‘Creative Digitalisation’ Future

As anticipated, findings showing that ‘trade unions’ and civil society actors supported a ‘creative digitalisation’ future need to be corrected. Most importantly, it is misleading to say that trade unions as a whole supported only a ‘creative digitalisation’ future. In fact, the institutional work of CGT – arguably the most active union on platform work – was anchored in an ‘embedded digitalisation’ future. Yet because I have not been able to interview CGT members, the CGT vision of the future has remained out of Figure 21. Hence ‘creative digitalisation’ future was by no means the only future supported by French trade unions.

That said, strong support for a ‘creative digitalisation’ vision of the future of work came from the CFDT and to a lesser extent from FO. As explained in Part 5.1, CFDT was concerned with employment and social protection of platform workers, but it did not stand for considering them employees – neither did it support the social charters proposed by the government. Rather, CFDT proposed to strengthen the protection of self-employed via their inclusion in the collective bargaining system. This would allow to ameliorate workers’ employment and social protection without impinging on their autonomy and flexibility.¹¹⁸ Thus, the CFDT has questioned the privileged link between the employment contract and protection by arguing that the latter should be strengthened for independent (platform) workers. After an initial focus on the employment contract, FO also concentrated its institutional work on strengthening the collective representation of independent workers. As a FO member notes:

“We gradually set aside the question of status and concentrated on collective representation of independent platform workers. We will rather focus on this instead of intervening on status.”¹¹⁹

It can thus be said that FO followed a ‘creative digitalisation’ future to *reduce* uncertainty - though in a less explicit and linear fashion than the CFDT.

This future was also backed by the ‘Sharers & Workers’ group as well as by actors linked to cooperativism. What I call ‘civil society actors’ problematised the current platform business model but were open to discuss novel approaches that would go beyond the employment contract. Overall, the ‘creative digitalisation’ future has been less notable in France than the ‘start-up nation’ imaginary. However, after the failure of the social charters, it seems that the government is at least

¹¹⁸ FR-TU1

¹¹⁹ FR-TU2

partly espousing such a vision of the future of work. A notable example are the professional elections for independent platform workers that have recently happened in France (Part 5.1). It remains to be seen whether the government will become more critical with platforms, thereby fully subscribing to a ‘creative digitalisation’ future.

5.3.5 Identifying ‘Imagined Futures of Work’: the ‘Embedded Digitalisation’ Future

As anticipated, findings showing that ‘platform worker organizations’ and the government supported a ‘embedded digitalisation’ future need to be corrected. Most importantly, the government as such never stood up for an ‘embedded digitalisation’ future. Figure 21 refers to the learning-driven institutional work of the Conseil National du Numérique (CNNum), which was classified as ‘government’ given its belonging to the State apparatus. As explained in Part 5.1, CNNum was highly critical of the social responsibility agenda of the government. Another important correction pertains to the fact that, as already hinted at above, CGT should appear as a major supporter of ‘embedded digitalisation’ future yet due to data collection difficulties it does not contribute to results displayed in Figure 21.

What Figure 21 captures well is the fact that the ‘sheltering’ institutional work of platform worker organizations was firmly anchored in a ‘embedded digitalisation’ future. While starting to overtly campaign for changing the contract classification of platform workers, CLAP soon changed its priority “because subordination apparently does not make people dream” and started to campaign for more rights tout court. CLAP’s position also led to some misunderstanding with CGT. As the CLAP interviewee underlines,

“they approached us by proposing the old traditional way of dealing with such problems: there is a problem, we go to a tribunal, we re-classify the contract of the workers and then everybody is an happy dependent worker.”¹²⁰

That said, the shift in CLAP priorities emerges not as a denial of an ‘embedded digitalisation’ future – which the organization has de facto kept supporting - but as a pragmatic choice with a view of being more attractive in terms of worker representation. This shows how divergences within the same future of work, in this case between CGT and CLAP, do exist. In conclusion, the other platform worker organization interviewed was supportive of an ‘embedded digitalisation’ too.

¹²⁰ FR-PWO1

5.3.6 Conclusion

Building upon the importance of ‘projecting’ practices in the politics of platform workers’ contract classification, this chapter has delved into the question of *how* actors project. It has identified three imagined futures of work that actors used to *reduce* Knightian uncertainty.

The government and platforms learning-driven institutional work was anchored in a ‘start-up nation’ future. Current legislation (Article 60 Loi travail) mirrors such an imaginary. Trade unions’ institutional work was anchored in both ‘embedded digitalisation’ and ‘creative digitalisation’ future. The former was especially supported by CGT and the latter by CFDT. ‘Embedded digitalisation’ future was also embraced by platform workers organizations, while civil society actors espoused a ‘creative digitalisation’ vision of the future of work.

The last chapter of this dissertation will compare these findings as well as findings of Parts 5.1 and 5. 2 with results from other country cases in order to draw more generalizable conjectures on the politics of platform work regulation.

6. ITALY

Introduction

This chapter digs into the contestation over the contract classification of platform workers in Italy, which has mostly concerned platform work in food-delivery. It focuses on how governments, social partners as well as platforms, platform worker organizations and civil society actors have problematised and acted upon the question of contract classification, that is whether on-location platform workers should qualify as employees or self-employed. In so doing, it first identifies the main conflict lines and actor coalitions and dwells on the regulatory measures adopted (Part 6.1). Then it analyses the politics of platform workers' contract classification in light of the theoretical framework developed in Chapter 3. In Part 6.2, it identifies institutional objectives and practices and digs into their drivers i.e. their learning foundations. In Part 6.3, it concentrates on 'imagined futures of work' that have guided the regulation of platform work in Italy.

6.1 The Politics of Platform Workers' Contract Classification in Italy

Part 6.1 is structured as follows. Firstly, it provides background knowledge on how Italy embarked upon liberalisation starting in the 1980s. In so doing, it concentrates on the development of non-standard work with a focus on the rise in solo self-employment and its implications. Secondly, it describes the contestation on the question of contract classification of platform workers. Based on 15 semi-structured elite interviews combined with secondary sources, it delineates actors' positions and coalitional patterns. Thirdly, it concludes.

6.1.1 Liberalizing the Italian Labour Market

When international politico-economic transformations marking the turn to neo-liberalism started to unravel, Italy was experiencing industrial and social upheavals that strengthened the power resources of trade unions and workers in general (Crouch & Pizzorno, 1978). Two examples were the adoption of the 'Workers' statute' (Law n.300 190), which tightened the dismissal rules for firms with more than 15 employees, and the so-called 'scala mobile', a wage indexation mechanism

to inflation. As previous research showed (Ferragina & Arrigoni, 2021; Ferrera & Gualmini, 2004; Watanabe, 2015), the relatively pro-labour environment that characterized the mid and late 1970s, together with the ‘non-liberal’ (Gualmini & Schmidt, 2014) character of Italian state-assisted capitalism, contributed to slow down the diffusion of neoliberal ideas in the country.

However, faced with increasing international competitiveness and long-standing structural problems like sluggish productivity, low employment rate and high unemployment rate (especially among women and the young), the Italian State – as well as social partners to a certain extent - gradually assumed pro-market stances from the 1980s onwards. Like in most Western countries, in the labour market realm this translated into a liberalisation of flexible forms of work contracts that were previously an exception in the Italian labour market (Berton et al., 2012).

Such a reform process gradually started in 1983-1984 with the introduction of the so-called ‘training/work’ contracts. Under these working arrangements, an employer can hire fixed term a young worker who combines cycles of training and work in the workplace (Fana et al., 2016). Yet the actual re-structuring of the Italian labour market began in the 1990s. In the first five years of the decade, new rules for collective firing were introduced while the mechanism of indexation of wages to inflation was abolished. At the same time, training contracts were extended and the so-called ‘collaboration contracts’ were introduced. The so-called ‘Pacchetto Treu’ (Law n. 196) adopted in 1997 marked a decisive step in this direction as it introduced part-time employment, temporary contracts, apprenticeship schemes, and created private temporary work agencies tasked with matching available labour supply and demand (Fana et al., 2016). The ‘Berlusconi II’ government further widened the scope of temporary contracts in 2001, while the ‘Legge Biagi’ (Law 30/2003) extended the use of part time work and self-leasing contracts. The severe consequences of the financial crisis brought structural reforms back on top of the agenda again. In 2012, the so-called ‘Legge Fornero’ loosened the protection associated to Article 18 of the Workers’ Statute (Law 300/1970), which was introduced in to protect permanently-hired workers against invalid lay-offs. In 2015, the ‘Renzi government’ introduced the so-called ‘Jobs Act’, which, among other things, further liberalised the use of fixed-term contracts along with non-contract forms like payment vouchers (Cirillo et al., 2017). Figure 22 illustrates the increasing importance of part-time and temporary employment in the Italian labour market starting from the early 1980s.

Source: OECD Statistics

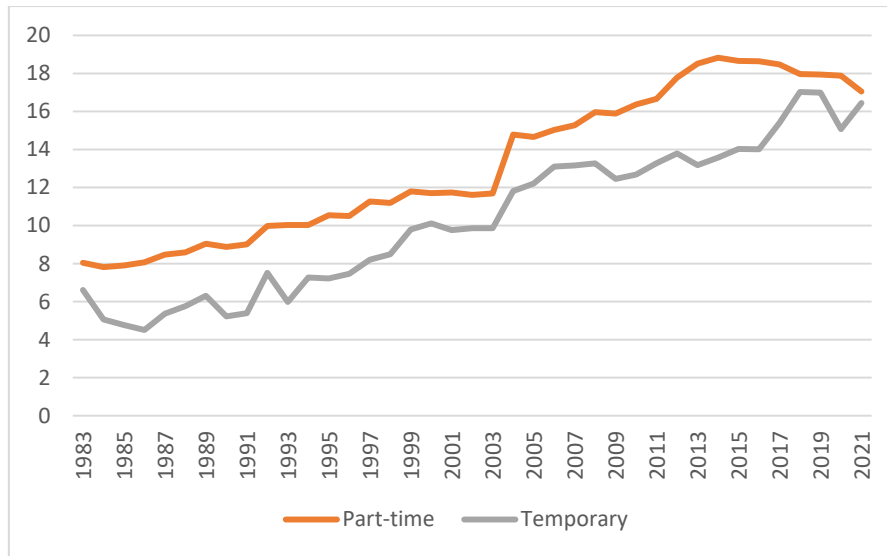


Figure 22 Proportion (%) of temporary and part-time employment respectively on total dependent employment and total employment (1983-2021)

Another major implication of labour market liberalisation was an increased diversification in self-employment forms. Besides genuine self-employment, which in Italy has historically been well above the EU average¹²¹, forms of under-protected and precarious self-employment spread widely. These were usually associated with economically dependent self-employed, namely autonomous workers with a very limited capacity to decide over their own working conditions and business strategies. As illustrated in Chapter 2, while the share of self-employment on total employment in Italy from 2000 to 2017 slightly decreased, the share of self-employment without employees on total self-employment increased remarkably from 47 to 72% over the same time span (Boeri et al., 2020). In a country defined by Spasova et al. (2017) as ‘low to no access’ when it comes to the inclusion of self-employed in insurance-based schemes, this came to be problematic. As Jessoula et al. (2017, p. 14) noted, self-employed in Italy receive “coverage and generosity levels lower than those offered to employees on open-ended contracts, in the fields of sickness benefits, unemployment benefits, family benefits and pensions”.

The response to labour market diversification came with the introduction of a third type of legal work category in between self-employment and employment that would acknowledge the atypical situation of economically dependent self-employed. Law n.553 of 1973 first introduced such a

¹²¹ According to OECD data, self-employment amounted to 23% of total employment in 2018. The EU 28 average was 15%.

legal category termed ‘para-subordinazione’, which included both collaborators and professionals working in an unlicensed area. The first form of para-subordinate work was named ‘collaborazione coordinata e continuativa’ (co.co.co). This contract type - especially for collaborators - came with low wages, temporary working arrangements and restricted access to welfare provision. During the labour market liberalisation of the 1990s, the numbers of ‘para-subordinate’ workers increased remarkably. From 1996 to 2007, the number of workers enrolled in the ‘Gestione separata’ – the INPS¹²²-managed contributory fund for para-subordinate workers - rose by 126% (129% for collaborators, 106% for professionals) (OECD, 2018). There were circa 1.9 million para-subordinate workers in 2007 – the great majority (1.67) being collaborators and the rest professionals (OECD, 2018).

Initially designed to spur employment creation and curtail unemployment, collaboration contracts – in fact non-standard work in general – turned out to be problematic not only because they represented more vulnerable forms of self-employment, but also due to the fact that firms often used them to avoid the costs associated with an employment relationship. To put a brake on the misuse of collaborations, the ‘Legge Biagi’ (Law 30/2003) introduced the so-called ‘contratti di collaborazione a progetto’ (co.co.pro) that allowed the start of a collaboration only if linked with a specific work project. ‘Co.co.pro’ were nonetheless harshly criticized for furthering labour market precariousness. With the aim of tackling the misuse of co.co.pro, the ‘Jobs Act’ abolished them in 2015 and established that rules on employment protection would apply to para-subordinate work relationships¹²³ that are personal, continuous, and not solely organized by the collaborator.

In conclusion, the historical protection imbalances between employees and self-employed in the occupation-based Italian welfare state became increasingly problematic with the fragmentation and diversification of the labour market. The introduction of a third, in-between legal category has not solved the issue. Such is the context in which the politics of food-delivery couriers’ contract classification has taken place in Italy. The firm intention of platforms to stick to an independent-contractor-based business model coupled with the limited autonomy of food-delivery couriers has triggered intense discussions on whether food-delivery ‘riders’ are employees, contractors or para-subordinate workers. We now turn to such debates.

¹²² INPS stands for ‘Istituto Nazionale Previdenza Sociale’. INPS is responsible for managing workers’ social contributions.

¹²³ Except in case the parties agree on the autonomous character of the relationship and in certain specific working arrangement.

6.1.2 Employees, Contractors, or Para-Subordinate Workers? Contesting the Contract

Classification of Platform Workers in Italy

As illustrated, platform work developed in a context of unbalanced protection between employment and self-employment and of rising share of solo self-employment. Thus far, data on the actual diffusion of platform work remains scattered and markedly dependent on definitions. This is why figures that follow should not be compared but taken as an indication of different measurement attempts. According to the 2017 INPS Report, there were 753.248 platform workers in Italy in 2017 employed in 50 different platforms. 22 of them had no workers, 17 had employees, and 11 worked mainly with service providers and a few employees (INPS, 2017). Another source of data is the 2017 COLLEEM Survey (Pesole et. al, 2018). The survey asked respondents whether they have ever made money via different online sources, ‘providing services via online platforms, where you and the client are matched digitally, payment is conducted digitally via the platform and the work is location-independent, web-based and ‘providing services via online platforms, where you and the client are matched digitally, and the payment is conducted digitally via the platform, but work is performed on-location’. In a first table, among other things, the survey reports (weighted) percentages of COLLEEM adult active Internet user respondents who replied positively to one of these options. According to these calculations, the share of adult active internet users that has ever worked in an online platform is 13.5% in Italy. Yet if we the total adult population as a yardstick, the figures decreases to 8.9%. Urzi Brancati and colleagues (2019) sought to further specify COLLEEM data. Specifically, they provide figures on frequency, time allocated, and income in relation to platform work. In a first panel, they distinguish between those who have ever worked in a platform and those have done so at least monthly. In relation to the former Italy scores 9.5%, while the proportion goes down to 7.5% as for the latter option. In the second panel, the authors combine information on frequency, time allocate, and income in order ‘to show the proportion of respondents who provide services via DLPs [Digital Labour Platforms] sporadically, as a secondary activity, and as a main job’ (p.8). Not surprisingly, the proportion of people working in platforms as a secondary is higher than the proportion of people doing it as a first job hence primary source of income. 4.2% works/has worked for a platform sporadically, 2.5% as a secondary activity, and 2.4% as a main job.

While platform work measurement remains something of an ongoing endeavour, available figures allow us to conclude that the diffusion of platforms adopting an independent-contractor-based business model – and for this reason posing challenges over the contract classification of workers

- is relatively limited. Nonetheless, such a question has gained political prominence. The question of contract classification of platform workers has been debated in Italy since 2015-16. Despite some initial tension around Uber, the policy debate has mostly focussed on food-delivery platform work. A variety of actors ranging from governments and social partners to platform workers' representatives and platforms themselves have sought to affect the regulation of what is widely considered a manifestation of the future of work. Such debates led to the adoption of legislation and collective agreements on the contract classification of platform workers. The first legislative act was decree 101/2019, followed by law 128/2019. Broadly speaking, Law 128 classified food-delivery platform workers who are economically dependent from a platform as para-subordinate workers. At the same time, 'occasional' platform workers remained self-employed. The agreement between 'Unione Generale del Lavoro' (UGL) and Assodelivery challenged this interpretation by re-stating the full autonomy of all 'riders'.

Based on 15 semi-structured elite interviews complemented with secondary academic and policy literature, this section delves into the process that led to these outcomes and dwells on their content. It first focuses on the role of the government in the adoption of legislation on platform work. Second, it concentrates on the positions and role of social partners, namely trade unions and employer organizations, as well as platforms and platform workers' organizations, in the regulatory process in question.

From 'Yellow-green' to 'Yellow-red' Cabinet: A Legislative Rollercoaster to Regulate Platform Work

Food-delivery platform work started to gain visibility in Italy in late 2016, when a food-delivery platform, Foodora, decided to turn retributions from a fixed hourly wage to a payment-by-delivery system. Following such a decision, the first workers-led demonstrations were organized in Turin (Tassinari & Maccarone, 2017). As a result, the then Ministry of Employment Poletti decided to send labour inspectors to verify Foodora riders' working conditions.¹²⁴ Reflecting a growing political attention, two law proposals were turned out in the Parliament over that period.¹²⁵ In February 2017, proposal n.4283 (so-called 'Airaudo Proposal' after the name of the left-wing MP who put it forward) highlighted how couriers were working in a gray zone in between employment

¹²⁴ <https://ilmanifesto.it/foodora-e-poletti-scopri-il-lavoro-digitale-leggendo-i-giornali>

¹²⁵ IT-EXP3

and self-employment which had been harming them in terms of protection and security at work. Due to the character of their activity, the proposal went, food-delivery couriers should have the right to access employment protection. In December 2017, another law proposal (n.2934) was presented upon the initiative of Pietro Ichino. The so-called ‘Ichino proposal’ defined the legal category of “autonomous work via digital platforms” and put forward a protection system that would grant independent platform workers basic protection similar to that attached to the employment contract.

‘Yellow-green’ Government: The ‘Negotiation Table’ and Decree 101/2019

While both proposals were rejected in the Parliament, they played an important role in stimulating discussion on how to ensure that the development of such novel forms of work be supported while not coming at the expense of workers’ protection. In late 2017, Minister Poletti met platform and social partner representatives with a view to enhancing the understanding of this emerging economy and fostering dialogue among different actors. However, the turning point in such discussions occurred in mid-2018 when the so-called ‘yellow-green’ government jointly led by the Five Star Movement (M5S) (yellow) and the Lega (green) took office. Over the negotiations that would lead to the formation of the government, the M5S obtained the Ministry of Employment and Social Policies - and would later obtain the Ministry of Economic Development too. Five Stars’ leader Luigi di Maio was appointed to both Ministries. Minister Di Maio devoted considerable attention to platform workers – specifically, food-delivery couriers – since the very beginning of its role as a minister. Despite an internal reflection on the question of ‘riders’ was already under way at the Ministry Employment and Social Policies before Di Maio took office, the start of the ‘yellow-green’ government was crucial to spotlight such a question as it provided a political support for it.¹²⁶

On the day he took office as Minister of Employment and Social Policies, Di Maio met the representatives of ‘Riders union Bologna’ (RUB) - a food-delivery couriers self-organized group, see below - and stressed the urgency to develop a regulatory framework that would ensure adequate protection to these workers, which the Minister publicly defined as “the symbol of an abandoned generation”. Specifically, such a framework would recognize riders as dependent workers – granting them access to protection associated to employment contract. The attitude of the Minister

¹²⁶ IT-GOV3

irritated trade unions, which noted how regulatory solutions were to be found within the existing framework of industrial relations and not imposed by the government.¹²⁷

The meeting between riders' representatives and the Minister marked the start of a close relationship between the two parties. Initially, Minister Di Maio pushed to include rules on 'riders' working conditions and protection in the so-called 'Decreto Dignità', the major legislative initiative on labour market advanced by the Five Star Movement. Such rules were developed by experts close to the Minister's staff. One of these experts recounts how (s)he got contacted by the Ministry asking for a collaboration on developing a regulatory framework addressing platform work challenges.¹²⁸ Together with other colleagues, the experts developed a proposal which set out to reform the definition of dependent worker enshrined in article 2094 of the Italian Civil Code. The proposed change would consist of enlarging, via what lawyers call an 'interpretative norm', the definition of dependent worker so as to include food-delivery couriers *and* all individuals working via atypical arrangements. Initially, Minister Di Maio expressed his preference for this proposal over another 'less radical'¹²⁹ one that had simultaneously circulated in the Ministry. Nonetheless, the Ministry decided to unilaterally interrupt the work on the proposal that would have expanded the definition of dependent worker. No explicit motivation was provided for this decision.

The political motivations of this choice, however, emerge from other interviews. Overall, the former head of the technical secretary at the Ministry of Employment noted how the reform of the Civil Code was deemed too unbalanced to actually solve the question of contract classification of riders in a constructive manner, that is in such a way as to balance platforms' and workers' interests.

"It could not be like that since the beginning: the risk would have been to find an extremely positive solution for workers while endangering the existence of their work in itself...De facto you would protect something that would no longer exist, just like when you put stringent conditions to companies and they go elsewhere...[...] Standing for one part does not mean to kill the other, this is the approach that has gradually developed within the Ministry...the work of the Ministry was essential to get to a solution that would be the most possible positive for workers and the least possible so for firms but still keeping alive the two parties...otherwise, if companies lose on every ground the agreement is just not sustainable."¹³⁰

¹²⁷ IT-GOV1, TU2, TU3

¹²⁸ IT-GOV1

¹²⁹ Ibid.

¹³⁰ IT-GOV3

Other than problems with the outcomes of such a proposal, the interviewee also notes how skepticism grew within the ministry around the way in which such an outcome was supposed to be reached. That is:

“One thing is to take an individual’s contract and realize that it conceals a de facto different working arrangement [...] that is illegal, because you are simulating a contract that hides a different reality. Another thing is to say overnight, without knowing what is happening on the ground, that that individual is an open-ended employee. [...] In short: one thing is to ascertain the misclassification via a specific case, another thing is to impose a priori on every and each case that will follow.”¹³¹

A third element that emerges is how the need to look for a more balanced solution stemmed from the fact that soon after his appointment as Minister of Employment, Di Maio was appointed Ministry of Economic Development as well.¹³² In the latter Ministry, platforms’ requests resonated more widely than in the Ministry of employment. This implied that Minister Di Maio and his staff had to take into account, because they were officially responsible for, both parties’ voices. Because the draft reform of the Civil code had not been written by Ministry’s servants, but by external experts close to the Minister, it was not able to accommodate such political needs.

Set aside the legislative route, another phase began. Thanks to pressure especially from self-organized riders’ group in Milan (Deliverance Milano), the Ministry initiated a ‘negotiation table’ (hereinafter: ‘the table’) in July 2018.¹³³ The aim of ‘the table’ was to identify a shared regulatory solution between the parties (platforms and platform workers) via the intermediation of the Ministry of Employment. Traditional social partners took part in the discussions too, although they had a marginal role especially in the beginning. According to different interviewees, this reflected a political posture of Minister Di Maio and his collaborators prone to a dis-intermediation of industrial relations.¹³⁴ ‘The table’ was conditioned on the reaching of a compromise: were the parties not able to reach an agreement, the Ministry would go back to a legislative solution.

Discussions in ‘the table’ proved very difficult from the start, the fundamental disagreement being on the independent-work-based business model of platforms. While the latter supported it as the only option for their business to be viable, platform workers’ organizations – increasingly supported by unions – first insisted on ‘riders’ to be classified as dependent workers and then started

¹³¹ IT-GOV3

¹³² Ibid.

¹³³ IT-PWO3

¹³⁴ IT-EXP1, TU2, TU3

demanding protection that were hardly compatible with the classification as independent workers.¹³⁵ Finally, parties involved did not reach a compromise, which is why the government opted for a legislative solution (see section on social partners)¹³⁶.

While discussions among parties proved increasingly difficult and the legislative initiative was stalling, important developments occurred at the judiciary level. In January 2019, the Turin Court of Appeal established that the six riders who had sued Foodora in 2016 for illegitimate dismissal had to receive the same employment and social protection of dependent workers. The court ruling was based on the labour legislation introduced by the Democratic Party in 2015 - the so-called 'Jobs Act' – see section 6.1.1 - which stated that if the committing party - in this case, the platform - can decide upon the 'time' and 'place' of the working activity, then workers fall into the category of 'lavoro etero-diretto'¹³⁷, namely are subject to the legislation regulating dependent work. Although it was not binding on future legislative or judiciary decisions, such a ruling came as a signal that riders could hardly be considered independent contractors.

Influenced by such a ruling, and after repeated setbacks due to technical difficulties in including rules on platform work in ongoing reform packages and political oppositions by the governing party, the Lega, the government adopted the decree n.101 in September 2019. Decree 101 was signed on the last day as a Ministry of Employment of Di Maio, who then stepped out due to the governmental crisis that led to the formation of a new cabinet. Decree 101 proposed a binary intervention. On the one hand, it proposed to modify the rules on 'collaborazioni eteroorganizzate' as laid out in Art. 2 of the so-called Jobs act by including an explicit reference to activities performed via digital platforms. This would mean that platform workers whose activity can be classified as a 'collaboration' have access to employment protection. On the other hand, it expanded health and safety protection to riders whose activity does not fall under the collaboration framework but under rules for autonomous workers. According to a high-ranked official of the Ministry of Employment, this intervention:

“Resulted from a downward compromise the 5SM made with the Lega; thus we thought that it [n.101] was a merely symbolic intervention because it limited itself to extend some protection on health and

¹³⁵ IT-TU2, TU3

¹³⁶ IT-EXP1, EXP3, GOV3

¹³⁷ <https://www.ilsole24ore.com/art/foodora-rider-retribuzione-dipendenti-AEhL9VDH>

safety to ‘riders’ but it did not address the crucial question of the character of the work relationship between platforms and platform workers.”¹³⁸

In this regard, the proposed change to Art. 2 of Law 81/2015 “was a useless norm as the original wording of Art. 2 neither said without or with platforms, only ‘eteroorganizzati’ [...] thus the specification comes with no juridical effect”.¹³⁹

‘Yellow-red’ Government: The Adoption of Law n.128/2019

As anticipated, the adoption of decree 101 was the last act as a Minister of employment of Di Maio as a new cabinet led by the M5S and the Democratic Party took office in autumn 2019. Thus, the text of decree 101 was to be converted into law by a different government than the one that designed it in the first place. This had a major impact on the content of the legislation. As soon as the new government took office, the new Minister of Employment Nunzia Catalfo from M5S, started to work on revising decree 101. The revision culminated in the approval of law n. 128 in November 2019. While changes did not alter the binary approach of decree 101, they strengthened provisions for both para-subordinate and autonomous riders.

Art.2 of law 81/2015 was modified in two ways with a view to actually including platform workers into the framework of economically-dependent collaborators. The original version of such an article stated that ‘coordination’ over working activities of collaborators would lead to the application of employment protection *only* if it entailed a control “over working time and place”. Because it could be argued that platforms do not actually exercise control over working time and place of platform workers, this wording was removed from the text to make sure such workers would fit the definition of economically-dependent collaborators. Following the same logic, the expression “exclusively personal” referred to working activities of collaborators was modified into “mostly personal”. The rationale for such a change is well explained by one of the authors of the text:

“In order for a collaboration to be considered personal, means of production must be owned by the collaborator. In the case of riders, what problem did we face? If a rider uses a mobile phone and a bike who does not own, then the risk arises that this person’s work falls out of the scope of Art. 2 because it does not entail exclusively personal means of production. Thus, the change to ‘mostly’

¹³⁸ IT-GOV4

¹³⁹ IT-GOV1

personal would avoid a bypassing of article 2 which would in turn mean that platform workers would be considered pure independent workers.”¹⁴⁰

Overall, modifications to Art. 2 established that food-delivery couriers’ work was to be included under the framework of economically-dependent collaborations that have access to employment protection. However, a necessary condition for this to happen is that such collaborations take place ‘continuously’, which can be difficult to prove due to the fact that platform workers tend to work for different platforms even over a short time span. For this reason, it was decided to keep and reinforce the minimum set of rights granted to independent workers by decree 101 (Art. 47bis). The fundamental difference between Art. 2 and 47bis is that the former has a ‘corrective’ character, that is it cannot be applied a priori but a court must verify the actual existence of such conditions. By contrast, Art. 47bis assigns rights regardless of the substance of the working activity.¹⁴¹

Another element introduced by law n. 128 had to do with the role of social partners. Departing from previous cabinet’s priorities, the decree attributed to social partners the task of deciding over remuneration conditions. This reflected the political will to decide over the regulation of platform within a traditional industrial relations framework. If social partners failed to strike a deal within a year from the approval of the law, the conditions of the most similar national collective agreement would apply. This provision paved the way for the agreement between Assodelivery and UGL signed in September 2020. Such an agreement, which re-introduced the full autonomy for riders (see section on social partners), was harshly criticized also by the Ministry of Employment. In particular, the Ministry contested the representativeness of UGL as a union in the sector of delivery as well as the re-introduction of autonomy as an ex-ante qualification of platform work.¹⁴²

Following the UGL-Assodelivery agreement, discussions at the Ministry, which had been interrupted in the month of August, started again. The role of Minister Catalfo was central in steering such discussions. As the confederal secretary of ‘Confederazione Generale Italiana del Lavoro’ (CGIL) notes: “The Minister was pretty firm in saying: I open this negotiation again as I want to get to the point we had discussed previous to August”. This implied setting the agreement with UGL aside, which reinforced unions’ claims. At the same time, the choice of Just Eat to leave Assodelivery following its decision to hire couriers weakened the platform coalition. The latter was

¹⁴⁰ IT-GOV4

¹⁴¹ IT-GOV1, GOV4

¹⁴² Letter from the Ministry of Employment to Assodelivery, 17/09/2020.

further divided undermined when Just Eat and CGIL, CISL (Confederazione Italiana Sindacati Lavoratori), and UIL (Unione Italiana del Lavoro) signed a collective agreement through which Just Eat ‘riders’ would become dependent workers subject to the rules on logistics (Forlivesi, 2021).

Collective Representation in the Platform Economy: Traditional Social Partners, Novel Actors and the Contract Classification of Platform Workers

As it happened virtually in every European country, the rise of platform work – in fact of non-standard work more in general – has challenged established ways of representation via social dialogue institutions in Italy. Traditional social partners had a hard time representing the interests of platforms and platform workers. Such novel actors thus created their channel of representation, which interacted with each other as well as with traditional social partners. This amounted to a novel constellation of actors whose configuration has rapidly and frequently evolved.

Worker Representation: Food-delivery Couriers’ Independent Organizations and Traditional Unions

As hinted at above, the question of platform work was initially politicized by workers themselves in Italy. In October 2016, the decision of a food-delivery platform, Foodora, to turn retributions from a fixed hourly wage to a payment-by-delivery system, sparked the first self-organized protest by Italian riders in Turin (Tassinari & Maccarone, 2017). Soon after Turin, food-delivery couriers self-organized in Milan and Bologna as well. Riders Union Bologna (RUB), the food-delivery couriers organization created in Bologna, proved especially central for the politicization of riders’ contract classification and, more broadly, working conditions. One of the founders of RUB recounts what were the motivations that led to the formation of a self-organized group.

“The contract is our central concern. We all worked - and still work - under an ‘occasional collaboration’ work contract...we are considered independent workers so these big platform companies make us sign such contracts that come with basically no rights or protection. This was our first problem...we were doing a risky job cycling the streets all day long and we did not even have an insurance covering accident at work [...] we had no hourly wage but we got paid per piece and means of productions (i.e. bike and mobile) were of ours.”¹⁴³

¹⁴³ IT-PWO1

These shared problems favored the development of a common critical understanding of working conditions. As RUB founder notes,

“a symbolic trigger point was a sudden and heavy snowfall in in Bologna November 2017”, after which “we called a spontaneous strike, platforms told us to go back to work but we said ‘a pizza is not worth the risk’...that was a watershed as it also contributed to make our problematic working conditions emerge in the public debate.”¹⁴⁴

Importantly, this interview also explicates how RUB priorities shifted from asking from re-classification of their contract to employment contract to demanding more rights tout court. This change does not mean that the group changed its position on food-delivery couriers contract classification. Rather, it represented a pragmatic shift in priorities as it was politically more feasible to ask for better working conditions than insisting on the question of contract classification.¹⁴⁵ Interestingly, this is the same dynamic emerged in the French case with regard to CLAP (see Chapter 5.1). Despite supporting re-classification to employment contracts, also the French organization soon stopped overtly advocating for it due to political opportunities reasons.

As riders’ claims were becoming more prominent, RUB entered into a dialogue with trade unions (CGIL, CISL and UIL) as well as with the municipality of Bologna, which proved open in this regard.¹⁴⁶ Dialogue at the local level resulted in the signing of the so-called ‘Charter of fundamental rights of digital work in the urban context’ between the municipality of Bologna, CIGL, CISL, UIL, RUB and the two food-delivery platforms Sgnam and Mymenu. The Charter is a non-binding document voluntarily signed by the parties containing provisions on health and safety, data protection, remuneration, right to information and rating functioning in platform work. Given its voluntaristic character, the Charter could not deal with the difficult question of contract classification. It nonetheless turned out to be crucial in bringing the issue of precarious work within the platform economy at the national level (Quondamatteo, 2021).

After initial difficulties, RUB had positive relationships with local traditional trade unions – especially with CGIL. However, the founder of RUB highlights how and why they were not willing to join traditional trade unions.

¹⁴⁴ IT-PWO1

¹⁴⁵ IT-PWO1, PWO2

¹⁴⁶ IT-PWO2

“We decided, like most of other groups, to keep a self-organized organizational model. Why? Because it’s easier...there is a direct contact...traditional trade unions are lagging behind also in this respect...both in terms of representation of new forms of work and in organizational terms...they are static.”¹⁴⁷

Interview with traditional unions confirm the fundamental role of rider unions in bringing working conditions to the fore. In this regard, when interviewed, Confederal Secretary of CGIL noted how:

“The starting point in our reasoning should be the following: these workers represented themselves. They did not come us asking if we were able to do something, or if they did come we were not able to respond organically to their needs; [...] they felt the need to become something different [...] because somehow traditional unions were among the actors that had been neglecting their conditions. So we have double-sided problem here: on the one hand, we have to change our approach because traditional unions’ practices do not work in this case [...], on the other hand, you have to find a way to overcome the skepticism they have towards unions, which made us more of a problem than a potential solution.”¹⁴⁸

Such a self-awareness come from the fact that an internal reflection on the impact of digital technologies on unions’ actions was already underway within the CGIL. As stressed by CGIL Confederal Secretary, after having noted the growing salience of the matter:

“We first developed a scientific interest...we posed questions to ourselves...this push did not come from workers; we organized conferences with platforms’ managers not only to better understand the impact on the labour market but also to investigate how platforms change the relationship with consumers...we studied the phenomenon...”¹⁴⁹

The knowledge gained through such an internal reflection was then applied to the case of food-delivery couriers. In the interviewee’s words:

“the question of riders meant for us to bring our reflection from theory to practice. This also allowed us to experience the concrete difference in the relationship with these workers [compared to usual unionized workers].”¹⁵⁰

UIL Confederal Secretary also describes the “knowledge process we learnt to do” as the fundamental element that allowed to unions to become active players in the debate on platform work regulation.¹⁵¹ In the case of UIL, this happened mostly through local representatives who

¹⁴⁷ IT-PWO2

¹⁴⁸ IT-TU2

¹⁴⁹ Ibid.

¹⁵⁰ Ibid.

¹⁵¹ IT-TU3

entered into contact with platform workers – especially in Bologna and Milan. The Milan case is especially informative of the process unions went through. One of the unionists of the transport section of UIL (UILTuCS)¹⁵² recounts how the action of the union did not follow any clearly designed plans but rather stemmed from his own interest in the topic:

“I started to get interested in the topic in March 2016, when I listened to an Amazon Mechanical Turk worker and activist telling her story at the Unieuropa conference. I then started to study the phenomenon...; after the Turin strikes, things started to move in Milan as well and I went to these demonstrations and got contacts of some workers...”¹⁵³

When asked about the origins of his initiatives, the interviewee notes how personal interest in the topic drove action in the first place: “a strategy only came later”. (S)he notes how:

“After an initial phase of study, we created on our website a section devoted to the gig economy; also, we created a permanent observatory containing an anonymous questionnaire on platform work that can be filled online by workers – this was February 2017.”¹⁵⁴

In this phase, the unionist interviewed approached riders several times with the aim of interviewing them. In so doing, his position as a trade unionist turned out to be an obstacle:

“There is suspicion, linguistic barriers, if you say ‘trade unions’ is for sure not easy to get into contact with them [platform workers]...Indeed, self-organized movements did not have a good relationship with traditional trade unions to begin with; yet today the situation has changed for the better and we built a good collaboration especially with groups in Milano; after a cold start, we got to know each other and understood there was a common interest in creating a convergence between traditional unions and self-organized groups.”¹⁵⁵

The realization of a common interest improved the relationship between UILTuCs and local platform workers’ organizations such as Deliverance Milano. This opened room for a traditional union to represent platform workers. The case of UILTuCS is informative of what happened at the national level, that is a progressive improvement of the relationship between platform workers’ organizations and traditional trade unions. Two elements contributed to bringing these two actors closer¹⁵⁶. On the one hand, in July 2018, CGIL, CISL and UIL agreed on adding the work category of ‘rider’ to the contract of the logistics sector. Such a modification, which first brought into direct

¹⁵² UILTuCS stands for ‘Unione italiana Lavoratori, Turismo, Commercio, Servizi’

¹⁵³ IT-TU1

¹⁵⁴ Ibid.

¹⁵⁵ Ibid.

¹⁵⁶ IT-TU3

contact the activity of food-delivery rider with social dialogue mechanisms, was intended as a way to lay the groundwork for collective bargaining involving food-delivery couriers. On the other hand, in November 2018, the biggest food-delivery platforms operating in Italy (Deliveroo, Glovo, Social Food, Uber Eats and Just Eat) created their own organization – ‘Assodelivery’ – which was meant at strengthening platforms’ voice in the debate on platform work regulation. The presence of new, unitary actor on platforms’ side constituted an important development for traditional employer organizations, which had been comparatively less vocal in the debate.

Traditional Employer Organizations: Confindustria and Confcommercio

Employer organizations were active in such a debate as well, though in a quitted fashion, interviews suggest. The two most active organizations were the major industry association (Confindustria) and the major trade association (Confcommercio).

Representative of Confindustria highlighted how the organization has always tackled the question of ‘riders’ as a development happening in the context of larger labour market trends, most notably the shifting boundaries between dependent and independent work in current capitalism. In the words of the interviewee:

“In our view, this was not a novel thing. At the end of the day, it’s about goods/services that need to be moved from a to b. So to us the challenge was to link this development with larger transformations in logistics: I mean, it’s not possible to tackle the question of ‘riders’ as a single episode; one needs to get a broader understanding.”¹⁵⁷

The interviewee underlined how important was for Confindustria as an organization to study the platform business model with the aim to develop a regulatory position.

“First thing for us was to achieve an accurate understanding of the phenomenon...We were willing to discuss...to really understand how these platforms work; what kind of discretionality people have to accept/decline job offers; what kind of remuneration criteria; what kind of premiums/punishment would workers get...[...] To do so...we studied the relevant literature and tried to meet experts who know such mechanisms...in this sense, we made the hardest effort possible to really grasp the nature of the work relationship.”¹⁵⁸

¹⁵⁷ IT-EO1

¹⁵⁸ Ibid.

Confindustria acknowledged the problems stemming from the independent-contractors-based platform business model. At the same time, it was critical about the proposal of Minister Di Maio that would classify all ‘riders’ as employees. To put it with the interviewee:

“We were concerned about the possibility that ‘subordination’ would be applied to all ‘riders’ without verifying their actual working conditions.”¹⁵⁹

Confindustria representative stressed how the way the negotiations on the matter were carried out made it hard to develop a constructive dialogue among the parties. The ‘mediatic’ dimension of ‘the table’ was too strong, which weakened its effectiveness in terms of outcome. Because Confindustria did not consider such negotiations productive, it left the table before it came to end.

Platforms also disliked such a perspective.¹⁶⁰ As soon as they realized that prospective regulation might endanger their business model, platforms started to look for institutional support. It is in this context that a dialogue with Confindustria began. However, it never reached a point that would lead platforms to become member of the organization.¹⁶¹ It emerges from the interview how Confindustria was open in principle to represent platform interests, yet only if a constructive dialogue between platforms would start - not “at all costs”.¹⁶²

‘The table’ was a topical moment for Confcommercio as well. According to the interviewee,

“Confcommercio began to be interested in platform work when it was first involved in these large meetings with other social partners held at the Ministry of Employment. [...] Back then, the Ministry proposed that ‘riders’ should qualify as employees...This is the context in which our interest started.”¹⁶³

As the interviewee notes, Confcommercio was critical of the position took by the Ministry of Employment:

“Our claim was that it was not desirable that ‘riders’ work would become dependent work by definition; according to us, criteria typical of ‘subordination’ need to be ascertained in order to classify a ‘riders’ as an employee.”¹⁶⁴

¹⁵⁹ IT-EO1

¹⁶⁰ IT-PLMAN1

¹⁶¹ IT-EO1

¹⁶² Ibid.

¹⁶³ IT-EO2

¹⁶⁴ Ibid.

What Confcommercio proposed was that ‘riders’ would remain independent workers up until the 5000€ income ceiling per year. Those who trespass such an amount would qualify as ‘para-subordinati’. This was the approach followed by Law 128/2019, of which Confcommercio shares the broad regulatory architecture. Confindustria was in favour of the principle of ‘etero-organizzazione’ as well. From a broader perspective, however, it considers it a ‘missed opportunity’ to develop innovative regulatory solutions that would help tackling broader challenges related to the future of work. Indeed, ‘etero-organizzazione’ is an already existing legal construct.¹⁶⁵

The relationship between platforms – then Assodelivery – and Confcommercio went further than those with Confindustria. In the first months of 2022, Assodelivery became officially affiliated to Confcommercio, and it is now set to become a full member of it. Confcommercio proposed to Assodelivery to sign the national agreement of services, with the perspective to design a regulatory framework that would shelter their platform business model while guaranteeing protection asked for by unions and workers.

The creation of Assodelivery not only was important within the employers’ front, but it also represented an incentive for unions and platform workers’ organizations to work together cooperatively.¹⁶⁶

Re-adjusting Preferences: Shift in Unions’ Priorities

The increasing collaboration with platform workers’ organizations marked a shift in unions’ priorities. Similar to what rider unions went through before, trade unions re-directed their claims towards asking more protection - e.g. hourly pay, accident at work insurance - regardless of the contractual classification. Interestingly, this change emerges from the interviews as a strategic, functional move rather than an ideological one.

“We started by asking ‘subordination’ as that was the initial position of rider unions as well. But because the discussion the negotiation table with platforms could not go on with references to ‘subordination’, we tried to work on single points and set aside the issue of legal classification...try

¹⁶⁵ IT-EO1

¹⁶⁶ IT-TU2, TU3

to understand how could working conditions could be improved through more protection in working times, hourly wage, paid holidays.”¹⁶⁷

A similar note comes from UIL, which was initially “rigid in starting from the idea that the application of the collective agreement of logistics was necessary.”¹⁶⁸

The changing role of trade unions across the regulatory process in question can also be observed by looking at legislative process that eventually led to law 128/2019. Because of the political will of former Minister Di Maio to reinforce a direct dialogue with platform workers (see section on government), in the first phases of ‘the table’ with the government, platforms and platform workers’ organizations, the role of traditional unions was marginal. The confederal secretary of CGIL remembers how:

“the first meetings [...] were physically embarrassing as we were in an arena-like room...workers’ were seated in the first row with platforms behind them...and the mood was like: talk to us, they [the unions] have little to do here. It was really weird.”¹⁶⁹

Interviews with CGIL and UIL highlight how such unions were highly skeptical of the way the negotiations with platforms and platform workers was conducted. The promise made by the Minister to work on a regulation that would classify platform work generated too high of an expectation that was not possible to meet.

“Even though the negotiation had a positive objective, that is the improvement of riders’ working conditions, it was poorly conducted. When a positive goal becomes first and foremost a communicative tool the risk is to make mistakes. [...] A serious mistake was made in conducting the negotiation because the Ministry started to have a privileged dialogue with riders unions and promised them in different meetings a regulation that would grant them with employment protection.”¹⁷⁰

Moreover, another interviewee stresses how:

“The Minister had a very good intuition in talking directly to these workers who were otherwise to not really visible...yet this attitude led to excessively high expectations that could not be met in fact.”¹⁷¹

¹⁶⁷ IT-TU2

¹⁶⁸ IT-TU3

¹⁶⁹ IT-TU2

¹⁷⁰ IT-TU3

¹⁷¹ IT-TU2

The strategy of unions to react to what they perceived as non-welcoming environment was to build a solid coalition that would highlight their unity:

“The fact that other parties do not recognize you...they do not want to talk to you...this pushes you to join forces, right? So we sought to find convergence points instead of division lines [...] we tried to keep unitary positions and minimize differences in order to further weaken our position.”¹⁷²

While the role of traditional unions gradually increased in importance already during the discussion with the yellow-green government, the change in cabinet proved crucial in this respect.¹⁷³ Di Maio’s successor Minister Nunzia Catalfo was much more prone to involving the unions in the discussions over protection and working conditions of riders.¹⁷⁴ Change in governmental priorities is also reflected into the content of law 128/2019 compared to decree 101/2019. As previously noted, law n.128 established that remuneration levels were to be decided within a one-year time via collective bargaining. It is on this latter point that the most debated step of the regulatory process in question was taken, that is the signing of the UGL-Assodelivery collective agreement in September.

UGL-Assodelivery Collective Agreement

The genesis of the agreement goes back to the period in which decree 101 was being converted into law 128. In November 2019, a group of food-delivery couriers set up an organization called ‘Associazione Nazionale Autonoma Riders’ (ANAR; ‘National Autonomous Riders’ Association’). ANAR’s priority is the necessity to stick to an independent-contract model which guarantees the degree of flexibility riders actually look for. At the time when the content of law 128 was under discussion, ANAR organized a petition and collected about 700 signatures to show how riders in fact support flexibility.¹⁷⁵ The content of law 128 (see section above on the government) disappointed platforms as well as ANAR, which continued to lobby to support the independency of food-delivery couriers. In June 2020, ANAR became part of the union ‘Unione Generale del Lavoro’ (UGL). This resulted into the creation of UGL-riders.

¹⁷² IT-TU3

¹⁷³ IT-EXP3, TU2, 3, GOV3, 4

¹⁷⁴ IT-GOV4

¹⁷⁵ IT-TU1

Given the convergence of priorities, UGL-Riders and Assodelivery soon entered into contact and in September 2020 they signed the so-called UGL-Assodelivery agreement. As anticipated, the agreement re-introduced the autonomy of riders. Another much discussed aspect was the provision on piecework pay, which ruled out the possibility to have an hourly wage. UGL and Assodelivery welcomed the agreement as the first in Europe to provide an operational solution to the need of balancing flexibility and protection.

Nonetheless, the agreement had many detractors. Beyond the Ministry of Employment (see section above on the government), the three most important trade unions CGIL, CISL e UIL criticized the agreement on various grounds. In their joint note published right after the publication of the agreement, the three unions defined the institutional behavior of Assodelivery “unacceptable” as it unexpectedly deviates from the ongoing discussion at the Ministry of Employment. Not only did they criticize the representativeness of UGL-rider and cast doubts on the legitimacy of the agreement, they also harshly opposed the content of the agreement, which was defined as “a fake attempt to enhance riders’ working conditions” due to its focus on autonomy which rules out protection associated with employment contract as well as with para-subordinate workers. In so doing, CIGL, CISL and UIL asked for the intervention of the Ministry of Employment. The latter, as previously shown, took a similar position than unions pushing for ‘the table’ to re-start under the condition that the agreement with UGL is sidelined.

Employer organizations were less vocal in commenting the agreement. Interviews, however, reveal that they were not in line with criticism raised by the Ministry and unions. Confindustria decided not to publicly intervene in the discussion on the agreement. Regardless of its content, the interviewee stressed how the agreement cannot be defined illegitimate as it stems from the right of these two organizations to bargain over working conditions. Data on representativeness does not allow to establish who has the right to represent whom.¹⁷⁶

Short after the signing of UGL-Assodelivery agreement, Just Eat platform exited Assodelivery declaring its intention to employ its workers. Hence negotiations with the logistics and atypical workers’ section of CGIL, CISL, and UIL, and riders’ organizations began. Some groups of ‘riders’ deemed the initial proposal of the company unsatisfactory. The reason for this is that it put forward a separation between ‘waiting time’ and ‘delivery time’ that risked undermining the introduction of

¹⁷⁶ IT-EO1

an hourly pay. The coordinator of Deliverance Milano¹⁷⁷ recounts how they put pressure over the negotiations to erase such a differentiation, an attempt which eventually was successful. In November 2020, the parties agreed on the so-called ‘Just Eat contract’, which applied to riders the retribution established by the national collective agreement on logistics, one that eventually was more favourable than other options being discussed (such as the ‘multi-services’ national contract) (Quondamatteo, 2021) .

6.1.3 Conclusion

To conclude, this chapter finds that platforms and platform workers’ organizations initially played a central role in the debate on how to regulate platform work. In this phase, traditional social partners were only marginally involved. This was also due to the attitude of the yellow-green government, particularly of Di Maio as a Ministry of Employment, who favoured a relatively dis-intermediated approach to social dialogue. The three major trade unions CGIL, CISL and UIL, however, gradually became central protagonists of the regulatory process. Especially CIGL and UIL initiated an internal reflection aimed at strengthening their understanding of the phenomenon at stake and gradually ameliorated their relationship with platform workers’ organizations, which had previously been riddle with mutual suspicion. At the time of writing, however, most groups of platform workers retain their organizational independence. With the change in government, the role of trade unions increased remarkably as Minister Catalfo sought to favour a ‘re-intermediation’ of the process that would give unions more centrality in the discussion over working conditions of platform workers. The ‘Legge riders’ came out of such an attitude and established that working conditions of food-delivery couriers would be decided via collective bargaining within one year. The agreement between UGLRiders and Assodelivery did so but contradicted the provisions of the law. More recently, under the Draghi government (2021-2022), the Ministry of Employment publicly expressed its support for the proposal of the European Commission to introduce a presumption of employment to tackle the contract classification of platform workers (Spasova & Marengo, 2022).

Overall, the majority of actors at play were somewhat concerned with the possible negative implications of platform work for the already highly precarious Italian labour market. For this

¹⁷⁷ IT-PWO3

reason, a self-employment option like in the French case was never seriously taken into consideration at the government and social partner level. The contestation revolved around whether platform workers should qualify as employees or as para-subordinate workers. Initially, both the government, trade unions and workers were pushing for an ‘employment’ solution. Gradually, they all shifted towards a third status solution. Exceptional in this scenario were Assodelivery and UGL Riders that consistently stood up for a ‘self-employment’ option like in France. The Italian case well shows that the regulatory outcomes were by no means pre-determined as actors’ preferences were not fixed but under formation in a knightianly uncertain context. The only way to understand such outcomes is then by looking at the actor-driven process in which they were socially and politically negotiated.

The second part of this chapter (6.2) analyses the regulatory process described above in light of the theoretical framework developed in Chapter 3. It does so by identifying institutional work objectives and practices and digs into their drivers i.e. their learning foundations.

6.2 The Learning Foundations of Institutional Work in Italy

6.2.1 What Did Actors Do? Unveiling Institutional Work Objectives and Practices

Part 6.1 has shown how multiple actors were involved in the debate on platform workers' contract classification in Italy. As detailed in Chapter 2 and 3, actors sought to shape the rules linking the protection of platform workers with their contract classification. To do so, they put in place a number of institutional work practices (Lawrence & Suddaby, 2006). These practices have three goals, namely 'challenging', 'sheltering' and 'rising awareness' on rules (see Chapter 3). Actors who perform challenging practices want to change the rules linking contract classification and protection in such a way that independent platform workers can be protected – to varying extents - even without qualifying as employees. Actors who perform sheltering practices want to keep the rules linking contract classification and protection, meaning that platform workers should be protected as employees *because* they are de facto dependent workers. Actors who undertake rising awareness practices seek to stimulate reflection on the contract classification of platform workers as a way to enhance the understanding of the matter.

The thematic analysis of the interviews reveals how 'sheltering' was by far the most prominent institutional work objectives in Italy. This well reflects what Part 6.1 illustrated, i.e. that the contestation in Italy was more between different ways of conceiving 'sheltering' than between 'sheltering' and 'challenging' goals. To have a more meaningful understanding of institutional work objectives, however, we need to know how actor types were associated with different objectives. To this end, Figure 23 presents 'objectives' disaggregated by actor type as emerging from interview coding. Values are weighted frequencies of institutional work objectives in interviews belonging to the same actor category.

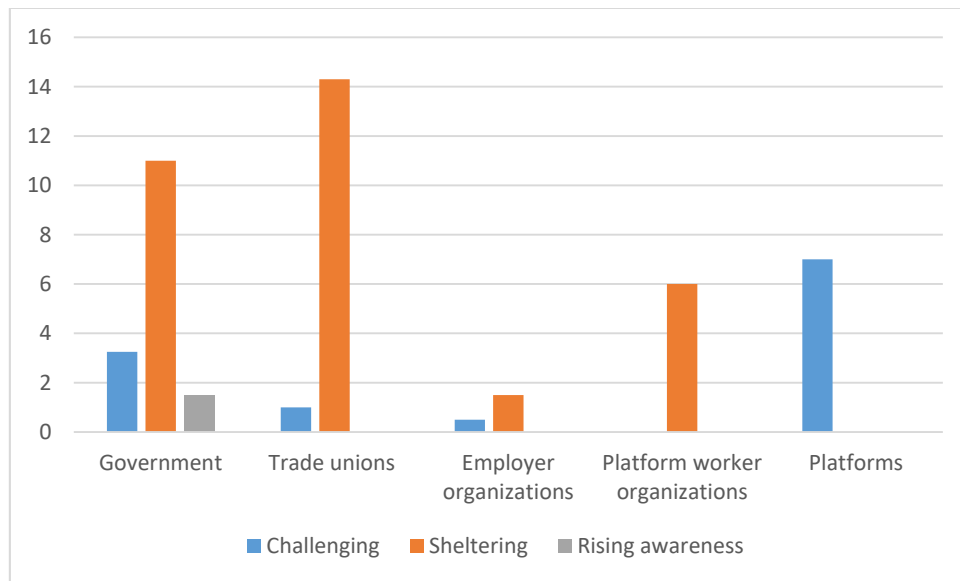


Figure 23 Institutional work objectives - weighted frequencies in interviews of the same actor category

Figure 23 shows how ‘sheltering’ was the most relevant institutional work objective for both the governments, trade unions and platform worker organisations. Also employer organisations stood up for ‘sheltering’, though to a lesser extent and in a more ambiguous manner. By contrast, platforms pursued only challenging institutional work goals. These findings must be read against an important specification. Unlike in Denmark, France and the Netherlands, in Italy there exists a third status in-between dependent and independent work (see Part 6.1). In my analysis, I coded as ‘sheltering’ both goals of actors standing for platform workers to qualify as employees and action of actors supporting a third status solution. Since the third status extends protection of dependent workers to economically dependent self-employed, the focus is on dependent work legislation and not on developing novel rules for the protection of self-employed. For this reason, I consider it a way of ‘sheltering’ the existing rules that link the contract classification and protection.

The action of the Ministry of Employment, when Di Maio was in office, had clear ‘sheltering’ goals as the priority was to develop a legislation that would classify ‘riders’ as employees. At the same time, the main government party of the M5S, the League, was not in favour of such a legislation and opposed it (‘challenging’).¹⁷⁸ The action of the ‘yellow-red’ government was more consistently oriented towards ‘sheltering’ objectives as there was consensus around developing a legislation that would extend employment protection to economically dependent platform workers. The ‘Legge

¹⁷⁸ IT-GOV1

Riders’, nonetheless, also contained provisions that improved protection for self-employed riders who did not qualify for the third status. This intervention was conceived as a way to improve workers’ conditions regardless of their status. For this reason, I considered it as ‘challenging’. Thus, the ‘Legge riders’ pursued a mix of sheltering and challenging objectives.

‘Sheltering’ objectives were also predominant in the action of trade unions and platform worker organizations. The three major trade unions CGIL, CISL and UIL – especially CGIL and UIL - all began overtly demanding for food-delivery couriers to qualify as dependent workers. Then they re-oriented their demands towards asking for more protection and better working conditions regardless of the contract classification. From the interviews, however, it emerges how this shift in priority mostly happened for pragmatic reasons related to the fact that negotiating over the contract classification was highly problematic.¹⁷⁹ In this context, there was no structured intention to challenge the rules linking contract classification and protection. For this reason, the objectives of trade unions were coded as ‘sheltering’. In addition, it is to be noted that I was not able to interview UGL Riders union. In light of its pro-self-employment position in the public debate, it can be argued that this would have increased the total weight of ‘challenging’ objectives in Figure 23.

Like in the French case, platform workers’ organizations also began concentrating on contract classification but soon moved to asking better working conditions tout court.¹⁸⁰ While this does not mean that they stopped considering food-delivery work as dependent work, it reveals a change in political strategies. Similar to CGIL and UIL, however, there was no structured intention among platform worker organisations to challenge the rules linking contract classification and protection. It is nonetheless worth noting that I was not able to interview representatives of ANAR, a pro-self-employment riders’ association. In light of its pro-self-employment position in the public debate, it can be argued that this would have increased the total weight of ‘challenging’ objectives in my finding.

Furthermore, interviews suggest that employer organizations had both ‘sheltering’ and ‘objectives’. The sheltering part refers to the fact that it emerges from the interviews that both Confindustria and Concommercio were at least partly in favour of a third status solution. On the other hand, one interviewee noted how it would be desirable to develop an employment and protection system

¹⁷⁹ IT-TU2, 3

¹⁸⁰ IT-PWO2, PWO3

that goes beyond the centrality of the contract. All in all, however, traditional employer organizations had less of a vocal role than unions in the politics of the contract classification of platform workers in Italy.

Not surprisingly, platforms pursued only ‘challenging’ goals as their main priority was to preserve their independent-contract based business model. In pointing to this, it should be noted how I was not able to interview Just Eat managers. In light of Just Eat change in business model and rupture with Assodelivery, it can be argued that this would have increased the total weight of ‘sheltering’ objectives in my finding.

Finally, the fact that there was almost no actor pursuing ‘rising awareness’ goals is indicative of how the debate in Italy assumed confrontational traits since the beginning. Little room was left for improving the public understanding of the phenomenon at stake. In France, the debate on platform workers’ contract classification was also markedly polarized, but civil society actors like Sharers and Workers importantly contributed to enhance knowledge on the matter. Indeed, discussions on platform work were more elaborated in France than in Italy: in the former case, a general reflection on platform work in all its variants (see Chapter 5.1) took place, in the latter the focus was solely on food-delivery courier work. Similarly, in the Dutch case, work by the SER and the Commission Borstlapp had the explicit goal to orient decision-making by providing evidence on platform work and its regulatory challenges (see Chapter 8.1).

To pursue such objectives, actors put in place a number of institutional work practices. Figure 24 shows the distribution of institutional work practices in percent across the interviews. ‘Organizing’ happens when an actor copes with the challenges of contract classification by pulling together individual interests. ‘Reflecting’ occurs when an actor’s focus is on stimulating reflection on a certain topic with the aim of furthering knowledge. ‘Creating’ refers to the active process through which an actor employs its institutional creativity to deal with challenges of platform work. ‘Generalizing’ happens when an actor justifies their position on platform work regulation by arguing that it is important for labour market and social protection tour court. ‘Intermediating’ happens when an actor sets to favour dialogue between two other actors with the aim to reach a compromise solution. ‘Projecting’ takes place when an actor establishes a connection between future developments in platform work and current regulatory needs. ‘Deterring’ occurs when an

actor seeks to establish constraining rules that impede the development of opposed regulatory stances. ‘Mediatizing’ refers to the use of media to spread their own regulatory approach.

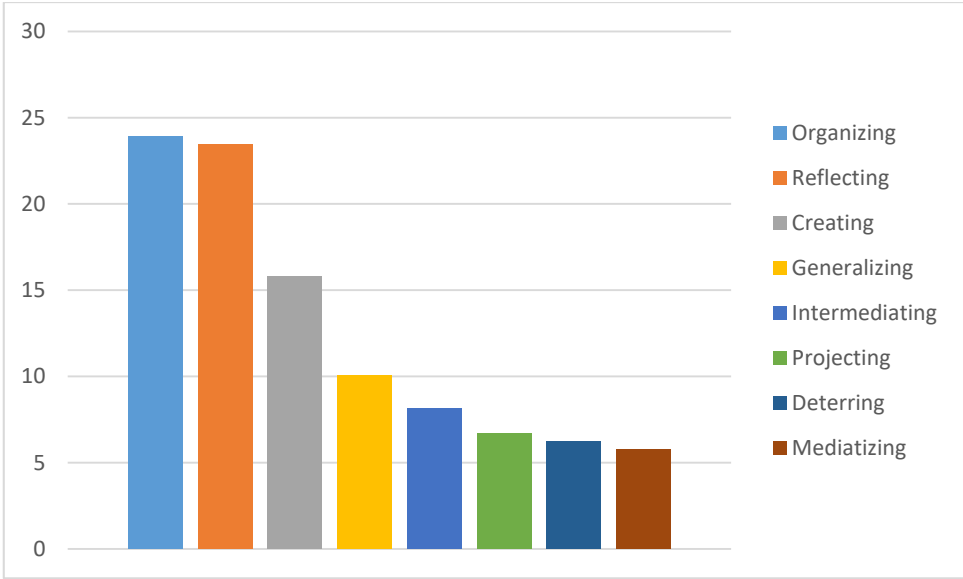


Figure 24 Institutional work practices across the interviews – distribution in percent

To have a more meaningful understanding of practices, we have to look at how practices are distributed across actor types: this will allow to understand who did what. Figure 25 connects institutional work practices and actor types by showing weighted frequency of institutional work practices in interviews belonging to the same actor category. Figure 25 illuminates several findings that deserve specification. In what follows, I explain how different practices were associated to various actor categories. I proceed practice by practice.

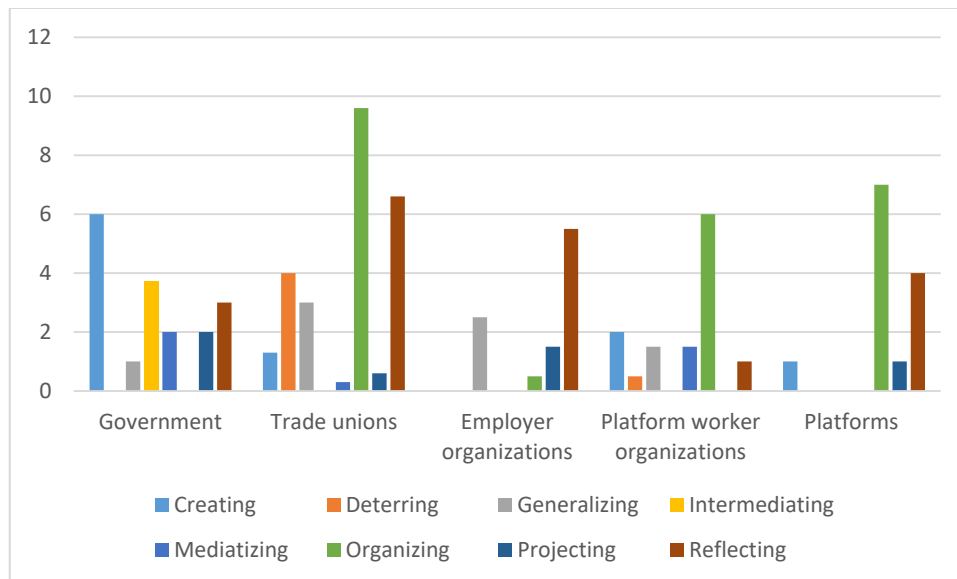


Figure 25 Institutional work practices - weighted frequencies in interviews of the same actor category

Creating

The politics of platform workers' contract classification was riddled with actor-centred institutional creativity. Interviews with civil servants of the Ministry of Employment that were responsible for the drafting of the law largely show how both decree 101 and law 128 were the result of regulators seeking to find solutions through creativity in a very uncertain context. The introduction of the binary distinction between para-subordinate and self-employed food-delivery couriers addresses the need of finding regulatory solutions and stems from an attempt by regulators to account for diversity of working conditions in platform work.¹⁸¹ The modification of law 81/2015 introduced by law 128/2019 as a way to make up for deficiencies of decree 101 shows how regulators creatively changed the text in order to strengthen the protection granted to both para-subordinate and self-employed.¹⁸² Overall, the government – especially the Ministry of Employment emerges as the most creative actors in the Italian scenario.

Having to come to terms with a novel phenomenon, unions also showed creativity along the process – though to a lesser extent. Among the most significant, there was the introduction in July 2018 of the work category of 'rider' in the collective agreement of the logistics sector. This shows how unions creatively sought to shape the regulatory process by laying the groundwork for

¹⁸¹ IT-GOV3

¹⁸² IT-GOV4

platform work to become part and parcel of social dialogue mechanisms. No ‘creating’ emerges from the interviews with employer organizations. This testifies the very limited action taken by employers especially during the first years. More recently, however, notable evolutions happened as Assodelivery became affiliated to Confcommercio. Furthermore, ‘creating’ was somehow intrinsic in the action of platform workers organizations as they had to develop strategies and alliances from scratch. Similarly, platforms, which had no previous experience in collectively organizing their interests, showed creativity in establishing Assodelivery as a tool to affect the regulatory outcomes.

Deterring

We see that ‘deterring’ emerges as an institutional work practice of trade unions and platform workers’ organizations. This refers to the legal action undertaken by these actors against platforms to favour the establishment of rules hindering their business model. Figure 25 shows that this practice was the third most frequent among unions’ practices. Triangulation of interviews with secondary sources, however, reveals that ‘deterring’ might be more diffused than interview data suggests. The European Commission Staff Working Document (European Commission, 2021) published during the social partners consultations preceding the adoption of the Proposal for a Directive on platform work indeed shows that 9 court cases involving the contract classification of platform workers were held in Italy from May 2018 to February 2021. While it is hard to know the role of trade unions in each of these cases, it is reasonable to expect that they were significantly involved in them given the institutional and financial resources needed to sue platforms.

Generalizing

Figure 25 shows how each actor type but platforms engaged in ‘generalizing’. This shows how the question of contract classification of platform work is related to broader issues in the Italian labour market such as widespread precariousness and bogus self-employment. While the government considered addressing platform work important to not furthering poor working conditions in the Italian labour market, the social partners stressed how this was a way to prove that the social dialogue architecture is able to respond to the digital transformation of work. Platform workers organizations also generalized by arguing that platform work was only one a manifestation of a broader race to the bottom on real wages and working conditions in digital capitalism. According

to Figure 25, platforms did no ‘generalizing’ practices. This finding arguably comes from the fact that I did only one interview with platforms due to their reticence to accept interviews. In fact, it is in the nature of platforms to ‘generalize themselves’ by highlighting how their business model represents the future of work in the digital society. In this sense, this finding needs to be corrected. As Chapters 5.2, 7.2 and 8.2 have shown, ‘generalizing’ was a common practice in the other cases as well. The Italian specificity, however, consisted of linking the perils of platform work to already widespread precariousness in the labour market. In this sense, this is similar to the Dutch case, where the question of platform workers’ contract classification was framed as a manifestation of an already existing labour market issues mostly linked to contract misclassification (see Chapter 8.1).

Intermediating

‘Intermediating’, that is the action of connecting actors with a view to finding a shared solution that would generate consensus around the renewed rules of the game, emerges as especially associated with the Italian government. After having given up with adopting legislation recognizing platform workers as dependent workers, the government fostered negotiation among social actors via the conception of ‘the table’ (see Part 6.1). Intermediating efforts by the Ministry of Employment focussed on fostering cooperation within an emerging constellation of actors whose relationships were under-defined. The ‘intermediating’ practice of the Ministry should not be seen as a neutral move. Indeed, the fact of starting a direct dialogue with platform workers’ organizations and not with traditional social partners was unusual - which is also why it generated tensions.¹⁸³ The Danish liberal government also performed notable ‘intermediating’ practices in the context of the Disruption Council, when encouraging trade unions to start negotiations with platforms (see Chapter 7.2). In this sense, ‘intermediating’ reveals institutional creativity (‘creating’ practices) functional to support the government’s political claims and shape the regulation accordingly.

Mediatizing

Figure 25 also shows how the government, trade unions and platform workers organizations put in place ‘mediatizing’ practices to make their institutional work objectives circulate more widely. This was particularly true for the government and platform workers organizations. As for the

¹⁸³ IT-GOV2

government, ‘mediatizing’ especially occurred in the initial phase of politicization of the matter, when Minister of Employment Di Maio publicly and repeatedly declared the intention of the government to develop solutions tackling the question of platform workers contract classification. The increasing visibility that platform worker organizations had achieved in the previous months partly caused the action of the government. As explained in the previous chapter, platform workers organizations were able to mediatize their claims to a point that it became politically rewarding for the government to take them in due consideration. Mediatizing practices of workers organizations, then, proved functional to mediatizing practices of the government. This did not happen in the French case, where the relationship between platform worker organisations and the government has remained cold and rather confrontational due to the marked diversity of respective regulatory agendas (see Chapter 5.1).

Organizing

For social partners broadly speaking, ‘creating’ was often associated to ‘organizing’. The creation of Assodelivery in 2019 is a case in point. This association gave platforms the opportunity to discuss with a counterpart and potentially sign a collective agreement – which indeed happened in September 2020 with the UGL-Assodelivery agreement. Interestingly, this shows how organizing does not only take place among incumbents – that is actors that are used to organizing as a way to shape the rules of the game – but also in the case of novel actors which had no previous experience in this respect. Similar ‘organizing’ happened in the Netherlands and France, whilst no platform association exists in Denmark to my current knowledge (see Chapters 5.1, 8.1, 7.1).

As for employer organisations, it took time for them to engage in ‘organizing’ platforms. The recent affiliation of Assodelivery to Confcommercio, however, clearly goes in this direction. Evidence suggests that the relationship between employer organisations and platforms has been – to varying degrees – institutionalized in France, Denmark and the Netherlands as well (see Chapters 5.1, 7.1, 8.1).

‘Organizing’ largely regards trade unions and platform workers organizations. As for trade unions, CGIL and UIL were two most active organizations. After an initial phase of bewilderment, CGIL managed to unionize an increasing number of such workers – particularly through its section

devoted to non-standard forms of work, namely CGIL NIdiL.¹⁸⁴ So it happened to UIL, which put in place effective organizing practices through its section UILTuCS. UGL, with the creation of UGL riders, also put in place organizing practices. In a comparative vein, UGL riders is the only case of a trade union establishing a rider section that stands for full autonomy of workers.

Because of traditional unions' inaction and a spread disaffection towards them, platform workers engaged in organizing too. Of course, their organizing was more spontaneous than that of unions and most of the times aimed at maintaining an independent relationship with the latter. Due to the less structured character of the platform workers' movement, organizing was often fragmented and very much depending on the specificities of the local level. Despite frequent exchanges, platform workers' organizations never united in a single body at the national. Nonetheless, their organizing proved essential in the politicization of platform workers' working conditions at the national level. Finally, the part of the platform workers' movement that sustained the independence of food-delivery couriers also engaged in organizing practices when it creates ANAR. Similar to UGLriders, there were no formal organizations of riders pushing for full autonomy in France, Denmark and the Netherlands (see Chapters 5.1, 7.1, 8.1).

Projecting

'Projecting' was a common – though not so impactful – practice among various actors. The action of the governments was not explicitly future-oriented, yet the underlying logic of regulating platform work was that it might further labour market precariousness and contracts misuse in the future of work. Though starting from a very different point, the Dutch government – especially the Ministry of Social Affairs - followed a similar logic in its 'projecting', warning against the risk that the platform business model can exacerbate existing misclassification problems in the future of work. The action of the Dutch government, however, was comparatively more future intensive (see Chapter 8.2).

Trade unions and platform workers organizations. The three biggest trade unions – especially CGIL and UIL - stressed the need to act in the present to avoid that the platform business model translates into yet another weakening of collective bargaining and paves the way for a dis-

¹⁸⁴ IT-TU2

intermediate social dialogue in the digital future. Platform workers' organizations like Riders Union Bologna (RUB) made similar projections that traditional unions, but their focus was on how to avoid a progressive downgrading of working conditions rather than on preserving social dialogue mechanisms. UGL and ANAR – and then UGL Riders –recurred to projecting practices stressing the need to act in the present to allow the platform business model to give workers the flexibility and protection they demand for.

Employer organizations also stressed the future-oriented character of platform work and highlighted how the current system should be reformed to accommodate a better coexistence of flexibility and protection. Last but not least, individual platforms – as well as Assodelivery – projected with a view to showing the reasons why their business model needs to be preserved as it is – particularly as regards the reliance on independent contractors. In their understanding, current employment protection regulation is too of a strict constraint to digital platforms. Because the latter constitute the future of work, regulators have two choices: either they change regulation so as to support the development of the digital economy and therefore of a flourishing digital future, or they keep it as it is thereby jeopardizing Italy's future of work. Platforms and platform associations followed a similar projecting logic in other countries as well (see Chapters 5.1, 7.1, 8.1).

Reflecting

'Reflecting' was a frequent practice across actor types. When platform work was becoming a salient political matter, trade unions had no previous experience in representing workers in this part of the economy. Consequently, they had a limited understanding of the phenomenon at stake. The rapid development of the latter, however, pushed unions to undertake what I call 'reflecting' practices. As in the case of the Ministry of Employment, this practice corresponds to a phase in which unions actively worked to acquire a better grasp of the implications of platform work. Interviews with CGIL¹⁸⁵ and UIL¹⁸⁶ recount how unions organized conferences on digital work, launched initiatives on algorithmic management and mobilized internal resources to study the topic. This phase was crucial for unions to have an initial set of priorities to tackle regulatory challenges of platform work. Interviews with employer organizations reveal how the latter were

¹⁸⁵ IT-TU2

¹⁸⁶ IT-TU3

involved in an extensive effort to further their understanding of the phenomenon. Even though this took more time than for unions, ‘reflecting’ led to ‘organizing’ in employers’ case as well. The affiliation of Assodelivery to Confcommercio is a case in point.

As per platform workers’ organizations that oppose autonomy, the extent of their ‘reflecting’ practice emerges as less relevant than for unions. This can be explained by the fact that platforms did not really need to engage in reflecting practices to understand the emerging phenomenon as they *were* the phenomenon themselves.

‘Reflecting’ also emerged in relation to the government, and especially to the Ministry of Employment. This practice corresponds to a phase in which the Ministry of Employment’s officials worked to acquire a better understanding of the new phenomenon at stake. The Ministry had no previous experience on how to tackle regulatory challenges of food-delivery platform work, ‘reflecting’ was thus a crucial moment in the definition of Ministry’s priorities on the matter.¹⁸⁷ The ongoing internal reflection at the Ministry also represented an indispensable knowledge base for the politicization of the matter began under Minister Di Maio, who both relied on existing understanding and pushed for adding to it.

In conclusion, this section has showed institutional work objectives and practices that permeated the politics of platform workers’ contract classification in Italy. The next section moves on to consider the drivers of such an institutional work, namely its learning foundations.

6.2.2 Why Did Actors Do It? The Learning Foundations of Institutional Work Practices

After identifying institutional work objectives and practices, this section investigates their drivers. To do so, it unveils what I term the ‘learning foundations’ of institutional work as emerging from the thematic analysis of the interview conducted on MAXQDA. Figure 26 illustrates learning mechanisms per actor type. Values are weighted frequencies of the three learning mechanisms in interviews belonging to the same actor category.

¹⁸⁷ IT-GOV2

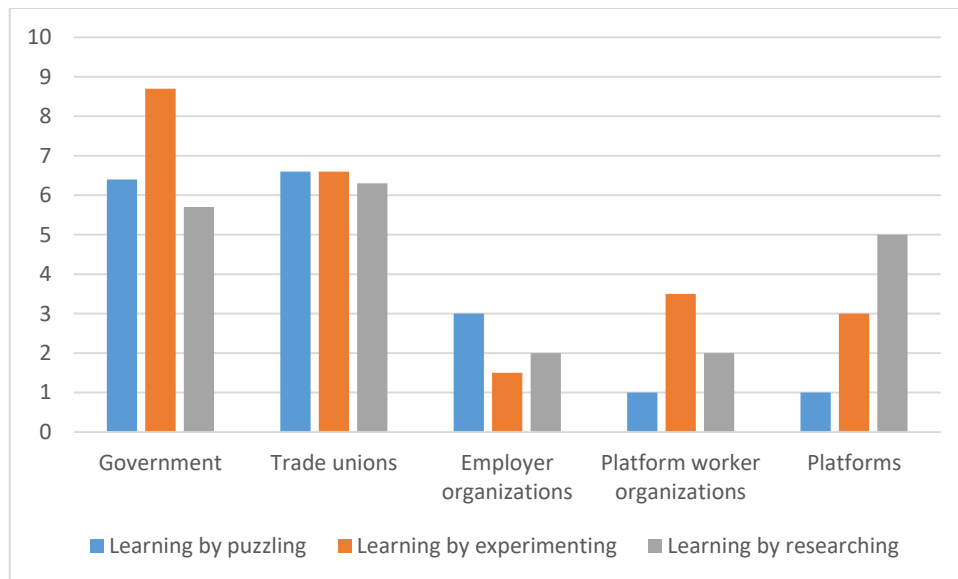


Figure 26 Learning mechanisms by actor type – weighted frequencies in interviews of same actor category

Several findings emerge from Figure 26. First, each actor type was involved in all three learning mechanisms. Second, government and trade unions’ institutional work was comparatively more learning intensive. ‘Experimenting’ is particularly prominent for the government, trade unions and platform workers organizations. By contrast, it appears to be of limited importance to platforms and to virtually non-existent relevance for employer organizations. The latter’s institutional work was especially driven by ‘learning by puzzling’ mechanisms, while knowledge accumulation seems to have been central particularly for platforms. In what follows, I delve into and further elaborate on findings by presenting qualitative evidence on the learning foundations of each actor type’s institutional work.

The Learning Foundations of the Government’s Institutional Work

Interview data with government actors is crucial to understand how learning mechanisms drove the government’s institutional work. While the question of platform work was growing in political and societal salience, governmental actors – both politicians and civil servants – found themselves faced with a novel set of regulatory challenges. At the government level, the Ministry of Employment was the most important actor seeking to cope with such a novelty-generated

uncertainty. Indeed, the latter had profound implications in the Ministry – and even other actors at play – tried to deal with platform work: everyone was unprepared to tackle it.¹⁸⁸

This shows how ‘learning by puzzling’ and consequent ‘learning by experimenting’ drove the action of the government. As a consequence of such a puzzlement, the Ministry of Employment started to prepare itself well before Di Maio was appointed as Minister of Employment. Indeed, when platform work started to become a popular theme around mid-2018, the Ministry embarked upon an internal reflexion on possible social protection risks for these workers.¹⁸⁹

In analytical terms, the puzzlement generated by the emergence of platform work triggered the interest of the Ministry, which started to delve into the phenomenon to acquire a better grasp of it. ‘Learning by puzzling’, in other words, led to ‘learning by researching’.

The central role of the Industrial Relations Department of the Ministry of Employment as a question raiser and knowledge producer emerges from the interview with the former head of Minister Di Maio technical secretariat as well. Tracing back his/her experience at the Ministry, the interviewee noted how when (s)he arrived at the Ministry platform work was already discussed and problematised.

“At the Industrial Relations Department...the question of riders had begun for a while as the Ministry of Employment has constant relationships with trade unions and it is therefore tasked with these issues. [...] So when Di Maio was appointed, the Ministry was ready and prepared to deal with such a stimulating topic...Finally, the moment had come in which the Ministry could present its diagnosis of various problems to an interested political subject.”¹⁹⁰

This excerpt shows how the encounter between a reflecting Ministerial bureaucracy and a politically interested government explains the surge in the importance of platform work in the policy and public debate.

In this regard, the Industrial Relations Department of the Ministry of Employment “had to pose itself complicated questions...amidst a range of possibilities trying to look for possible regulatory equilibria that would be useful to the political action of the Ministry.”¹⁹¹

¹⁸⁸ IT-GOV2

¹⁸⁹ Ibid.

¹⁹⁰ IT-GOV3

¹⁹¹ Ibid.

Learning mechanisms indeed emerge as driving the political action of Minister Di Maio too. As previously noted, the first act of Di Maio as Minister of Employment was to talk to food-delivery couriers promising they would be soon classified as dependent workers. Such an initial hypothesis was subject to internal reflexion within the Ministry and followed by a study phase aimed at verifying the juridical compatibility of the solution put forward by the Minister. The regulatory solution eventually identified emerged from this process.¹⁹²

To sum up, because platform work had become an increasingly popular policy issue, the Ministry started to deal with it. But due to its novelty, the Ministry possessed insufficient knowledge of the phenomenon and, to begin with, had to understand the core challenges associated to it. Such a sense-making process entailed both puzzlement (learning by puzzling) and knowledge accumulation (learning by researching) that led to decisions taken adopting a ‘learning by experimenting’ logic to overcome the freezing effect of uncertainty-driven puzzling.

Learning in the ‘Negotiation Table’

A notable form of learning by experimentation has also been what I so far referred to as the ‘negotiation table’. The then The Director of the Industrial relations department recounts how there had already been contacts between some riders’ organizations and Di Maio before he became Minister. Because of such exchanges when workers asked to be formally involved in the process, the Ministry decided that their contribution was worth. “This was a relatively novel formula”, noted the interviewee.¹⁹³ This learning by experimentation also translated into knowledge accumulation (learning by researching). The former head of the technical secretariat of Minister Di Maio points out that:

“The presence at the table of various parties made emerge crucial elements for us to understand the challenges at stake. Before ‘the table’, we know the platform world based on what we read on newspapers...there we were face to face for the first time. So was ‘the table’ a failure? I do not think so, I mean without it we would not have the elements to continue working on our policy agenda.”¹⁹⁴

¹⁹² IT-GOV2

¹⁹³ Ibid.

¹⁹⁴ IT-GOV3

Focussing on the employer side, the reasons why ‘the table’ did not lead to an agreement point to ‘learning by puzzling’ mechanisms. In fact, actors taking part in the negotiations did not have a clearly defined strategy to follow. Not only workers, but even employers were not ready to make a step ahead with a view to finding regulatory instruments that would make their business model sustainable from a workers’ perspective too.¹⁹⁵

Learning and the Making of Legislative Texts

The interview with one of the civil servants responsible for the file on the law on platform work shows how learning dynamics – especially ‘puzzling’ and ‘experimenting’ – drove the action of the Ministry in the crucial phase that led from decree 101 to law 128/2019.

“Back then, various courts were still markedly fragmented and focused on single case specificities...Milan tribunal had just recognized Glovo riders as autonomous workers...in Turin there was a pending judgement in the Appeal Court in which workers asked for subordination or para-subordination...[...] then France, which had opted for a legislative solution entailing some degree of protection for independent workers; Spain, where the Labour Inspectorate had repeatedly contested the independent contractor-based model of platforms. This is to stress that the EU panorama was very much evolving back then. In this context, we decided to tackle the question of contract classification and hypothesized a regulatory solution that would not constraint future jurisprudence decision.”¹⁹⁶

As described above, the shift from Minister Di Maio to Catalfo was important in bringing traditional social partners back at the centre stage of the regulatory process. To understand the drivers of social partners’ institutional work, the next section unveils its learning foundations.

The Learning Foundations of Trade Unions and Platform Workers’ Organizations Institutional Work

Due to their role of workers’ representatives, trade unions were involved in the regulatory process here in question by default. As Part 6.1 describes, however, their role varied in both scope and intensity over time. Interviews with CGIL and UIL members enlighten the learning mechanisms underpinning unions’ practices. The two unions went through a ‘learning by puzzling’ process

¹⁹⁵ IT-GOV2

¹⁹⁶ IT-GOV4

aimed at improving their understanding of the phenomenon with a view to making up for their representational deficiencies among platform workers. As the ‘confederal’ secretary of CGIL notes:

“We first developed a scientific interest...we posed questions to ourselves...this push did not come from workers; we organized conferences with platforms’ managers not only to better understand the impact on the labour market but also to investigate how platforms change the relationship with consumers...we studied the phenomenon...”¹⁹⁷

As in other cases, puzzling led to ‘learning by researching’. As already hinted at above, knowledge gained through such an internal reflection was then applied to the case of food-delivery couriers. In the interviewee’s words:

“The question of riders meant for us to bring our reflection from theory to practice. This also allowed us to experience the concrete difference in the relationship with these workers [compared to usual unionized workers].”¹⁹⁸

Among the several issues at stake, the porous boundaries between independent and dependent work and the challenges it poses to unionism was a most debated point within the CGIL. The ‘confederal’ secretary recounts how:

“On the one hand, such an unclear boundary between self-employment and employees that platforms always ‘solve’ by arguing that platform workers are autonomous...the idea that what is new has to do with freedom of creativity regardless of the real characteristic of the work...on the other hand, we also investigated how this ‘new’ imposes a language change to unions...I mean in fact...behind the 4.0 rhetoric, the new-is-coming discourse, there are also shifts in language that weakens the meaning of labour.”¹⁹⁹

The other major union confederation most active on platform work, i.e. UIL, went through a similar ‘learning by puzzling’ process that led to knowledge accumulation (‘learning by researching’) functional to acting (‘learning by experimenting’). In the words’ of UIL ‘confederal’ secretary:

“I remember I had just been elected national secretary...I called a meeting with my delegates and workers...I wanted to understand what they do in fact...I still take lessons from them today [...] so how did we get close to such a theme? Simply because we are on the ground, [...] and when platform work was becoming apparent on the ground our local delegates met such workers. [...] So we got closer to platform work through a knowledge process we learnt to do together with workers who were self-organizing on the ground.”²⁰⁰

¹⁹⁷ IT-TU2

¹⁹⁸ Ibid.

¹⁹⁹ Ibid.

²⁰⁰ IT-TU3

Importantly, the relationship with self-organized food-delivery workers was not only the result of an initial internal learning process of CGIL and UIL, but also a learning locus per se riddled with knowledge accumulation ('learning by researching'). As emerged from the interviews with CGIL:

“Over these years, we have been able to transform ourselves from an actor who talked about riders to actor who talks to riders...in these years, the number of platform workers in the CGIL increased remarkably...now we have representatives...the importance of our organization is now much bigger, it's no longer a general representation role but we can also have say on workers we not directly represent.”²⁰¹

The interview with UIL national secretary also shows how UIL gradually and tentatively got closer self-organized food-delivery couriers' groups. The action of UILTuCS (UIL Tourism, Trade and Service section) is informative in this regard. As the one of its members recounts, there was no pre-set strategy at the union level to try to established a closer relationship with riders' unions.²⁰² Therefore, much of the organizing practices stemmed from his personal interest and aimed at reducing uncertainty on how unions should act towards forms non-conventional of representation in the digital economy. The “initial study phase” through which UILTuCS learnt by puzzling was functional to acquire the minimal amount of knowledge ('learning by researching') useful to establish “a permanent observatory on the gig economy to which we attached an anonymous questionnaire to collect information on working conditions...” ('learning by experimenting').²⁰³

Finally, the evolution of unions – especially CGIL and UIL – positions in the regulatory debate on the contract classification also shows how their interests were not clearly defined based on their institutional role, but in constant re-formation by means of a learning process.

“In the beginning we were more rigid [on the classification question], starting from the request that we wanted the application of a collective agreement.”²⁰⁴

As the process was evolving, however, trade unions moved to stressing the need for more protection regardless of contract classification. This shift in priority resulted from the firm opposition of platforms as well as from the constant dialogue with riders. As noted by one of the 'confederal' secretaries of UIL:

²⁰¹ IT-TU2

²⁰² IT-TU1

²⁰³ Ibid.

²⁰⁴ IT-TU2

“At a certain point, riders themselves told us: we do not want an ideological confrontation, but protection and rights [...]se yes, there was this evolution in our thinking, I am still not sure whether this is actually an evolution...anyway, we did not give up on ‘subordination’ but our reasoning has become more complex than that.”²⁰⁵

The shift in priority of trade unions amounts to a case where all three learning dynamics (puzzling, experimenting, researching) are at play.

The emergence platform workers’ organizations also reveals learning process at play. One of the founders of RUB throws light on the origins of the organization, which show an interaction of learning by puzzling, experimenting and researching.

“We had several problematic questions so we began to discuss, we gradually understood how despite working for different platforms we were facing similar problems [...] we started to meet in the streets, we set up online chats and then physical assemblies [...]. Other than discussing problems, we started to imagine a set of programmatic points. It all started like that...”²⁰⁶

This excerpt shows how ‘riders’ went through an initial puzzling phase in which collective problems were acknowledged and a quest for solution began. This initiated a circle of knowledge accumulation and experimentation that drove the action of RUB throughout the process.

Learning foundations come to light also in relation to the shift in priorities of platform workers’ organizations. As already hinted at above, self-organized groups of ‘riders’ began asking for re-classification of their independent contracts. As they accumulated knowledge on the context in which they were acting (‘learning by researching’), they took a more-protection-first approach focused on expanding rights and not on the contract classification per se. As pointed out by the coordinator of Deliverance Milano²⁰⁷, this shift happened through experience and resulted from trial-and-error processes (‘learning by experimenting’).

Finally, interviews with CGIL²⁰⁸ and UIL²⁰⁹ ‘confederal’ secretaries are also informative about the learning foundations of ‘the table’. Both interviewees report that the dialogue among parties suffered from “an incapacity to handle such a complex negotiation” due to inexperience. One of the main mistakes, according to these interviewees, was to start having a privileged dialogue with

²⁰⁵ IT-TU3

²⁰⁶ IT-PWO1

²⁰⁷ IT-PWO2

²⁰⁸ IT-TU2

²⁰⁹ IT-TU3

unions. This attitude proved functional to maintaining parties' positions afar instead of making them find a compromise. This suggests how 'the table' itself was an experimentation in which different actors involved did not have fixed preferences, but rather puzzled on what to do to a significant extent ('learning by puzzling').

Learning in the Institutional Work of Employer Organizations and Platforms

As highlighted in Part 6.1, the relationship between traditional employer organizations and platforms has not always been smooth as the latter have had a disruptive approach to existing social dialogue mechanisms. Figure 26 shows how learning by researching and especially puzzling drove Italian employers' institutional work. This well illustrates how employers have tried to understand how to deal with platform work and accumulated knowledge as a result. In so doing, room for experimentation was very limited. The only notable 'learning by experimenting' dynamic occurred only recently when Assodelivery became affiliated to Confcommercio.

As anticipated in Chapter 4, international food-delivery platforms have proven the most difficult actors to interview. As reported in Annex B, the only (off-the-records) conversation I had with platforms was with a public policy manager of one of the international food-delivery platforms operating in Italy. Despite its unstructured character, the interview is very informative in terms of learning foundations of such a platform's action. Most notably, the interviewee highlights how the platform went through a profound change around 2017/2018 that made it move away from the initial disruption-at-all-costs-model. Such a change came gradually as the extent of the opposition to the model became increasingly apparent. Two elements were fundamental in this respect, namely the question of the French 'chartes sociales' which were widely opposed and rejected by the Conseil Constitutionnel (see Chapter 5.1), and the debate in California around AB5 law and Prop. 22.

As a result of this change, the platform has become more open to other members of society and more available to social dialogue. To put it with the interviewee,

"there is now more awareness of the need not to take by surprise the regulators."²¹⁰

²¹⁰ IT-PLMAN1

The answer to the question about how this change happened is illuminating in terms of learning foundations: “it was a trial-and-error process”, noted the interviewee. Matching one of the learning category I theorize in this work, i.e. learning by experimenting, this reveals how the platform did not know in advance how to act, understood it *while* the process was developing, took choices based on the limited knowledge it had.

Learning processes can also be observed by looking at the process from afar. The choice of Just Eat to employ its couriers, for instance, looks like a culmination of an internal reflection on how to provide better working conditions and protection and differentiate itself from other platforms. Moreover, the creation of Assodelivery seems to correspond to the change in attitude emerging from the off-the-records interview with the platform manager, namely platforms getting closer to other societal actors by constituting an association that allows them to negotiate. This signals a remarkable change in preferences that shows how platforms are in fact learning how to handle the socio-political consequences of their own business model.

6.2.3 Conclusion

This chapter has first identified institutional work objectives and practices. Then, it has unveiled their learning foundations.

It found that the politics of platform workers’ contract classification in Italy was mostly characterized by ‘sheltering’ objectives. Traditional trade unions, government and platform worker organizations were the most active players in this regard. The low occurrence of institutional work objectives related with employer organizations reveals their relatively marginal role in the debate. Platforms like Uber and Deliveroo as well as UGL union pushed for a ‘challenging’ agenda, which nonetheless has not gained traction.

Such goals were pursued via a number of institutional work practices. While ‘creating’, ‘reflecting’, ‘projecting’ and ‘generalizing’ were common, albeit to varying degrees, across actor types, ‘organizing’ concerned all actors at play but the government. Moreover, ‘mediatizing’ was relevant especially in relation to the government and platform workers organizations and ‘detering’ was typical of trade unions. Lastly, the government was the sole actor performing ‘intermediating’ practices.

Institutional work practices were largely driven by learning mechanisms – especially in the case of the government and trade unions. Experimentation was especially important for the former, while the latter had a more balanced learning mix. Consistently with their relatively quiet role, traditional employer organizations’ institutional work was mostly driven by ‘learning by puzzling’ mechanisms. By contrast, platform worker organizations went through comparatively little puzzlement but significant experimentation. Lastly, interview with the platform highlighted the importance of knowledge accumulation and experimentation.

By showing how (different type of) learning mechanisms were central drivers of institutional work, the chapter recalls the centrality of uncertainty in decision-making processes. Despite action being institutionally embedded, this chapter finds that the content regulation can only be understood by empirically scrutinizing learning processes that actually shape it. This is not to argue that institutional structures do not matter; rather, to emphasize how learning processes as drivers of institutional action have been downplayed by the bulk of institutionalist explanations, which has significantly hampered our understanding of the microfoundations of institutional action.

The last part of this chapter (6.3) is devoted to understanding the boundaries of learning processes. To do so, following the theoretical approach developed in Chapter 3, it concentrates on ‘imagined futures of work’ that have guided the regulation of platform work in Italy.

6.3 How Do Actors Project? Imagined Futures of Work in Italy

6.3.1 Introduction

Among institutional work practices identified in Part 6.2, ‘projecting’ emerges as particularly interesting to this dissertation as it interrogates the temporal dimension of agency. ‘Projecting’ reveals that actors have frequently drawn connection between their present action and its implications for the future of work. More precisely: they have used their vision of the future as a compass to orient their action in the present. In a context where platform work is widely regarded as the future of work, there is no agreement among various social and political actors as to *how* such a future should look like. ‘Projecting’, in other words, conceals diverging ‘imagined futures of work’ actors have used to *reduce* uncertainty about the future of work.

This chapter reconstructs the politics of expectations (Beckert, 2016) of the future of work in Italy by unveiling diverging ‘imagined futures of work’ that have informed actors’ projecting. However, despite platform work being associated with the future of work in Italy too, the relative importance of ‘projecting’ practices in this case is significantly more limited than in the other three country cases. This chapter should be read against this premise, which we will further elaborate on in the final comparative discussion.

The remainder of the chapter is organized as follows. The first part zooms in into ‘projecting’ practices and introduces the concept of ‘imagined futures of work’. The second part illustrates the different ‘imagined futures of work’ in which learning-driven institutional work was anchored. The third part summarizes the results.

6.3.2 Theorizing ‘Imagined Futures of Work’

Part 6.2 showed that ‘projecting’ was a marginal institutional work practice in Italy and that different actors contributed differently to it. In the final comparative chapter, we will delve into possible explanations for the relatively limited importance of ‘projecting’. In the present chapter,

we seek to make sense of different visions of the future of work, though not so impactful, that actors used as a tool to *reduce* uncertainty faced with a novel phenomenon.

Drawing on Beckert (2016), I introduce the concept of ‘imagined futures of work’ to understand *how* actors projected. I define an ‘imagined future of work’ as an imaginary of the future digital society centring on a specific idea of how tomorrow’s work and protection should be. ‘Futures’ differ along two dimensions. A first dimension pertains to whether actors have optimistic or pessimistic attitudes towards platform work and digitalisation in general. The second dimension regards the way actors understand employment and social protection in the future of work, namely individuals-centred or jobs-centred. While the former entails that workers should be protected as individuals, the latter prescribes that workers should be protected according to their occupation, i.e. their contract classification. By crossing these two dimensions, we obtain four ideal-typical ‘imagined futures of work’ (Table 17).

	Protecting jobs	Protecting individuals
Opportunity	Digitalisation: optimistic attitude Protection: employment contract	Digitalisation: optimistic attitude Protection: regardless of contractual arrangement
Threat	Digitalisation: pessimistic attitude Protection: employment contract	Digitalisation: pessimistic attitude Protection: regardless of contractual arrangement

Table 17 Dimensions of 'imagined futures of work'. Own elaboration.

Based on this ideal-typical classification, I identify three ‘imagined futures of work’ emerging from my analysis of actors’ temporal orientation towards the future, i.e. Start-up Nation, Creative digitalisation, Embedded digitalisation. ‘Start-up Nation’²¹¹ presents an optimistic attitude towards digitalisation and conceives of protection as independent from contract classification. Detachment

²¹¹ The expression ‘Start-up Nation’ originally comes from the French context, as explained in Chapter 5.1. However, because it straightforwardly connotes a certain idea of the future digital society, I here use it in a more general and abstract fashion to refer to imaginaries of the future presenting the two characteristics outlined in the text.

from contract classification is necessary as it allows for more flexibility for firms and autonomy for workers. ‘Creative digitalisation’ concurs with the need to identify novel ways to organize protection that go beyond contract-centred approaches, but approaches digitalisation with a sceptic to pessimistic outlook. This results in more cautious regulatory postures. ‘Embedded digitalisation’ comes with a pessimistic understanding of digitalisation and posits that protection should not be decoupled from the employment contract as the latter is a fundamental protection tool in itself. Table 18 places them in the quadrants presented above.

	Protecting jobs	Protecting individuals
Opportunity	-	Start-up Nation
Threat	Embedded Digitalisation	Creative Digitalisation

Table 18 Typology of ‘Imagined futures of work’. Own elaboration.

Figure 27 shows the weighted frequencies of codes on ‘imagined futures of work’ by actor type. It finds that: i) the government, social partners and platform worker organizations’ institutional work was mostly anchored in an ‘embedded digitalisation’ future; ii) the government also partly acted following a ‘creative digitalisation’ future of work; iii) platforms were the only actor whose institutional work was anchored in a ‘start-up nation future’. Because of the non-representativeness of the interview sample, such findings need substantial specifications, to which I now turn by presenting qualitative evidence on ‘imagined futures of work’ in Italy.

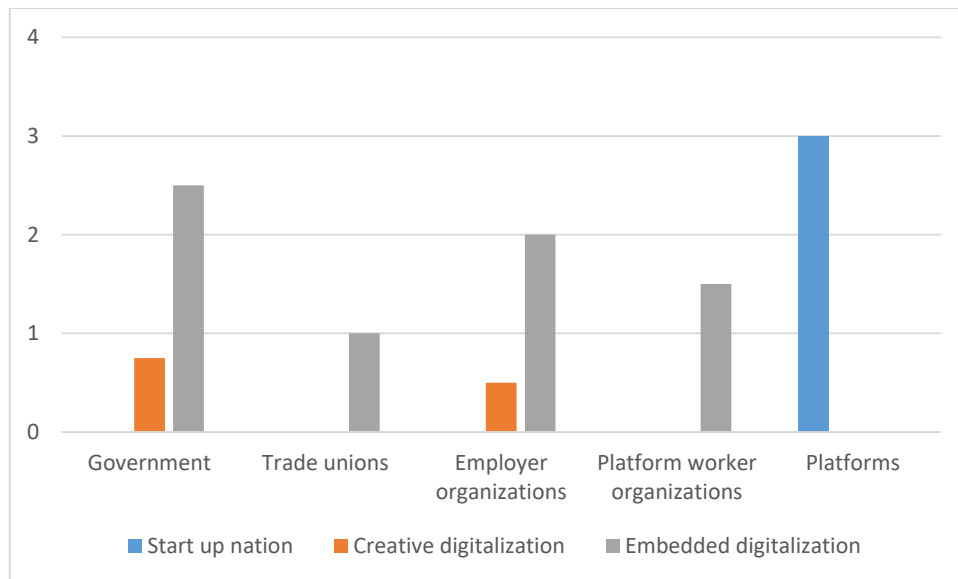


Figure 27 Imagined futures of work - weighted frequencies by actor type

6.3.3 Identifying ‘Imagined Futures of Work’: the Start-up Nation Future

The ‘start-up nation’ future had a very limited purchase in Italy, especially when compared with the French and Dutch cases. Institutional work of platforms largely relied on such a vision of the future of work, to support which they established Assodelivery. In terms of policy objectives and understanding of the future of work, the creation of Assodelivery echoes the constitution of API in France (see Chapter 5.1). Furthermore, two other intertwined actors espoused a ‘start-up nation’ imagined future. The ‘Associazione Nazionale Autonoma dei Riders’ (ANAR) was created to promote self-employment in food-delivery platform work and joined UGL union to push such a stance forward. In September 2020, Assodelivery and UGL Riders – the UGL section devoted to food-delivery couriers – signed a collective agreement re-introducing full autonomy for workers (see Part 6.1). The UGL-Assodelivery agreement embodies a ‘start-up nation’ future of work as it conceives of platform work as an opportunity and develops a regulatory framework to protect workers that is not linked to their employment contract. Had I been able to collect interviews with more platform managers, Assodelivery and UGL Riders representatives, I would have reported more examples of such a future of work from the interviews. While this would have enriched the present analysis, the finding purporting the limited scope of such a vision of the future would have remained unaltered.

6.3.4 Identifying ‘Imagined Futures of Work’: the ‘Creative Digitalisation’ Future

‘Creative digitalisation’ had a limited purview in the Italian context. Figure 27 shows how the government and employer organizations were the only two actors whose institutional work was based on such a future. As for the government, provisions of art. 5bis in the ‘Legge riders’ were anchored in a ‘creative digitalisation’ future of work. Art 5bis Recognizing potential threats stemming from platform work, art 5bis increases protection for workers even though they are independent. Granting a set of rights to a group of workers because their activity calls for more protection – and not because of their contract classification – means softening the privileged link between the employment contract and protection. Art 5bis echoes the logic of Article 60 of the French ‘Loi Travail’ 2016, which granted a number of rights to independent platform workers without intervening on their contract classification. What is different, however, is the general policy attitude towards platform work found in the French and Italian government – the former being more optimistic, the latter rather sceptical. This also explains why the Italian governments have never proposed a mechanism like social charters, which de facto leaves the determination of protection level in platforms’ hands.

Figure 27 also shows that employer organizations’ institutional work relied on a ‘creative digitalisation’ vision of the future of work. This finding refers to the fact that interviewees from employer organizations noted how it would be desirable in the future to transform the Italian employment and social protection into a system that protects individuals and not job. Nonetheless, in the debate on platform work, they were in favour of ‘parasubordinazione’ (see Part 6.1), that is their work was substantially anchored in a ‘embedded digitalisation’ future, to which we now turn.

6.3.5 Identifying ‘Imagined Futures of Work’: the ‘Embedded Digitalisation’ Future

Figure 27 shows that ‘embedded digitalisation’ future was the most prominent vision of the future of work in Italy. Major proponent of such a vision was the ‘Yellow-green’ government Minister of Labour Luigi di Maio, who publicly declared on the day he took office that food-delivery couriers should access employment protection as their work calls for enhanced security. While this solution turned out to be not feasible (see Part 6.1), the government’s learning-driven institutional work continued to be anchored in an ‘embedded digitalisation’ future. As discussed in Part 6.1, Art. 2 of the ‘Legge riders’ extended protection of dependent workers to economically dependent self-employed ‘riders’ who work for a platform on a regular basis. While such ‘riders’ remain de jure

independent workers, their protection toolbox comes closer to that of employees. The focus is thus on extending the scope of dependent work legislation and not on developing novel rules for the protection of self-employed. Thus, I argue that provisions of Art. 2 of ‘Legge riders’ were anchored in an ‘embedded digitalisation’ future.

Trade unions and platform worker organizations have supported an ‘embedded digitalisation’ future as well. As previously discussed, both trade unions and platform worker organizations have stressed the need to consider ‘riders’ as employees. While they gradually ‘adapted’ to the third status solution identified by the government, it seems that they never really set aside the employment-contract argument. Of course, this was not true for every union and platform worker organization. As highlighted above, institutional work of UGL Riders and Associazione Nazionale Autonoma Riders (ANAR) was anchored in a ‘start-up nation’ future.

To *reduce* uncertainty wrought by the novelty of platforms, employer organizations have espoused an ‘embedded digitalisation’ future. Interviewee from Confindustria noted how “it is very difficult to argue that this kind of [platform] work is independent work”. Because there is a strong dependence from one single client, namely the platform, such work presents strong similarities with dependent work. At the same time, these workers cannot be presumed to employees only based on an abstract definition of their working arrangements. For this reason, Confindustria found reasonable the option to apply the provisions on ‘lavoro etero-organizzato’ to platform workers, which means to strengthen protection of economically vulnerable self-employed without touching their contract classification. Confcommercio, which has moved closer to platforms than Confindustria, also was in favour of such a regulatory option. To put it with the interviewee:

“For us, this work could not qualify as dependent work tout court, unless proven otherwise of course. In the absence of demonstrated subordination, we maintained that food-delivery courier work was to be regulated via the provisions on ‘lavoro etero-organizzato.’”²¹²

It will be interesting to see how the ‘embedded digitalisation’ future of Confcommercio and the ‘start-up nation’ vision of Assodelivery will coexist now that the latter has become affiliated and soon will become member of Confcommercio.

²¹² IT-EO2

6.3.6 Conclusion

Building upon the premise that ‘projecting’ practices had a relatively limited importance in the politics of platform workers’ contract classification in Italy, this chapter has delved into the question of *how* actors project. It has identified three imagined futures of work that actors used to *reduce* Knightian uncertainty.

Learning-driven institutional work of the government, social partners and platform worker organizations was anchored in an ‘embedded digitalisation’ future. This resulted in legislation applying the third status to food-delivery couriers. ‘Embedded digitalisation’ was the prevalent future in the politics of platform workers’ contract classification. Legislation adopted in 2019 also contained some provisions responding to a ‘creative digitalisation’ vision of the future of work. Platforms, as well as UGL Riders and pro-autonomy platform worker organizations, acted following a ‘start-up nation’ imaginary.

The last chapter of this dissertation will compare these findings as well as findings of Parts 6.1 and 6.2 with results from other country cases in order to draw more generalizable conjectures on the politics of platform work regulation.

7. DENMARK

Introduction

This chapter digs into the contestation over the contract classification of platform workers in Denmark, which has mostly concerned platform work in food-delivery and ride-hailing sectors. It focuses on how governments, social partners as well as platforms, platform worker organizations and civil society actors have problematised and acted upon the question of contract classification, that is whether on-location platform workers should qualify as employees or self-employed. In so doing, it first identifies the main conflict lines and actor coalitions and dwells on the regulatory measures adopted (Part 7.1). Then it analyses the politics of platform workers' contract classification in light of the theoretical framework developed in Chapter 3. In Part 7.2, it identifies institutional objectives and practices and digs into their drivers i.e. their learning foundations. In Part 7.3, it concentrates on 'imagined futures of work' that have guided the regulation of platform work in Denmark.

7.1 The Politics of Platform Workers' Contract Classification in Denmark

Part 7.1 is structured as follows. Firstly, it provides background knowledge on how Denmark embarked upon liberalisation starting in the 1980s. In so doing, it concentrates on the development of non-standard work with a focus on the rise in solo self-employment and its implications. Secondly, it describes the contestation on the question of contract classification of platform workers. Based on 18 semi-structured elite interviews combined with secondary sources, it delineates actors' positions and coalitional patterns. Thirdly, it concludes.

7.1.1 Liberalisation and the Danish Model: Developing Danish Flexicurity

Denmark entered the economic turmoil of the mid-1970s as one of the epitomes of the democratic welfare state (Torbenfeldt Bengtsson et al., 2016). The Danish socioeconomic success was inextricably linked with its social democratic universalist welfare system based on a strong collective bargaining system relying on indexation of wages to prices and productivity gains on solidaristic

wage policies (Andersen et al., 1996; Visser, 2008). The legitimacy crisis of demand-led macroeconomic policies and the increasing credit given to privatization as a means to solve public inefficiencies posed important questions to the foundations of the 'politics-against-markets' (Esping-Andersen, 1985) Danish system (Andersson & Mjøsset, 1987). Recession-generated inflationary pressures caused growth in inflation and unemployment rates, while labour productivity, profit rates and the level of productive investments declined. Due to mechanism of indexation of wages to prices, the growing inflation brought equivalent increases in wages. Thus, stagnation dynamics put pressure on the tax-financed social provision system and made recurrence to higher public debts unavoidable (Andersen et al., 1996).

In this context, the need to re-organize the Danish system so as to cope with challenges associated with the upcoming end of Fordism became a matter of political debate (Andersen et al., 1996). In 1983, after a three-decade-long social democratic government period, a Conservative cabinet led by Prime Minister Poul Schlüter took power. Then, an 11-year long political period started in which three Conservative governments sought to respond to systemic challenges wrought by globalization. Partly favored by shifting external conditions, such governments achieved good results in terms of reducing inflation, curtailing deficits in foreign trade and re-balancing state budget (Andersen et al., 1996).

Privatization as a means to stimulate competitiveness was one of the major strategies to reach these goals (Andersen et al., 1996). While reform proposals to privatize some publicly run tasks were put forward in the first years of the decade, it is only at the end of the 1980s that the government managed to bring about wide privatization in sectors such as transports and telecommunications (Andersen et al., 1996). In the labour market realm, the most problematic issue in the 1980s was the high share of unemployment (Goul Andersen, 2002). Conservative governments sought to cope with it by blocking the automatic indexation of unemployment benefits to cost of living and curtailing maximum benefit period. Yet the trend did not reverse. While in 1970 the unemployment rate amounted to about 2% of the labour force, it grew to about 9.8% in 1982 and about 11% in 1992 (Andersen et al., 1996). As Hansen (1994) showed, long-term unemployment rose remarkably especially amongst the young. The relatively high unemployment rate made the cost of unemployment insurance increase, which came to be increasingly problematic for the State budget. In 1993, the newly-elected social democratic government found unemployment at 12.4%. The 1994 labour market reform marked the shift to a needs-oriented, 'activating' approach whereby eligibility

criteria for unemployment benefits were further tightened (Danish Economic Council, 1994; Jørgensen, 2009). If neoliberal ideas had been contested in the 1980s, a ‘new consensus’ around ‘the broad outline of macroeconomic policy’ in a neoliberal sense emerged in the 1990s (Stahl, 2022, p. 105). It is in this context that a quest began to find ways to make flexibility and protection compatible (Thelen, 2009; Torfing, 1999). The concept of ‘flexicurity’ rests exactly on this assumption, that is that flexibility and protection are not incompatible but can go hand in hand in a productive fashion (Ferrera et al., 2001; Klammer & Tillmann, 2001). To ensure such a complementarity, flexicurity is based on the coordination of employment and social policies (Keller & Seifert, 2004): the former must ensure the best conditions for job creation and growth, whilst the latter must guarantee acceptable protection levels to all – irrespective of their position in the labour market (Madsen, 2002). The Danish version of flexicurity has famously been associated with the ‘golden triangle’ describing the virtuous interactions between flexible labour market policies, generous unemployment benefits and active labour market policies (Madsen, 2004). Despite such a paradigm shift, social partners remained at the core of the Danish labour market regulation.²¹³ On the one hand, employers supported the introduction of more flexibility in the system. On the other hand, trade unions accepted a higher degree of flexibility under the condition of generous unemployment benefits and extensive training programs.

In countries like Italy and France, the introduction of flexibility principles resulted in the liberalisation of novel working arrangements often associated with insecure employment and social protection. Thanks to the co-existence of marked flexibility and strong welfare provisions for all, Denmark did not embark upon this route. Instead of flexibilising ‘at the margins’ while keeping a core workers group with stable and protected working arrangements, the Danish response to globalization entailed associating already existing flexibility with generous protection across the board. This, which Thelen (2014) terms ‘embedded flexibilisation’, comes with two consequences. First, protection differences between those in standard employment and those in non-standard work are less relevant than in ‘dualisation’ countries (Emmenegger et al., 2012; Thelen, 2014). Second, the growth in non-standard work was relatively small in Denmark as employers did not necessarily need to resort to ‘novel’ working arrangements to find flexibility. Work by Bredgaard and colleagues (2009), who take part-time, self-employment and temporary employment as proxy for ‘atypical’ employment, is in line with such findings as it shows how ‘non-standard work’ has

²¹³ The present Danish labour market model has its roots in the so-called September agreement signed in 1899 (Emmenegger, 2010).

undergone a relatively limited increase in Denmark. Figure 28 illustrates this point by using OECD data. Temporary and self-employment rates are calculated as a percentage of total employment, whilst part-time as a percentage of total dependent employment.

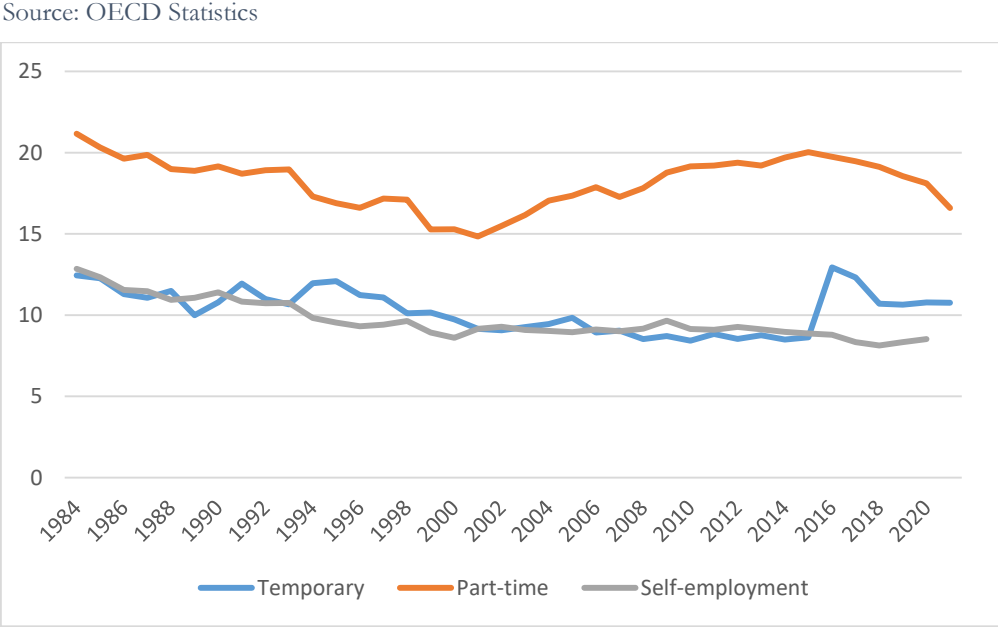


Figure 28 Share of non-standard work in Denmark (1984-2020)

Despite a relatively small growth in non-standard work (Bredgaard et al., 2009), it has been observed how the sectors with lower union density, collective bargaining coverage and fable representation in the workplace are often those featuring higher levels of non-standard work (Ilsøe et al., 2017; Rasmussen et al., 2019). This suggests that, despite no structural dualisation is present in Denmark, non-standard workers face a comparatively higher risk of being left out of the collective bargaining system, which is the principal means through which employment protection is provided for in Denmark.

A case in point is solo self-employment. Even though Denmark did not go through a substantial rise in its share (Figure 29), solo self-employment has been particularly debated politically over the last years. As pointed out by Ilsøe and Larsen (2021, p. 47), “solo self-employment is a slightly different category of workers, and for some of these workers their status potentially falls within the

grey areas between the notion of an employer and employee. Solo self-employed workers are typically without coverage from collective agreements due to their status as self-employed”.

Source: OECD Statistics



Figure 29 Share of solo self-employment on total employment in Denmark (1984-2020)

While in Denmark there have been attempts at including solo self-employed in the collective bargaining system, their lawfulness has been a matter of discussion (Jenum Hotvedt et al., 2020). The recent growth in platform work has re-ignited the discussion on the employment and social protection of solo self-employed in the Danish system. Because platforms rely on independent contractors that are usually outside of the scope of the collective bargaining, social partners and governments have seen the platform business model as potentially undermining the underpinning of the Danish model. It is around this tension that the politics of platform work regulation has revolved in Denmark. The next section delves into this tension and the regulatory process engendered. It does so by first focussing on the role of the government and then on social partners.

7.1.2 Employees or Contractors? Contesting the Contract Classification of Platform Workers in Denmark

Platform work developed in Denmark with the arrival of international platforms like Uber in the mid-2010s. Danish-owned platforms entered the market in the following years – e.g. Chabber and Hilfr. (Ilsøe & Söderqvist, 2022). To date, however, the size of platform work remains quite limited in Denmark. Ilsøe and colleagues (2021) found that about 1% of the working population performed platform work.

While platform work measurement remains something of an ongoing endeavour, available figures allow us to conclude that the diffusion of platforms adopting an independent-contractor-based business model – and for this reason posing challenges over the contract classification of workers - is relatively limited. Nonetheless, the latter question has gained political prominence over the last decade. As highlighted above, the Danish labour market is organized around strong social partners voluntarily entering negotiations. As it is the case in most European countries, social partners are generally best equipped to represent the interest of those parties in an employment relationship. The disruptive intentions of platforms like Uber and Wolt which base their business models on independent contractors has triggered intense discussions among social partners and beyond in Denmark. When platforms appeared with the promise of being ‘the future of work’, concerns began to rise as to a possible clash between such a future and the functioning of the Danish model. Ever since, the main goal has been to ensure that platform work can develop without threatening the collective bargaining basis of the Danish model. Despite different ideas, institutional resource and interests, each actor at play but (some) platforms has pursued this goal. Based on original interview data complemented with secondary academic and policy literature, this section describes the actor constellation and coalitions around the question of contract classification of platform workers as well as the content of selected regulatory responses. First, it delves into the role of social partners. Second, it concentrates on the government.

Social Partners and the Future of Work: How to Protect the Danish Model?

Social partners have been the main protagonists in the development of regulatory solutions to tackle challenges related to the question of contract classification in the platform economy. Compared to countries such as France and Italy, it was relatively less difficult for social partners to start a dialogue with platforms. This is explained by the relative strength of the social partnership

Danish model, which also explains why the role of platform workers' independent organizations has been less relevant than elsewhere.

Faced with challenges of representation wrought by platform work, traditional social partners have defended their voluntaristic approach to collective bargaining as the most adequate labour regulation tool for Denmark to prosper in the digital future. They have not taken techno-sceptical stances.²¹⁴ By contrast, they have sought to develop practical solutions that would ensure the co-existence of technological benefits and high labour standards through collective agreements.

This section covers three of the most important negotiations that 3F (United Federation of Danish Workers) had with three different platforms – i.e. Hilfr, Wolt and Just Eat – and employer organizations, namely Danish Industry (DI) and Danske Erhverv (DE). The focus is on the question of contract classification of platform workers and on how actors at play have tackled it.

3F-Hilfr Agreement: Groundbreaking Innovation or Dangerous Precedent?

In April 2018, Danish social partners signed the first collective agreement with a digital platform in Europe. The agreement was signed between 3F Private Sector, Service and Catering section and Hilfr, a Danish digital platform offering cleaning services (Ilsøe, 2020; Ilsøe & Larsen, 2021). The political interest of the Rasmussen government (2015-2019) in digitalisation and hence in how to ensure that platform work be compatible with the Danish model was a truly important push for the negotiations to start (see Part 7.3.2). One of the negotiators of the agreement well explains the attitude of the government in this regard:

“Our boss was invited to seat in the Disruption Council²¹⁵. And the Prime Minister told the partners: look, this is a different economy, the digital economy, the platform economy, it's coming. It's very small now, but it's coming. And we know it's coming. So it's up to the unions and the employer organizations to seize the opportunity to regulate this, because if you don't do it, the government will.”²¹⁶

²¹⁴ DK-TU1

²¹⁵ The Disruption Council was a policy forum policy launched by the government in 2017 aimed at steering reflection and advance policy proposals to make sure that Denmark's society thrives in the digital economy. Members of Ministries and social partner representatives were part of such a forum. Section on the government will expand on this.

²¹⁶ DK-TU2, TU3

In his interview, one of the founders of Hilfr confirmed the importance of the Disruption Council in accelerating the process of negotiations:

“We were present in something former government established called the Disruption Council [...] I think people like what they heard; during our presentation the former prime minister, heard that we have a dialogue going on with the trade union...Looked to the chairman of the trade union and said: so you can see these guys are all good. They have all the good objectives. Why don't you go ahead and do and do something with them and make an agreement with them? And then it speed it up from there. Okay, we were invited for lunch by the union and things really started to move.”²¹⁷

Although social partners were already discussing with several platforms before the Disruption Council was set up, the latter did act as a trigger. The 3F Private Service negotiator of the Hilfr agreement recounts how after the meeting in the Disruption Council the idea of starting a negotiation with a digital platform took actual shape within 3F.

“[Following the meeting in the Council], our boss would like to see progress in this area, he would like to see a collective agreement, which created considerable headaches. Because once you get into it, the substance of what do you what are the interests of labourers in this area, you suddenly find out that you cannot actually adopt the basic interests of the traditional labour market and say these are also the interests of the modern-day labourer in the digital labour market.”²¹⁸

The interviewee goes on presenting a number of questions that drove 3F action in the beginning of the negotiation.

“First of all, we need to find out how do we actually find out what is their interest? And how do we how do we approach this question? Or is it just the same? Is it the same as tradition of the what they want? lesser hours higher wage, more security, more holiday? Is this basically their interest? We don't actually know.”²¹⁹

Such questions should be read in the light of the fact that 3F did not organize Hilfr workers – and still has a limited membership among them. This means that 3F had limited knowledge about how the work on Hilfr could be regulated via collective agreements.

Once clarified the new goal, i.e. designing an agreement that would bind together interests of unions and digital platforms, 3F started to reflect on the most adequate way to pursue it. There were different models on the table. Things accelerated after Hilfr contacted 3F saying that they

²¹⁷ DK-PLMAN1

²¹⁸ DK-TU2

²¹⁹ Ibid.

would like to officially start negotiations to sign a collective agreement. One of the founders recounts how Hilfr had since the beginning the goal to differentiate itself from the disruption-at-all-costs digital platforms. This required a business model capable of making the most of existing technology and abiding by the rules at the same time. In the interviewee's words:

“From the outset, we have this ambition [...] that we should try to show that platform Uber is version 1.0. We want to be a version 2.0 where you can leverage the technology but that can also go hand in hand with treating people in a nice way. Maybe nice way is not the right word, maybe just to treat people in accordance with the existing labour market.”²²⁰

This attitude was of course also driven by marketing considerations.²²¹ Hilfr founder explains how it was initially difficult to pursue such an objective:

“We didn't know how we should do it in the beginning, but when we started having dialogues with different politicians, with the trade union every year, and we discussed different models...and for them, it was also the first time so it was really, you know, like, a work in progress. We had to explain ourselves [...] our business model and how we worked.”²²²

The 3F negotiator recalls how “Hilfr approached us and said: we would like to give it a try to create a new model, collective agreement with you and negotiate this...”²²³. The contract classification of workers was a crucial matter for Hilfr:

“One thing we made clear from the start was that, since we are a platform, we cannot commit to giving our platform workers 37 hours a week. That is driven by the demand. And of course, that makes a difference for a trade union. Because normally, you would say, you are going to have a part time job a full-time job... This notion that people will create a profile, and then maybe they work 50 hours a week, maybe they work five hours a week was new for them. But we told them, this is not necessarily a bad thing, many of these people have other jobs, they actually prefer just to work, you know, every second Saturday, they enjoy the flexibility.”²²⁴

From a union perspective, this was a sensitive issue. Because individuals working via Hilfr were self-employed, 3F could not sign a traditional union agreement with the company. As the 3F negotiator puts it:

²²⁰ DK-PLMAN1

²²¹ DK-TU2, 3, PLMAN1, GOV2

²²² DK-PLMAN1

²²³ DK-TU2, 3

²²⁴ DK-PLMAN1

“This was the big issue: could we make a union agreement because they are all declared self-employed? Which, basically, then, according to our union laws, we don’t have any interest for the self-employed, we don’t make agreements for them at all. So that was a big discussion.”²²⁵

3F and Hilfr engaged in discussions on the matter. The two parties gradually developed a solution aimed at ensuring that 3F signs an agreement involving employees and Hilfr does not have to give up pm its freelance model. The 3F negotiator highlights how:

“We managed to convince them that if we were to make a collective agreement with them, it would have to somehow be an agreement that created employees, which meant, in effect that they will become employers, traditional employers with the responsibilities that comes with employment. They said yes, and then start, then all the problem started.”²²⁶

An important contribution to the deal was given by Danish Industry (DI), which stepped in into the negotiations after several months of discussions. 3F stresses how the experience in negotiations of DI represented a ‘positive obstacle’ for the advancement of union’s interests. With DI stepping in, “things became slower, harder, but also more legitimate in a way”.²²⁷ One of the negotiators of the agreement for DI recounts how the perspective of DI entering the negotiation to support Hilfr created some tensions among company members. Especially cleaning companies in DI were afraid that an ad-hoc agreement with Hilfr would endanger competition on working conditions in the sector. One of the negotiators for DI highlights how:

“This perspective of a collective agreement covering platform workers - both individual persons linked to the platform economy and people who actually are employed by Hilfr is a total new aspect of the collective agreement. So, there was some scepticism, but still the majority of our members saw this as an opportunity as well.”²²⁸

The agreement with Hilfr was signed on 18 April 2018 for a one-year trial period. It assigned to cleaner the status of freelancers for the first 100 hours of service. After the first 100 hours, they automatically become employees – if they do not explicitly oppose such an option. De facto, and crucially, the agreement left the decision of being covered or not by the agreement itself in the hands of workers, which is a considerable novelty for collective agreements in Denmark (Munkholm & Schjøler, 2018).²²⁹ Freelancers workers were called ‘Hilfrs’. Employees were called

²²⁵ DK-TU2, 3

²²⁶ Ibid.

²²⁷ Ibid.

²²⁸ DK-EO2

²²⁹ DK-TU2, 3, EO2, GOV2, EXP1, PLMAN1

'Superhilfrs'. Another novelty was the temporary character of the agreement, which only lasted for one year to begin with. The 3F negotiator stresses the rationale behind such a choice:

“because we knew this is new ground...nobody has ever been here before. So we said, let's make an agreement that lasts for one year as a trial period. And if you want to continue both parties on a voluntary basis, this is just breaking rules in our community. Because that's not the way we do things in the Union. Yeah, but we did it. We normally make perennial agreements, but not this one. And everybody agreed.”²³⁰

Such novel aspects were criticized by a part of 3F as they could represent a potentially dangerous precedent in the Danish way of making collective agreements.

However, after the agreement was reached, social partners and the government publicly 'advertised' it as the first-ever collective agreement with a digital platform. This showed how the Danish system was able to respond to challenges posed by digital platforms via collective bargaining. The agreement immediately acquired high political resonance and was popularized widely in the media. In the words of the 3F negotiator:

“We sat down and we got this idea. Why don't we market this jointly? Why don't we call the Prime Minister asked him to come to this building and, and watch the signing, we don't have a tradition for signing ceremonies in Denmark. We do now. Because we made a signing ceremony. So we call the chairman of the Confederation of DI and the Prime Minister and our boss and everybody was gathered for the signing ceremony... we made it a thing... And that just went viral...”²³¹

The agreement was not only important for social partners. The Ministry of Employment official points to the political significance of this agreement for the government as well:

“I think that was sort of a stepping stone for the Disruption Council. And for the Prime Minister to say: that is an example that the Danish labour market model is able to handle these questions. This was a statement that had been very strongly presented by the social partners, both the employers organizations and the unions. Luckily, they were able to present a result. And I think that the Hilfr agreement, sort of eased the discussion afterwards, because then the need for the government to introduce policy initiatives and so on, was no longer so urgent.”²³²

In August 2020, while the agreement was under re-negotiation, the Danish Competition Authority found that the deal was against Danish competition law.²³³ As established in the agreement, Hilfr paid minimum fees to self-employed workers who were not covered by the collective agreements

²³⁰ DK-TU2, TU3

²³¹ Ibid.

²³² DK-GOV2

²³³ <https://www.en.kfst.dk/nyheder/kfst/english/decisions/20200826-commitment-decision-on-the-use-of-a-minimum-hourly-fee-hilfr/>

with 3F. According to the Authority, this amounted to a breach of competition law based on ‘cartel’ dynamics.²³⁴ Therefore, Hilfr should stop paying minimum fees to self-employed workers. Following this decision, Hilfr did remove the minimum fee system for self-employed. Also, Hilfr committed itself to bear the financial risk associated with the work of those workers hired as employees. These changes were taken into account in the re-negotiated version of the agreement that was signed in late 2020.

3F-Wolt Dialogue: Seeking to Build Bridges over a Troubled Water

Among the various contacts with platforms, 3F – in particular its Transport section - has been negotiating with Wolt²³⁵, a Finnish food-delivery platform operating in Denmark since 2017. As emerges from an interview with a union representatives, 3F and Wolt had exchanges ever since the platform entered the country.²³⁶ Disagreements were nonetheless substantial as Wolt does not conceive of itself as an employer, but as a technology company providing the infrastructure for supply and demand of services to meet. That said, the initial distance was gradually and partly overcome. As a member of 3F Transport section responsible for dialogue with Wolt notes:

“It started with very few people...we were looking at the Wolt business and how it was built up and so on, we could see there were some problems, because they didn’t recognize that they have employees. But they said it was self-employment. So and that’s still the problem we have. But we try to via dialogue, try to convince Wolt that it doesn’t hurt.”²³⁷

Even though 3F and Wolt began to have a closer discussion, their claims have always remained far apart as 3F Transport section wanted couriers to be employed and Wolt opposed such a solution as it would drastically reduce working time flexibility.²³⁸ One of the options the platform put on the table was to sign an agreement similar to the Hilfr deal. The responsible unionist for dialogue with the Finnish company notes how:

“Wolt looked at that [the Hilfr agreement]...if they could make an agreement in kind of the same way... then they didn’t have to employ people and could say to the customers: well, we have collective

²³⁴ <https://socialeurope.eu/collective-bargaining-rights-for-platform-workers>

²³⁵ Doordash, a US platform company, has now acquired Wolt.

²³⁶ DK-TU8

²³⁷ DK-TU5

²³⁸ DK-TU7

agreement...it is regulated working condition, so no problem you can use us. So I think that was their main intention.”²³⁹

3F Transport section, however, was not open to this scenario. Referring to the Hilfr agreement, the interviewee says:

“We basically think it was a mistake, they [3F Private service section] made it...it’s their decision and they can do it. [...]But from day one, they could see that we in Transport section were not in favour... we wanted a different agreement.”²⁴⁰

According to Transport section, the Hilfr agreement set a precedent that platforms – Wolt in this case – could use to push for further ‘atypical’ agreements.

“When you make this kind of an agreement...this is exactly what we said would happen...other employers and employer organizations will come running and say: oh, we want that too! So that’s the problem.”²⁴¹

More broadly, the reason why 3F Transport section and Wolt positions remained apart has to do with divergences in the way flexibility and protection should be taken together. On the one hand, Wolt centres its requests on flexibility and argues that an employment relationship solution would undermine their business model at its roots. On the other hand, 3F puts its focus on protection and maintains that flexible arrangements are compatible with collective agreements. One of the responsible unionists for dialogue with Wolt notes how:

“They want this total flexibility, and they don’t want to hire people, they want them still to be self employed. And we want them to hire, and we want some kind of minimum guaranteed working hours and payment.”²⁴²

Given such differences,

“It is very difficult for us to come up with a solution that gives Wolt flexibility they want. And at the same time not totally undermining the rest of the transport sector in Denmark...”²⁴³

As a part of the attempt to dialogue with Wolt, 3F also engaged in organizing couriers. It is important to note how 3F did not initiate the mobilisation of Wolt workers, but a worker group –

²³⁹ DK-TU7

²⁴⁰ Ibid.

²⁴¹ Ibid.

²⁴² Ibid.

²⁴³ Ibid.

‘Wolt Workers Group’ – was already existent and active. 3F thus stepped in after independent organization of couriers had already begun. Like traditional trade unions in other countries, 3F had no members among ‘riders’ in the beginning and therefore its representational strength was very limited. What led 3F to undertake organizing efforts were the implications of a potential diffusion of a self-employment model in Denmark, which would undermine the social partnership system established in 1899. Then, despite Wolt has a relatively small size in the transport sector, 3F found it necessary to try to organize workers.

“For us, nothing is too small. We always organizing into all the companies we can, wherever they are small or big. Because this [the diffusion of digitally-mediated self-employment] is a kind of a tendency.”²⁴⁴

One of 3F unionists organizing Wolt workers well explains the way the union has been trying to establish a more structured relationship with couriers:

“The basic thing we do is to go on the street, in front of restaurants, talk to people about how they feel about the work, if there’s something going wrong...Then we try to talk about what we think is fake self-employment. And yeah, it’s a bit different how people react to it. I think in general, you know, the standard answer is yeah, we like the flexibility and the flexibility is worth more than employment rights and all this. So we try to puncture these myths by noting that flexibility can go hand in hand with employment rights, and what is real flexibility and all these kinds of things. So that’s the basic thing: being on the street talking to couriers, just being present.”²⁴⁵

Responses from the workers vary, highlights the interviewee, according to their economic dependence on the platform, that is: couriers that tend to make a living out of delivering are normally more prone to unionize that workers using the platforms sporadically.

“I think there are two groups involved. There’s a full time workers, or self employed full time workers, and then there’s the students part time workers. The self and the full time workers are the ones who really get hit by this model. Because they don’t know what they’re going to do. [...] But of course, it’s much divided. Some people really like Wolt, and say, there’s nothing we can do for them.”²⁴⁶

Overall, 3F Transport section has been in a dialogue with Wolt for years. While the two actors have long been far apart, some signs of enhanced dialogue had recently emerged. However, scepticism about the actual possibility to reach a collective agreement is still high from the union side. While 3F stands for an ‘employment’ path, Wolt criticizes the rigidity of such a solution especially in

²⁴⁴ DK-TU8

²⁴⁵ Ibid.

²⁴⁶ Ibid.

working time regulation terms. At the time of writing, no agreement was reached and workers' representation continues to be problematic in organizational terms.

The Just Eat Agreement: A Safe Comfort Zone for Social Partners?

3F Transport section was also involved in negotiations with the food-delivery platform Just Eat (part of the employer organization DE - 'Danske Erhverv'). This dialogue, however, was radically different from the one with Wolt: not only was Just Eat already part of existing collective agreements covering its IT and help desk workers²⁴⁷, but it already employed food-delivery couriers. Thus, the attitude of Just Eat did not challenge the Danish model over the contract classification question. Main points in the negotiations were instead working hours, wages and all the benefits associated to collective agreements (e.g. paid free time, sick leave). In terms of wages, the negotiations led to an increase in hourly pay from 95 KN to 120 KN (12€ to 16€).²⁴⁸

The interview with one of DE representatives who negotiated the agreement suggests how the latter was a relatively business-as-usual occurrence.

“Just eat has been a member in our organization for several years, which is quite normal for businesses in Denmark [...] the general agreement that we have made, is not just covering Just eat, it's covering every single company that we would have as a member in our organization that delivers food in the same way as Just Eat does, whether they are being an internet platform business or not [...]”²⁴⁹

Stressing the centrality of social partners in regulating employment relationships, the interviewee highlights how:

“This is the way we do things in Denmark. So there's nothing strange in that. And so we make we make collective agreements based on what kind of work we want to cover by the collective agreements, and not based on whether they're being platform companies or not [...] So basically this agreement is not different from the agreements we have made in other cases. It just covers a new area.”²⁵⁰

²⁴⁷ DK-EO3

²⁴⁸ DK-TU6, EO3

²⁴⁹ DK-EO3

²⁵⁰ Ibid.

Unions, on the other hand, appear more concerned with the question of contract classification despite the relative success of the Just Eat agreement. One of the negotiators of the agreement acknowledges the broader issue beyond the Just Eat case:

“If you have many self-employed people, and for the time being, they are not in a situation where they can, where they can bargain, you can't make collective agreements, because you can't do that, when he's not employed. So the more self-employed people you see, the harder it gets to, to get collective agreements, and therefore the salary will keep going down, down and down.”²⁵¹

Indicating how unions are preoccupied with the current state of affairs, a member of 3F Transport section noted how

“Especially in my section, we have been very conservative in our thinking, we have not opened up for basically anything else than full employment. And we can now see some creative solutions [...] and we took some discussions about them starting five/six years ago: we cannot continue like this, we have to open to find more solutions.”²⁵²

Finally, Wolt - Just Eat's main competitor - was critical towards the 3F-Just Eat agreement for being unnecessarily inflexible as for working hours and for being not representative of Just Eat couriers (Ilsøe & Söderqvist, 2022). Indeed, according to Finnish platform, rigid working time regulation does not meet actual interests of couriers.

The example of Just Eat teaches us that the contract classification is not a problem by definition when it comes to negotiating with platforms. If companies adopt an employment-based model, then the contract classification represents no challenge; if companies rely on an independent-contractor model, then collective bargaining can be problematic to say the least. Working time regulation emerges as one of the most cumbersome aspects in this respect, as it really defines the amount of flexibility enshrined in an agreement.

Rasmussen and Frederiksen Cabinets: Between Digital Platforms Promotion and Danish Model Protection

Two governments have dealt with the development of platform work in Denmark, namely the Liberal cabinet (2015- 2019) led by Prime Minister Rasmussen and the social-democratic cabinet

²⁵¹ DK-TU6

²⁵² DK-TU7

led by Prime Minister *first* government to devote considerable attention to platform work in Denmark was the liberal cabinet Frederiksen (2019 – present). The whole action of these two governments happened in the context of a broader focus on digitalisation aimed at ensuring that Denmark be prepared to seize opportunities and tackle challenges of the digital transformation. As previously noted, the role of the Danish government is limited when it comes to labour regulation, which explains why there is currently no statutory legislation on the contract classification of platform workers. However, both governments have been important actors in the debate on how the Danish model should cope with the rise of platform-mediated work.

Rasmussen government

Across the interviews, it emerges how the arrival of Uber in Denmark represented a turning point (“eye-opener”²⁵³) for the problematisation of platform work in the country. A Ministry of Employment official interviewed suggests that the presence of Uber,

“was one of the triggers for the government to say, we have to look into the development that the labour market and the digitalisation and the all the consequences for the labour market, labour market skills, social Security, and so on.”²⁵⁴

Despite the regulatory debate about Uber revolved around primarily competition and taxation questions- and not on the contract classification of workers, its arrival contributed to generate a concern with the increasing numbers of free agents on the labour market gradually arose.²⁵⁵ Part of this mounting awareness entailed criticism towards the independent-contractors-based platform business model. According to numerous interviewees²⁵⁶, this may undermine the Danish system of social partnership by favouring the development of unregulated labour market segments. Not only that: interviews also suggest how the tension between a high collective agreement coverage and the development of atypical work was not new in the Danish context, but it dated back to previous years when atypical employment had started to grow - although at a comparatively low pace (Rasmussen et al., 2021). In the words of a Ministry of Employment official working on the topic:

“It’s not a new discussion in Denmark at all...it has been re-occurring topic in the labour field and in the employment field during a long time [...] How to regulate freelance work and solo self

²⁵³ DK-GOV1

²⁵⁴ DK-GOV2

²⁵⁵ Ibid.

²⁵⁶ DK-TU2, 3, 5, PLMAN1, EO2

employed. But of course, the question of platform work is relatively new. But basically speaking... at least from a legal point of view, the challenges are the same as any other freelance work.”²⁵⁷

Despite tension between atypical employment and the Danish system is recurrent, the novelty of the platform economy brought novel attention on the matter. To respond to the increasing saliency of the topic²⁵⁸, the government launched its ‘Sharing economy strategy’ (hereinafter: “The strategy”) in October 2017.²⁵⁹ With the growing visibility of work through platforms, the need for a strategic approach gradually became more pressing.²⁶⁰ The Ministry for Business had a particular role in pushing for the Strategy to be adopted. As a member of Danish Business Authority underlines:

“It was a political push...it was the Minister of Business at that point, so there was a need for strategic approach I think and clearly it was a political demand...”²⁶¹

The strategy consisted of 22 proposals especially tackling taxation issues arose with the development of digital platforms and the need to have transparent information on these firms. Despite the growing discussion about working conditions in the platform economy, the proposals devoted no attention to platform workers’ employment and social protection.²⁶²

The strategy was followed by a broad political agreement including the Liberal Party, the Social Democratic Party and the Danish People party on better conditions for growth and correct taxation in the sharing economy reached in May 2018. The agreement allocated about 1 billion DKK until 2025 in funding to the strategy. This agreement also entailed the creation of a ‘Sharing economy council’ in which experts, entrepreneurs and representatives of employers and employees discussed a range of issues related to the sharing economy and advise the Ministry for Industry.²⁶³ The general secretary of the Council is in the Danish Business Authority (DBA), which is in turn under the Ministry for Business.²⁶⁴ This shows the strict political connection between such a Ministry and the Council on sharing economy. The question on platform workers’ contract classification was already discussed in the Council for the Sharing Economy (Council for the Sharing Economy, 2021).

²⁵⁷ Ibid.

²⁵⁸ DK-GOV1

²⁵⁹ The Liberal government largely adopted the label “sharing economy” in its political action, which testifies its pro-business orientation.

²⁶⁰ DK-GOV1

²⁶¹ Ibid.

²⁶² <http://www.nordiclbourjournal.org/nyheter/news-2017/article.2017-10-16.2190527501>

²⁶³ <https://fho.dk/blog/2018/06/07/promising-new-agreement-on-the-platform-economy/>

²⁶⁴ DK-GOV1

More focused on working conditions was the so-called 'Disruption Council'. The latter was launched by the government in 2017 as a forum for policy-makers aimed at steering reflection and advance policy proposals to make sure that Denmark's society thrives in the digital economy. The Council had 8 meetings (from May 2017 to September 2018) and worked on six themes, namely new technologies and business models, future competencies, free trade and foreign labour, flexible and favourable framework for businesses, flexicurity 4.0. In these meetings, the Prime Minister encourage the social partners to take action so as to ensure that Denmark will be a digital frontrunner. As previously hinted at, the push by the government would prove central to the signing of the first collective agreement in Europe between a union (3F) and a digital platform (Hilfr).

In early 2019, a follow-up document entitled 'Prepared for the future of work' on work done by the Disruption Council was published. An excerpt from the foreword to the document well summarizes the approach taken by Denmark with regard to digitalisation and platform work in particular: "The Council has set a common goal for Denmark to remain one of the wealthiest countries in the world and to ensure that Danes get the prosperity and security that they have every right to expect. At the same time, we have set a goal that everyone in Denmark must successfully step into the future. Everyone should have a real prospect of being able to live a good life and a future with many opportunities." (2019, p. 6). To pursue this goal, Denmark has not to invent a new mode of governance; by contrast, the foreword stresses how "we must carry on with the unique Danish tradition where solutions to major societal challenges are found in close cooperation between elected representatives, social partners, companies, civil society, experts and citizens." (Danish Government, 2019, p. 4). As for challenges stemming from platform work, the document acknowledged that the business model of platforms could challenge the Danish flexicurity system. To respond to these risks, it stresses the need to find creative solutions that may be functional both to the need of platforms and to the protection of the Danish model of social partnership.

The discussion on the platform economy was also included in the so-called 'Strategy for Denmark's Digital Growth', a vision-setting document published by the government (Ministry for Industry, Business and Financial Affairs) in 2018 (Danish Government, 2018). This document centres on the idea that Denmark must become a "digital frontrunner" via a number of initiatives ranging from the support to SMEs digitalisation and the enhancement of digital skill education the adoption of digital-friendly regulation and the strengthening of the overall cyber security.

These initiatives show how the Rasmussen government did problematise the growth of platform work, but mostly in a growth, innovation, business-oriented perspective aimed at ensuring that novel digital business models are not impeded in Denmark. As an official at the Ministry of Employment notes:

“back then, under the Liberal government, the concern of workers protection was less important. Of course, it’s generally agreed in Denmark that conditions on the labour market must be decent. But a Liberal government has, of course, another focus and might have a more intensive focus on all the advantages and the potential for making growth and so on and the labour market via platform work.”²⁶⁵

That said, the Rasmussen government also undertook some moves to avoid that unregulated labour would lead to a race to the bottom on working conditions. The reform of unemployment benefits adopted in 2017 went in this direction. Although it did not address the contract classification of platform workers specifically, its focus on updating social benefits so as to meet the structure of current labour markets comes as an important point to platform work as well.

Drawing on recommendations of a government-and-social partners working group, the reform changed the unemployment insurance scheme in such a way to diminish the differences between employees on the one hand and self-employed and workers in non-standard jobs on the other. Crucially, in the new scheme “unemployment is defined in relation to activities rather than to a categorisation as either self-employed or wage earner” (Kvist, 2017, p. 1). Among the most important novelties, there was the fact that eligibility rules would revolve around ‘income’ instead of ‘hours worked’. The rationale of the reform was to modernize the Danish unemployment benefit system so as to effectively cope with an increasingly diverse labour market where full-time employees are no longer the norm, which means that protection can no longer be attached to their contract classification only.²⁶⁶ A Ministry of Employment official notes how, the reform of unemployment benefits,

“was a really big success for the part of the labour market regulation that is maintained by the government and where the social partners are less involved, to show that that it was possible to find something that could adjust to a modern labour market.”²⁶⁷

²⁶⁵ DK-GOV2

²⁶⁶ Ibid.

²⁶⁷ Ibid.

Frederiksen government

The coming to power of the Social democratic cabinet in 2019 had a significant impact on the politics of and policies on platform work as the then new government put more emphasis on platform workers' working conditions. As one interviewee highlights:

“We currently have a social democratic government with an employment minister, who is very much into securing decent working conditions, and he is a big advocate for the Danish labour market model as well, he has a fairly fixed position on platform work [...]. I think he is fairly certain that a lot of these companies make a business model in order to I wouldn't say exploit, but make the most of the dangerous labour market regulation and to avoid responsibility. And this is a something that he is very concerned of, because this sort of sets the usual regulation mechanism mechanisms aside.”²⁶⁸

In 2020, the social democratic government sought to tackle the misuse of self-employment in on-location platform work. This happened through the change into the working permit regulation.²⁶⁹ A special system of working permits was established in 2013 that would allow foreigners to come Denmark for about a year to work either as a self-employed or as an employee. The growth in platform work increased the possibility for people coming from abroad to come to Denmark to work as independent contractors. In the government view – but also according to social partners – this would risk paving the way for a race to the bottom on unregulated wages which is detrimental to the social partnership system. For this reason, the rule attached to such a visa were modified in such a way that people could come to Denmark and work only as employees.²⁷⁰

This modification was welcomed by trade unions. A 3F representative notes how “they [the government] listened to us” in so doing. Unsurprisingly, the social democratic government is generally close to social partners, who are techno-optimistic as long as technology does not undermine the system of social partnership.²⁷¹ With regard to the social partners, the Ministry of Employment is supportive of their independence and central role in the regulation of work. Referring to the current Minister of Employment, a Ministry of Employment official suggests that:

“he is a very firm advocate for the Danish model; he is also convinced that the possibility first and foremost has to come from the social partners [...] we are very much driven by, by requests from the social partners. [...] So we are a bit reluctant to be very proactive, because we need to leave the

²⁶⁸ DK-GOV2

²⁶⁹ <https://www.mondaq.com/employee-benefits-compensation/1037054/new-bill-introduces-a-tightening-of-the-rules-on-work-and-residence>

²⁷⁰ DK-GOV2, TU5, GOV1

²⁷¹ See section on social partners.

negotiation space, and we need to leave the stage, so to speak to the social partners or to the trade unions.”²⁷²

This position seems to be shifted by September 2021, when the government proposed a policy package named ‘Denmark can do more’ (‘Danmark kan mere I’). The latter is a labour market policy package containing measures, among other things, on how to strengthen (declining) unionism in Denmark. To this end, the government proposed to introduce a presumption of employment mechanism that would help clarify the contract classification of platform workers. A Ministry of Employment official explains how this proposal was advanced after platform workers’ working conditions and contract classification had become mediatized and had been challenging trade unions in the realm of collective representation. In the words of the interviewee:

“There was a lot of discussion on their working conditions in relation to their time schedule and how they were stressed to be able to respect these time schedules, and there was a discussion on who is in reality responsible for those working conditions...because the delivery services claim that these subcontractors were independent subcontractors, and well the trade unions and others claim that sort of set up had a lot of similarity to an employment relationship.”²⁷³

The idea of presumption has been circulating widely with regard to platform work regulation. In this case, the government took inspiration from a research report published in May 2021 by the Nordic Council of Ministers.

“There was a report by the Nordic Council of Ministers on the future of work and labour law. And one of the recommendations was to introduce a rule of presumption to tackle challenges in the platform economy. So this suggestion was taken by the policymakers, that is us, and was used as sort of a response to this problem seen in the labour market with subcontractors.”²⁷⁴

The interviewee also adds how the introduction of such a mechanism would be “completely new” in the Danish system, which historically rests on the primacy of social partners in labour market regulation. The rule on presumption, however, did not translate into law as it lacked parliamentary support. The interviewee describes a classical left-right divide on the matter with leftist parties being in favour of presumption and right-wing parties (including the social liberals) being against it. The final version of the package was agreed via an agreement called ‘Faster jobs, a stronger labor market, investments in the future and innovative companies’ in January 2022. Such an agreement contained no provisions on a presumption of employment in platform work.

²⁷² DK-GOV2

²⁷³ DK-GOV3

²⁷⁴ Ibid.

Confirming the findings of interviews with social partners, the interviewee notes how the social partners were divided on the question of presumption. Generally, blue collars trade unions were in favour and employers opposed it. As previously showed, trade unions have been very active in organizing platform workers and signing collective agreements with platforms. Yet it still proves very difficult for them to demonstrate that some contractors are in fact employees. For this reason, they supported a statutory rule that would help clarify the question of platform workers' contract classification. To put it with the interviewee:

“Trade unions have been very much in favour of this initiative, and they support it in the EU platform directly proposal as well. I think their approach is that of course they want to maintain their independence and autonomy in relation to collective agreements and so on, but they have met difficulties in order to be able to cover companies with collective agreements. It has been very difficult for them to prove that people who work at digital platforms [...] are, in fact, employees and should therefore be covered by collective agreements.[...] I know that the trade unions are in favour of this presumption rule because it would help them in order to prove that they have a legal interest in covering the company with a collective agreement.”²⁷⁵

Moreover,

“I think their conclusion is that they have sort of tried their best. But they are now turning to government and say this is not working in a labour market, which develops as we've seen it during the last years, we need some help in order to do our job, and to conclude these collective agreements. So they see it as sort of sort of securing the Danish model for the future and for new business models.”²⁷⁶

On the other hand, employer organizations have deemed a rule on presumption unnecessary.

“They [the employers] think we have a system that works and their approach is that if the trade unions are convinced that subcontractors to a digital platform or to a construction company or whatever, are in fact employees, then they should bring the case before the labour court or the industrial disputes settling system, and then the question would be settled there. So they find or they think that we have a very well functioning system and legislation and that the trade unions should do their job and bring the cases if there is some circumvention of rules.”²⁷⁷

The interviewee notes how a possible introduction of a presumption of employment for platform work and the social partners' take on it speaks to broader questions that concern the whole functioning of the Danish system in the future:

²⁷⁵ DK-GOV3

²⁷⁶ Ibid.

²⁷⁷ Ibid.

“So this presumption initiative comes with a lot of implications on a very principle level on how far should the government go in legislation? Because there was no majority, we haven't discussed the question in details, but there is also a discussion on where would you introduce this presumption rule? Should it only be in in labour legislation or in other legislation too? We could maybe leave it to labour code [...]? Or should we actually also introduce a presumption rule in the labour code act? So this is also a discussion how far should we go in legislation in relation to support the trade unions.”²⁷⁸

7.1.3 Conclusion

To conclude, this chapter finds that social partners have been central protagonists in the discussions over platform workers' contract classification in Denmark. Their main goal has been to develop practical solutions that ensure the coexistence of technological innovation within the framework of the Danish model. The agreement with Hilfr has first showed that this is actually possible, which is why has been widely politicized both in Denmark and abroad. Nonetheless, it has sparked debate in Denmark as to whether its approach would be the best to maintain the Danish model in the future of work. The other two cases - Just Eat and Wolt - show how platforms can have very different attitudes towards the question of contract classification, especially in relation to working time regulation. While both unions and employers have been active in defending the Danish model, workers' representative seem to be more concerned with the idea that developments in platform work could undermine the Danish model at its roots.

Also, the chapter finds that the Liberal government had an important role in framing digitalisation and in particular the sharing economy – as it used to call it. In so doing, it mostly took a pro-business orientation. The social democratic government elected in 2020 put more emphasis on platform worker working conditions and therefore on the question of their contract classification. In 2021, it proposed to introduce a presumption of employment mechanism to increase legal certainty in platform work. Blue-collar unions, because they are more concerned with the effects of platform work on their activity, supported such a provision. Employers, on the other hand, opposed it claiming that the Danish model has already the means, namely industrial dispute mechanisms, to solve the contract classification question.

Overall, this chapter shows how the actors generally agreed on the need to safeguard the Danish model of collective bargaining as a way to thrive in the digital future of work. Contestation

²⁷⁸ DK-GOV3

happened on how to pursue this goal, that is on the extent to which collective agreements should adapt to platform specificities.

The second part of this chapter (7.2) analyses the regulatory process described above in light of the theoretical framework developed in Chapter 3. It does so by identifying institutional work objectives and practices and digs into their drivers i.e. their learning foundations.

7.2 The Learning Foundations of Institutional Work in Denmark

7.2.1 What Did Actors Do? Unveiling Institutional Work Objectives and Practices

Part 7.1 has shown how multiple actors were involved in the debate on platform workers' contract classification in Denmark. As detailed in Chapter 2 and 3, actors sought to shape the rules linking the protection of platform workers with their contract classification. To do so, they put in place a number of institutional work practices (Lawrence & Suddaby, 2006). These practices have three goals, namely 'challenging', 'sheltering' and 'rising awareness' on rules (see Chapter 3). Actors who perform challenging practices want to change the rules linking contract classification and protection in such a way that independent platform workers can be protected – to varying extents - even without qualifying as employees. Actors who perform sheltering practices want to keep the rules linking contract classification and protection, meaning that platform workers should be protected as employees *because* they are de facto dependent workers. Actors who undertake rising awareness practices seek to stimulate reflection on the contract classification of platform workers as a way to enhance the understanding of the matter.

The thematic analysis of the interviews shows how 'sheltering' was by far the most prominent institutional work objectives in Denmark. This is in line with the findings of Part 7.1, namely that the majority of actors were committed to preserving the rules link employment and protection as a way to preserve the Danish labour market model. To have a more meaningful understanding of institutional work objectives, however, we need to know how actor types were associated with different objectives. To this end, Figure 30 presents 'objectives' disaggregated by actor type as emerging from interview coding. Values are weighted frequencies of institutional work objectives in interviews belonging to the same actor category.

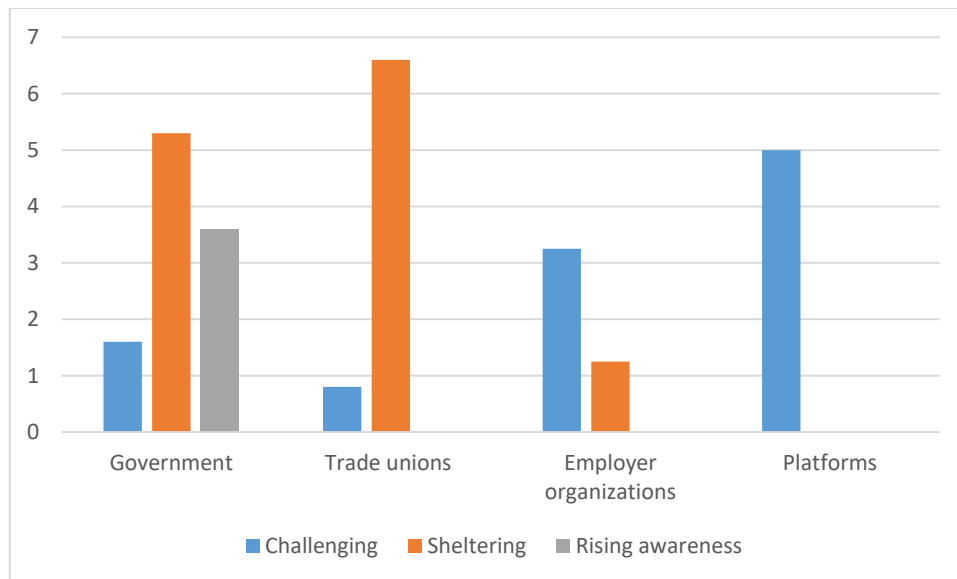


Figure 30 Institutional work objectives - weighted frequencies in interviews of the same actor category

Figure 30 shows how ‘sheltering’ was the most relevant institutional work objectives for the government and trade unions, while employer organizations and platforms had mostly ‘challenging’ goals. Overall, rising awareness emerges a marginal goal only related to the government.

The two Danish governments have constantly supported the dialogue between social partners in a way that would favour the maintenance and thriving of the Danish labour market model. This happened, although with different political priorities, both under the Liberal and Social democratic government. This explains why ‘sheltering’ is the most prominent institutional work objective when it comes to government. However, the Liberal government was one of the main supporters of the signing of the Hilfr agreement, which was considered to be unintentionally ‘challenging’. This explains why such an institutional work objective features in Figure 30 as well.

To have a full understanding of the findings on social partners, the following specifications are in order. Like the government, Danish social partners have had the maintenance of the so-called Danish labour market model as a top priority (see Part 7.1). So, ‘challenging’ does not mean that a consistent part of trade unions and employer organizations pushed for disrupting the current system. Rather, it means that proposals/decisions deviating from the ‘business as usual’ have been advanced/taken to try and protect the Danish labour market model. The case of the Hilfr-agreement is informative in this regard. While the overall intention of the agreement was to develop a regulatory solution that would better combine flexibility and protection, its content deviated

remarkably from the usual way to sign collective agreement in Denmark. This was considered potentially threatening to the Danish system of collective bargaining, which is why I coded it with ‘challenging’. Thus, ‘challenging’ objectives associated with trade unions and employer organizations reflect the approach undertaken in the negotiations of such an agreement. ‘Challenging’ is especially important in relation to employers because interviewees who took part in the Hilfr agreement negotiations were more numerous for employer organizations than for trade unions. In a similar vein, the relevance of ‘sheltering’ goals among trade unions but also in employer organizations comes from the action undertaken by 3F regarding Wolt couriers as well as from the Just Eat agreement signed by 3F union and Dansk Erhverv (DE). This importantly suggests how remarkable divisions on how to protect the Danish labour market model exist among social partners.

Finally, results about platforms come from the interview with a Hilfr manager. Hilfr’s institutional work objectives were considered ‘challenging’ because the platform was one of the parties in the Hilfr agreement – a ‘challenging’ deal. I was not able to talk to Wolt and Just Eat. While an interview with the former would have strengthened the ‘challenging’ part, evidence from Just Eat would have introduced significant ‘sheltering’ elements – in light of empirical evidence presented in Part 7.1. To pursue such objectives, actors put in place a number of institutional work practices. Figure 31 shows the distribution of institutional work practices in percent across the interviews. ‘Organizing’ happens when an actor copes with the challenges of contract classification by pulling together individual interests. ‘Generalizing’ happens when an actor justifies their position on platform work regulation by arguing that it is important for labour market and social protection for court. ‘Projecting’ takes place when an actor establishes a connection between future developments in platform work and current regulatory needs. ‘Creating’ refers to the active process through which an actor employs its institutional creativity to deal with challenges of platform work. ‘Reflecting’ occurs when an actor’s focus is on stimulating reflection on a certain topic with the aim of furthering knowledge. ‘Mediatizing’ refers to the use of media to spread their own regulatory approach. ‘Intermediating’ happens when an actor sets to favour dialogue between two other actors with the aim to reach a compromise solution.

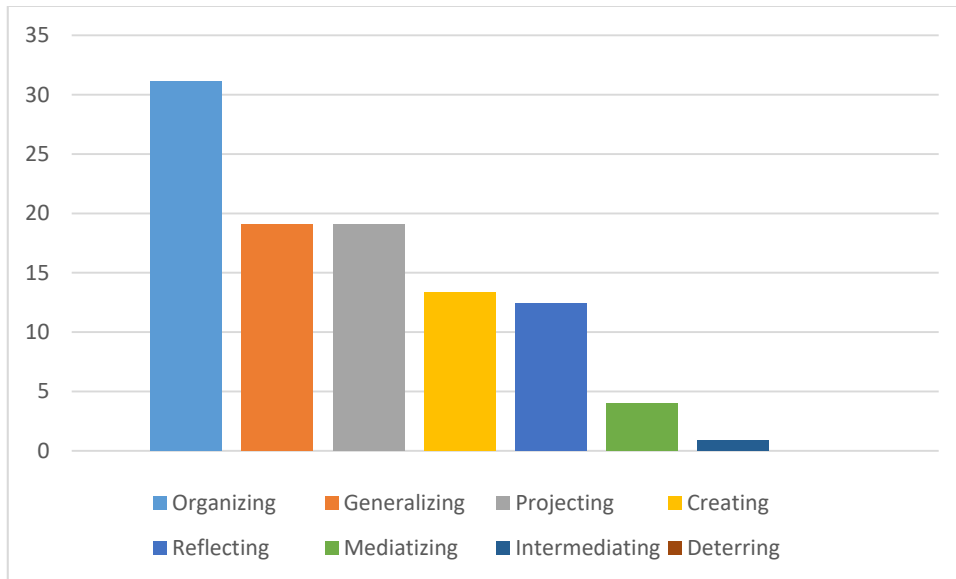


Figure 31 Institutional work practices across the interviews – distribution in percent

To have a more meaningful understanding of practices, we have to look at how practices are distributed across actor types: this will allow to understand who did what. Figure 32 connects institutional work practices and actor types by showing weighted frequency of institutional work practices in interviews belonging to the same actor category. Figure 32 illuminates several findings that deserve specification. In what follows, I explain how different practices were associated to various actor categories. I proceed practice by practice.

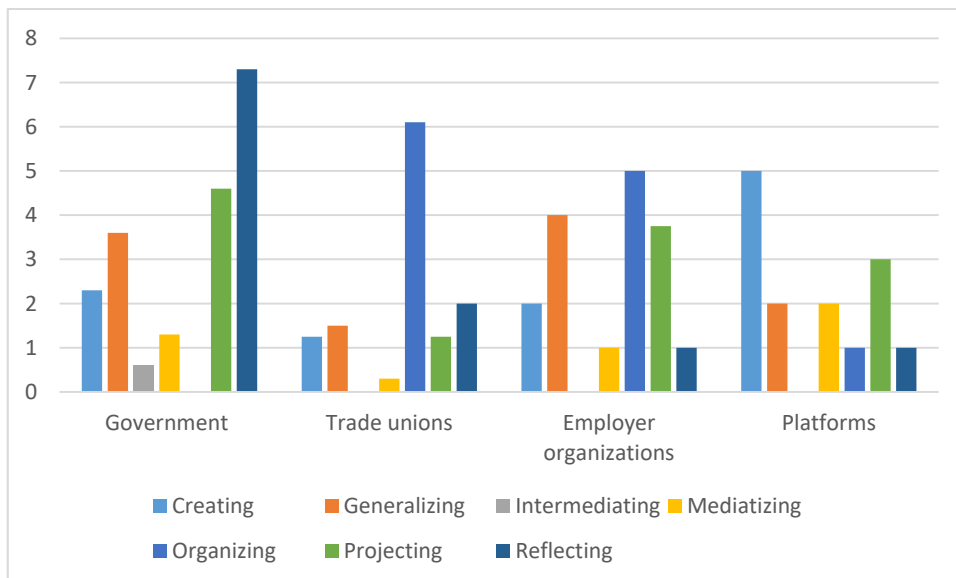


Figure 32 Institutional work practices - weighted frequencies in interviews of the same actor category

Creating

Despite the strong focus on maintaining the social partnership architecture as *the* system to cope with platform work, creating, that is the capacity of actors to develop an innovative solution through which pushing their ideas forward, emerges as an important institutional work practice in Denmark. ‘Creating’ emerged especially in relation to the Hilfr agreement – both in the case of trade unions, employer organizations, and platforms. As explained in Part 7.1, the Hilfr agreement represents a peculiar collective agreement in the Danish context. The pilot scheme signed in April 2018 demonstrates how actors do not just follow existing scripts, but are capable to creatively shape the rules linking the contract classification and protection in innovative ways. According to a 3F representative, there was need for creativity as the emergence of digital platforms “challenges the traditional thinking of how to be a union”²⁷⁹. Because of its peculiarity, the solution identified by the Hilfr agreement caused division within 3F as the Transport section did not want Hilfr agreement to set a precedent for future agreements with platforms.²⁸⁰ It is to be noted how 3F did not develop such a creative solution alone, but together with Hilfr and Danish Industry. While Hilfr had no previous scripts to follow because it was a beginner in negotiations, Danish Industry (DI) also undertook ‘creating’ practices by contributing to the development of the pilot scheme. Creating emerges also in relation to the government. The latter showed particular institutional creativity when it proposed provisions on presumption of employment for platform workers. Similar creativity emerges from the findings on the Dutch government, which also proposed to introduce such a mechanism (see Chapter 8.1). In both cases, however, the proposal has not (yet?) been adopted.

Generalizing

Figure 32 shows how ‘generalizing’ was a common practice across actor categories – just like it was common across countries (see Chapters 5.2, 6.2, 8.2). This reveals how there is a widespread tendency in Denmark to consider the question of the contract classification of platform workers as part of a bigger phenomenon, i.e. the digitalisation of work. In light of this, being able to deal with the regulation of platform workers’ contract classification constitutes a first, positive step to bring the Danish model to the digital future. Indeed, ‘generalizing’ often comes on a pair with ‘projecting’ practices (see subsection on ‘projecting’ below).

²⁷⁹ DK-TU3

²⁸⁰ DK-TU5, TU6

Intermediating

In the Danish context, ‘intermediating’ practice was limited to a specific moment in which the Rasmussen government fostered the negotiations that would lead to the Hilfr-agreement. The push of the government especially through the ‘Disruption Council’ was crucial for the start of negotiations between 3F and Hilfr and therefore for the signing of the agreement. Sheltering goals pursued by the governmental intermediating reinforced the sheltering goals pursued by social partners. As previously pointed out (see Chapter 6.1), the Five Star – League Italian government also undertook ‘intermediating’ practices with the aim to reach a compromise solution on the question of contract classification.

Mediatizing

Figure 32 shows each actor category engaged in some ‘mediatizing’. This was especially the case with the Hilfr agreement, which was jointly and publicly presented by the government and the signatories as a way to show that the collective agreements can indeed be suitable regulatory tools for digital platforms.

Organizing

One of the central tenets of the discussion on platform work in Denmark was the safeguarding of the so-called Danish model of social partnership, which assigns a crucial role to social partners in regulating labour market. In this context, ‘organizing’, that is an actor coping with the challenges of contract classification by pulling together individual interests, emerges as the most frequent institutional work practice. This does not mean that the organizational capacity of Danish social partners was unchallenged, but it means that ‘organizing’ was the institutional work practice most frequently put in place to cope with challenges associated to platform work.

On the union side, 3F stands out as the most important actor. 3F always saw ‘organizing’ as the preferred way to cope with the diffusion of false self-employment in platform work. Because food-delivery couriers were (are) rarely union member, 3F faced representational problems. To avoid this scenario, 3F has been trying to establish a more structured relationship with couriers (see Part 7.1). At the same time, 3F has developed dialogue with different platforms among which Hilfr, Just Eat and Wolt. Different challenges were associated with different business models of the specific

platforms. In the case of 3F, thus, organizing has had a double meaning. On the one hand, it meant seeking to unionize platform workers. On the other hand, it entailed pushing so as to regulate platform work via collective agreements

On the employers' side, DI and DE emerged as the two most important actors. As Part 7.1 suggests, they have always seen 'organizing' as the preferred way to make platform work pay in the Danish system.

Among platforms, Just Eat has put in place organizing practices entering into a collective agreement with DE. By signing a collective agreement with 3F Private service, Hilfr has undertaken organizing practices too. Figure 32, however, show that platforms have engaged in very limited 'organizing'. This is explained by the fact that Figure 32 reports results from the interview with Hilfr only.

Despite the strong role of social partners, platform workers themselves have also put in place organizing practices. 'Wolt workers' group' is an example of platform workers' independent organizing. Indeed, only after such a group was established did 3F start organizing Wolt couriers. In this sense, 'Wolt workers' group' played an important role in making the voice of workers heard as well as in highlighting unions' difficulties to keep pace with transformations in the labour market. Figure 32 does not represent findings related to 'Wolt workers' group' or other platform worker organizations as I was not able to have an interview with them. From a comparative perspective, practices of platform worker organizations seem less impactful in Denmark than in the other three countries where workers' gave an important contribution to the politicization of the issue of contract classification at the national level (see Chapters 5.1, 6.1, 8.1). Evidence in this regard is nonetheless not entirely clear, so the issue may be worth further investigation.

Projecting

'Projecting', which happens when actors establish a connection between future developments and current regulatory needs, was extensively present in the Denmark.

Both governments - Rasmussen and Frederiksen - engaged in projecting practices. The Rasmussen government pushed for starting a reflection on platform work and digitalisation as a whole based on the premise that Denmark should be prepared for the near digital future. Despite the focus was

on business promotion, challenges for the social partnership system already emerged under the Rasmussen government and were discussed especially in the ‘Disruption Council’. The interview with one of the Hilfr founders notes how the question of “how does Denmark adjust to a new future where platform economy is becoming a bigger part of the economy?”²⁸¹ was among the most debate issues in the ‘Disruption Council’. This clearly shows the importance of projecting around the question of platform work in Denmark. The report ‘Prepared for the future of work’ also demonstrates how projections of different technological futures were central protagonists in the debate on digitalisation and more narrowly on platform work (see Part 7.3).

With the coming into power of the social democratic government, ‘projecting’ regarding the question of contract classification of platform workers gained even more centrality. The government acted following the basic logic of projecting: given that platform work is going to constitute a key part of the future labour market, it is necessary to develop now the regulatory tools to make the digital future compatible with the Danish model. The words by a Ministry of Employment official well testify such an approach, when (s)he notices how “it is not to diminish the problems related to platform work, but it *still* is a very small part of the Danish labour market.”²⁸²

Social partners embarked upon extensive projecting practices too. Given their central role in the Danish model of labour market regulation, social partners’ concerns were explicitly oriented towards the question of contract classification and working conditions in the platform economy. Social partners’ projecting assumed that platform work is going to constitute a key part of the future labour market. Therefore, it is necessary to respond to the development of independent-contractors-based platforms in the here and now so as to avoid that the self-employed model will spread to an increasing number of sectors and undermine the collective bargaining system. Such a projection drove the negotiations that led to Hilfr and Just Eat agreement as well as other ongoing dialogue processes such as the one with Wolt. The words by Danish Industry (DI) representative well reflect such a projection. When asked about the relationship between the collective bargaining system and developments in the labour market structure, (s)he noted how:

“It’s fair to say that if you if you're doing this interview in 10 years ago, 10 years from now, I would say that totally different new sectors are regulated mainly by individual contracts.”²⁸³

²⁸¹ DK-PLMAN1

²⁸² DK-GOV2

²⁸³ DK-EO2

As noted above, this demonstrates how reflecting practices most often did not provide definite answers, but a sufficient amount of knowledge to try and experiment solutions.

Like in the other country cases (see Chapters 5.2, 6.2, 8.2), platforms performed extensive projecting institutional work as well. Among the platforms included in the present account, Hilfr and Just Eat projections were in line with social partners and governments' positions; Wolt, on the other hand, was more focussed on projecting a future in which extensive independent work is made possible by digital platforms in the Danish economy. The Hilfr founder interviewed draws a direct connection between the Hilfr agreement and projecting institutional work:

“We found quite pragmatic solutions, maybe being less dogmatic about how the world works. [...] And I think for them [the union], it was important also to signal that they weren't blocking the future. They would also like to be a part of the future if it was done in the right way.”²⁸⁴

This clearly indicates how projecting was a crucial institutional work practice in a country that aimed at preserving its system and make it welcoming to platform work at the same time.

Reflecting

Faced with a novel business model, actors had first of all to understand the challenges associated to it with a view to developing responses. To this end, all actors at play engaged in an extensive 'reflecting' phase aimed at gathering a sufficient knowledge base to put in place concrete action. Because under conditions of uncertainty preferences are continuously under formation, reflecting rarely brought to definitive understanding. That said, it was crucial to overcome the impossibility of acting when faced with a new phenomenon.

'Reflecting' was the most prominent practice put in place by the government – government reflecting was also prominent in the other three country cases (see Chapters 5.2, 6.2, 8.2). The 'Council on the sharing economy' set up by the Liberal government represented a 'reflecting' initiative aimed at favouring a better understanding of digital challenges for a broad range of societal actors. While the Council started with a business promotion focus, the attention shifted towards

²⁸⁴ DK-PLMAN1

the question of the contract classification with the change in government.²⁸⁵ The ‘Disruption council’ represented a collective reflection forum functional to understanding how to tackle the question of contract classification in the platform economy. In the Council, government and social partners’ representatives gradually developed their preference for ‘sheltering’ goals. This translated into a generalized safeguarding approach towards the Danish model.²⁸⁶

Given the (supposed) novelty of the phenomenon, social partners needed to acquire a better understanding of it as well. The interviews show that trade unions engaged in particularly extensive ‘reflecting’ practices. Evidence suggests that this was the case of trade unions in France, Italy and the Netherlands too (see Chapters 5.1, 6.1, 8.1). The importance of internal reflection emerges especially in relation to Hilfr agreement. The 3F representative responsible for Hilfr negotiations describes how the challenge for the union was to find practical ways to combine flexibility and protection in such “a new ground”.²⁸⁷ In order to do so, an initial reflecting phase aimed at acquiring knowledge was crucial.²⁸⁸ Furthermore, Figure 32 shows how employer organizations engaged in less extensive reflecting practices. There may arguably be two reasons for that. On the one hand, employers had a less central role in the Hilfr agreement (see Part 7.1), which was the situation involving most ‘reflecting’. On the other hand, they considered the agreement with Just Eat just like every other agreement they normally sign. For this reason, they did not need to go through to remarkable ‘reflecting’.²⁸⁹

In conclusion, this section has showed institutional work objectives and practices that permeated the politics of platform workers’ contract classification in Denmark. The next section moves on to consider the drivers of such an institutional work, namely its learning foundations.

7.2.2 Why Did Actors Do It? The Learning Foundations of Institutional Work Practices

After identifying institutional work objectives and practices, this section investigates their drivers. To do so, it unveils what I term the ‘learning foundations’ of institutional work as emerging from the thematic analysis of the interviews conducted on MAXQDA. Figure 33 illustrates learning

²⁸⁵ DK-GOV1

²⁸⁶ DK-GOV2

²⁸⁷ DK-TU2

²⁸⁸ Ibid.

²⁸⁹ DK-EO3, EO4

mechanisms per actor type. Values are weighted frequencies of the three learning mechanisms in interviews belonging to the same actor category.

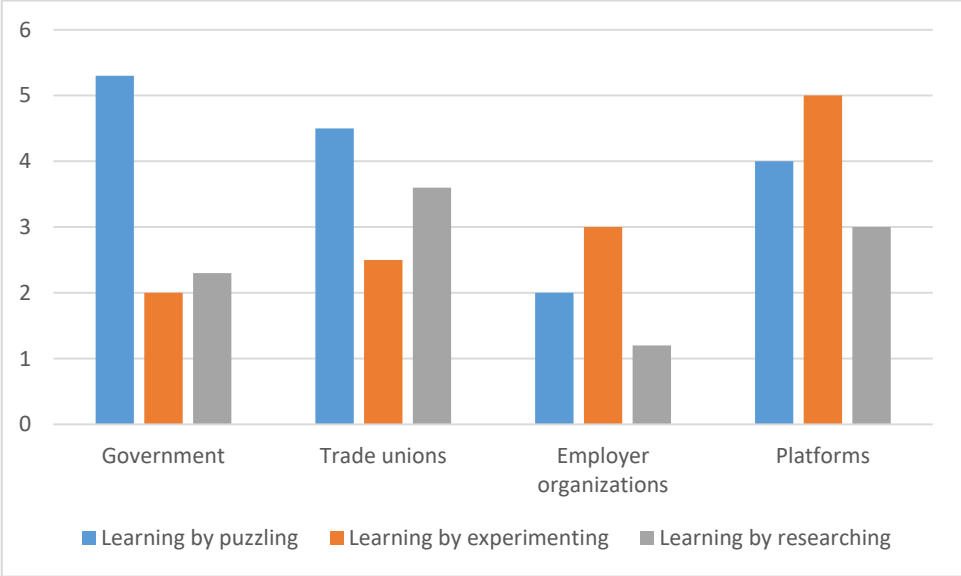


Figure 33 Learning mechanisms by actor type – weighted frequencies in interviews of same actor category

Figure 33 shows how each actor category went through the three learning mechanisms. ‘Learning by puzzling’ is especially prominent in the action of the government. This can be explained in light of the fact that the government intervenes only marginally in the regulation of the Danish labour market. Thus, its action was mostly directed to understanding the problem and setting the overall direction of labour market regulation. This is consistent with the high share of ‘reflecting’ practices illustrated above (Figure 32). Both trade unions, employer organizations and platforms went through significant experimentation, flanked by both ‘puzzling’ and ‘researching’. In what follows, I delve into and further elaborate on these findings by presenting qualitative evidence on the learning foundations of each actor type’s institutional work.

The Learning Foundations of the Government’s Institutional Work

Figure 33 shows that institutional work practices of the government were mostly driven by ‘learning by puzzling’ mechanisms. As anticipated, this can be explained in light of the fact that the government intervenes only marginally in the regulation of the Danish labour market. As soon as platforms started to be associated with the future of work, the government found itself unprepared

on how to respond to such a development. This ‘puzzling’ attitude was prevalent in the action of the Rasmussen government. The following questions informed reflecting practices of the government:

“Are those people working on a platform...are they really self-employed? Or are they something different? This is actually it's a [...] framework question because it's [...] there's no practical experience in DK and actually there's no law for it so...it's always been up o social partners to negotiate about it...but in that case the unions don't have those people as members so...Who do you want to negotiate with?.”²⁹⁰

‘Learning by puzzling’ were important drivers of the action on Uber, which led the platform to leave the country in 2017. Not only that, contrasts with Uber made the government realize “the need for a strategic approach”²⁹¹ to tackle challenges and seize opportunities of the sharing economy. This shows how the government, particularly Ministries for Business and for Employment, did not know in advance how to respond to the rise of platform work but *learnt* while the process was ongoing. This reveals the importance of knowledge accumulation (learning by researching) for governmental institutional work - other than ‘learning by puzzling’.²⁹²

Also, the ‘Council of the Sharing Economy’ and especially the ‘Disruption Council’ were two government initiatives that mirrored that need to learn about the novel phenomenon (learning by puzzling) and produced new knowledge (learning by researching) that largely informed regulatory outcomes such as the 3F-Hilfr agreement.

Interviews suggest that Frederiksen government inaugurated a more experimentation-oriented phase with the proposal on the presumption of employment. The interviewee with a Ministry of Employment officer well shows how such a measure would represent a remarkable novelty in the Danish system. Confirming the linkages between the different learning mechanisms, puzzlement and knowledge accumulation were important to experimenting. After years of discussions, as one interviewee notes: “We've come to the conclusion that something has to be done [on the contract classification of platform workers]”. An important way through which knowledge accumulation happened was the project on the future of work carried out at the Nordic Council of Ministers.²⁹³

²⁹⁰ DK-GOV1

²⁹¹ Ibid.

²⁹² Ibid.

²⁹³ DK-GOV3

Of course, implications of the presumption of employment are not clear and foreseeable in advance. Words of a Ministry of Employment officer are informative in this regard:

“So this presumption is an initiative with a lot of implications on a very principle level on: how far should the government go in legislation? [...] Where would you introduce this presumption rule? Should it only be in in labour legislation? And then we could maybe leave it to labour code, whether they would feel inspired by this new approach in the legislation? Or should we actually also introduce a presumption rule in the labour code act? So this is also a discussion on how far should we go if we are to introduce a presumption.”²⁹⁴

The Learning Foundations of Social Partners’ Institutional Work

We saw how the social partners played a central in the regulation of the contract classification of platform workers in Denmark. Interviews demonstrate how their practices - i.e. reflecting, organizing, creating, projecting - were largely driven by learning mechanisms in the form of puzzling, experimenting and researching. The following three subsections analyse the learning foundations of the Hilfr and Just Eat agreements as well as of the relationship between 3F and Wolt as described in Part 7.1.

Learning in 3F –Hilfr Agreement

Interviews show how the institutional work practices that led to the signing of the Hilfr agreement were largely driven by learning mechanisms. 3F representatives that negotiated the agreement highlights how it all started with the “confusion about how the platform actually works”.²⁹⁵ Uncertainty was generated by the novelty of this kind of work, which normally shies away from organized labour. As recounted in Part 7.1, this made it especially difficult to identify platform workers’ interests and therefore to develop an effective union strategy. “We do not actually know”²⁹⁶ what are the interests of platform workers, note two representatives that were involved in the negotiation process. Moreover, 3F was aware of its little representativeness among platform workers in the cleaning sector. The same interviewees shed light on a fundamental question they had to face in the beginning of the negotiations: given that you do not know their interests, “How

²⁹⁴ DK-GOV3

²⁹⁵ DK-TU2, TU3

²⁹⁶ Ibid.

do you create a union mandate?”²⁹⁷ Thus, 3F initially ‘learnt by puzzling’ with the aim to reducing knowledge scarcity about platform work regulation.

Because of its novelty, Hilfr went through learning by puzzling as well. The interview with the Hilfr manager brings this to light by showing how Hilfr initially did not know how to act to ensure that their activities respect the Danish model. One of the founders of Hilfr recalls a central question they were facing in that moments:

“So how do we create...How do we create platforms that can be successful, without treating people badly?”²⁹⁸

Just like the union, Hilfr managers were also in a knowledge-scarce situation with regard to possible negotiations with 3F. “We didn't know how we should do it in the beginning”, noted the interviewee.²⁹⁹ Hilfr’s priority was to avoid becoming a standard employer, which would have been unsustainable for their business model.

A 3F representative notes how Hilfr put certain conditions to the acceptance accept the employer responsibility:

“The employer [Hilfr] said, look, we're going to take on the responsibility as an employer, but all other employers throughout the world, they get to choose their workers. So how are we going to deal with that? You're asking us to take responsibilities for people and employ them, that we might never employ in real life, because we just don't have the qualifications. So we had a long talk about that.”³⁰⁰

Such a ‘puzzling’ paved the way for learning by experimenting and researching mechanisms to drive the negotiations and the final text of the agreement. 3F representatives recounts how Hilfr approached 3F saying: “We would like to give it a try to create a new model, collective agreement with you and negotiate this...”.³⁰¹ As previously illustrated, the final version of the agreement entailed peculiar mechanisms in the Danish context that left in the hands of the workers the choice of their contract classification. The peculiarity of the Hilfr agreement is a major example of learning by experimenting through which actors at play sought to tear down the freezing effect of uncertainty.

²⁹⁷ DK-TU2, TU3

²⁹⁸ DK-PLMAN1

²⁹⁹ Ibid.

³⁰⁰ DK-TU2, TU3

³⁰¹ DK-PLMAN1

The expertise of Danish Industry (DI) had a profound impact on the negotiations,³⁰² bringing to light the importance of knowledge in processes of experimentation. A DI representative notes how:

“We were we were the sort of people who actually said...well have you considered this? Have you considered that? What will happen if you actually suddenly have a company with more than 100 employees? Are you able to activate yourself to control this? And you're able to pay attention about the obligations you have as an employer in this case? Fairly speaking, they were not aware of all the aspects regarding that... so we tried to help them in the text of the agreement, as well as setting up arrangement for them as a company.”³⁰³

About the agreement itself, the interview with a DI representative throws light on the importance of experimentation in the process that led to it:

“Okay...this is a good agreement, we like this agreement...will sign this agreement, but at the same time we have to protect the business model of this company... it was quite clear that their business model could not sort of support a traditional collective agreement, encompassing everyone who worked on their platform. So we need to have some hybrid optional collective agreement.”³⁰⁴

Confirming the high degree of learning by experimenting in the Hilfr agreement, the DI representative stresses how:

“This perspective of a collective agreement covering platform workers...both individual person linked to the platform economy and people who actually are employed by Hilfr is a total new aspect of the collective agreement.”³⁰⁵

Furthermore, actors involved in the signing of the one-year trial period acquired significant knowledge throughout the process. On the one hand, the union representative that negotiated the agreement notes how:

“We know a lot more than we did in an April day in 2018. We know so much more now that we need to change the Hilfr agreement.”³⁰⁶

³⁰² DK-PLMAN1

³⁰³ DK-EO2

³⁰⁴ DK-EO1

³⁰⁵ Ibid.

³⁰⁶ DK-TU2

On the other hand, the DI representative stresses how:

“We don't consider this as tomorrow's way of making collective agreement at all.”³⁰⁷

Moreover, the Hilfr founder highlights that:

“It's a very flexible model. But to be honest, it isn't the perfect model for platform company. I think that's the big question.”³⁰⁸

The scepticism following the agreement indicated how actors had ‘learnt by researching’ and also how such a knowledge accumulation leads to further puzzling and experimenting, continuing the learning circle as theorized in Chapter 3. The case of 3F is particularly relevant in this regard:

“When we made the agreement [...] we also agreed that we should have access to some of the platform workers in order to conduct a survey. We wanted to talk to them and we designed a focus group interview based on phenomenology... [...]and once we have these, this new world of phenomenon, we could start making designs for maybe a questionnaire, more quantitative questionnaire how, how widespread is this phenomenon? Is that something everybody applies to? Or subscribes to? Or is it not really a thing? So it was quite a fit doing this research into what is the world of the platform worker? What kind of world are they actually living in? And what are the thoughts because we knew that introducing digitalisation into the labour market, there is a triangle of relations that is disrupted.”³⁰⁹

All in all, the interviews with social partners and Hilfr bring to light the learning foundations of the Hilfr agreement. Initially, various intuitional work practices were mostly driven by learning by puzzling mechanisms that aimed at reducing knowledge scarcity around platform work. Puzzling was normally followed by experimenting and researching learning mechanisms. The agreement itself as signed in April 2018 stems from learning by experimenting approach to the regulation of platform work, which led to knowledge accumulation than in turn resulted in further puzzling. The Hilfr agreement, thus, is an empirical manifestation of the learning circle theorized in the theoretical chapter.

³⁰⁷ DK-EO2

³⁰⁸ DK-PLMAN1

³⁰⁹ DK-TU2

Learning in the 3F –Just Eat Agreement

Despite notable differences with the Hilfr case, interviews show how learning mechanisms were important to the signing of the Just Eat agreement as well. As described in Part 7.1, Just Eat couriers were already employed before the collective agreement was signed. Thus, uncertainty and learning around the specific form of contract classification did not concern such a negotiation. The learning foundations of the Just Eat agreement emerge especially in relation to the Hilfr agreement. Representatives of 3F Transport section all noted how they worked not to take Hilfr as an example to conclude the agreement with Just Eat. The main scepticism pertained to the possibility for workers to decide to be covered or not by the agreement. As one of 3F negotiators of the Just Eat agreement notices: “There are many issues in the [Hilfr] agreement that we thought that we could do better”.³¹⁰ The most notable problem pertains to that the fact that “workers are free to choose to be covered by collective agreement”.³¹¹ For this reason, “we don't want to copy that” even though “we are learning of it”. The interviews clearly show how 3F went through an internal learning process in the period from the Hilfr agreement to the Just Eat agreement. The knowledge developed following the Hilfr agreement was used by 3F – particularly 3F Transport section – not only to approach the agreement with Just Eat but more generally to clarify how platforms should be subject to ‘standard’ collective agreements’. This amounts to a notable example of learning by researching.

Learning in the 3F-Wolt Dialogue

In Part 7.1, we saw how 3F has been trying to build relationship both with Wolt and Wolt couriers. Interviews with 3F representatives show how this process is riddled with uncertainty and different kinds of learning. As for the platform and Wolt workers’ group, it is not possible to empirically prove or disprove the learning foundations of its action as I was not able to speak to any of their representatives.

From a 3F perspective, the relationship with the platform has been difficult since the beginning as Wolt tends to refuse collective bargaining mechanisms. This has implied learning by puzzling dynamics that clearly emerge from the interviews.³¹² In the words of 3F representative dealing with Wolt:

³¹⁰ DK-TU6

³¹¹ DK-TU5

³¹² DK-TU6, TU8, TU9

“It is very difficult for us come up with a solution that gives Wolt flexibility they want while not totally undermining the rest of the transport section in DK.”³¹³

A particularly puzzling element for 3F is limited membership among Wolt couriers. As the interviewee puts it:

“If we have no members... how can we discuss when we are negotiating with Wolt? we have not very many members. So, who are we really negotiating for? You could ask that question.”³¹⁴

As described in Part 7.1, 3F is actively working to build more solid relationship with Wolt couriers. The interview with 3F representatives who are engaged in this activity reveals how 3F has been experimenting. The main obstacles for increasing union membership among Wolt couriers are the high turnover among workers, which makes it short-term income-making considerations prevail, and the preference for flexibility of younger couriers who often prefer to remain independent contractors. 3F has been trying to argue that protection and flexibility can go hand in hand. The main point of experimentation is then about finding practical ways to make this compatibility feasible and appealing to workers. This requires innovation of the way the union thinks, as interviews show how there is a certain self-awareness of the too rigid posture of the union on these matters.

7.2.3 Conclusion

This chapter has first identified institutional work objectives and practices. Then, it has unveiled their learning foundations.

It found that the politics of platform workers’ contract classification in Denmark was mostly characterized by ‘sheltering’ objectives. The preference for maintaining the system, however, sometimes translated into regulatory measures that were said to actually weaken it – e.g. the Hilfr agreement. It can be thus argued that the meaning itself of ‘sheltering’ was contested in Denmark.

Such goals were pursued via a number of institutional work practices. The government was especially active in ‘creating’, ‘projecting’ and ‘generalizing’ practices, while social partners were

³¹³ DK-TU8, TU9

³¹⁴ DK-TU9

intensively involved in ‘organizing’. Employer organizations had a big role not only in ‘projecting’ but also in ‘generalizing’. Platforms were also very active in ‘projecting’ and showed marked institutional creativity.

Institutional work practices were largely driven by learning mechanisms. While institutional work of the government and trade unions was especially driven by learning by puzzling mechanisms, experimentation was the most important driver for employer organizations and platforms.

By showing how (different type of) learning mechanisms were central drivers of institutional work, the chapter recalls the centrality of uncertainty in decision-making processes. Despite action being institutionally embedded, this chapter finds that the content regulation can only be understood by empirically scrutinizing learning processes that actually shape it. This is not to argue that institutional structures do not matter; rather, to emphasize how learning processes as drivers of institutional action have been downplayed by the bulk of institutionalist explanations, which has significantly hampered our understanding of the microfoundations of institutional action.

The last part of this chapter (7.3) is devoted to understanding the boundaries of learning processes. To do so, following the theoretical approach developed in Chapter 3, it concentrates on ‘imagined futures of work’ that have guided the regulation of platform work in Denmark.

7.3 How Do Actors Project? Imagined Futures of Work in Denmark

7.3.1 Introduction

‘Projecting’ emerges as one of the most frequent institutional work practices identified in Part 7.2. As it interrogates the temporal dimension of agency, which is crucial in the discussions on the future of work, ‘projecting’ is of particular relevance particularly to this dissertation. As we have seen, ‘projecting’ reveals that actors have frequently drawn connection between their present action and its implications for the future of work. More precisely: they have used their vision of the future as a compass to orient their action in the present.

In a context where platform work is widely regarded as the future of work, there is no agreement among various social and political actors as to *how* such a future should look like. ‘Projecting’, in other words, conceals diverging ‘imagined futures of work’ actors have used to *reduce* uncertainty about the future of work. This chapter reconstructs the politics of expectations (Beckert, 2016) of the future of work in Denmark by unveiling diverging ‘imagined futures of work’ that have informed actors’ projecting.

The remainder of the chapter is organized as follows. The first part zooms in into ‘projecting’ practices and introduces the concept of ‘imagined futures of work’. The second part illustrates the different ‘imagined futures of work’ in which learning-driven institutional work was anchored. The third part summarizes the results.

7.3.2 Theorizing ‘Imagined Futures of Work’

Part 7.2 showed that ‘projecting’ was the second most frequent institutional work practice and different actors contributed differently to it – the government and employer organizations were the two most projecting-intensive actors. Such actors were future-oriented in the sense that actors put forward and fought over different visions of the future of work on how to make the Danish model flourish in the digital society. Drawing on Beckert (2016), I introduce the concept of ‘imagined futures of work’ to understand *how* actors projected. I define an ‘imagined future of work’

as an imaginary of the future digital society centring on a specific idea of how tomorrow’s work and protection should be. ‘Futures’ differ along two dimensions. A first dimension pertains to whether actors have optimistic or pessimistic attitudes towards platform work and digitalisation in general. The second dimension regards the way actors understand employment and social protection in the future of work, namely individuals-centred or jobs-centred. While the former entails that workers should be protected as individuals, the latter prescribes that workers should be protected according to their occupation, i.e. their contract classification. By crossing these two dimensions, we obtain four ideal-typical ‘imagined futures of work’ (Table 19).

	Protecting jobs	Protecting individuals
Opportunity	Digitalisation: optimistic attitude Protection: employment contract	Digitalisation: optimistic attitude Protection: regardless of contractual arrangement
Threat	Digitalisation: pessimistic attitude Protection: employment contract	Digitalisation: pessimistic attitude Protection: regardless of contractual arrangement

Table 19 Dimensions of ‘imagined futures of work’. Own elaboration.

Based on this ideal-typical classification, I identify three ‘imagined futures of work’ emerging from my analysis of actors’ temporal orientation towards the future, i.e. Start-up Nation, Creative digitalisation, Embedded digitalisation. ‘Start-up Nation’³¹⁵ presents an optimistic attitude towards digitalisation and conceives of protection as independent from contract classification. Detachment from contract classification is necessary as it allows for more flexibility for firms and autonomy for workers. ‘Creative digitalisation’ concurs with the need to identify novel ways to organize protection that go beyond contract-centred approaches, but approaches digitalisation with a sceptic to pessimistic outlook. This results in more cautious regulatory postures. ‘Embedded digitalisation’

³¹⁵ The expression ‘Start-up Nation’ originally comes from the French context, as explained in Chapter 5.1. However, because it straightforwardly connotes a certain idea of the future digital society, I here use it in a more general and abstract fashion to refer to imaginaries of the future presenting the two characteristics outlined in the text.

comes with a pessimistic understanding of digitalisation and posits that protection should not be decoupled from the employment contract as the latter is a fundamental protection tool in itself. Table 20 places them in the quadrants presented above.

	Protecting jobs	Protecting individuals
Opportunity	-	Start-up Nation
Threat	Embedded Digitalisation	Creative Digitalisation

Table 20 Typology of ‘Imagined futures of work’. Own elaboration.

Figure 34 shows the weighted frequency of codes on ‘imagined futures of work’ by actor type. It suggests that institutional work of the government and trade unions was mostly anchored in a ‘embedded digitalisation’ future whereas employer organizations and platforms chiefly subscribed to a ‘creative digitalisation’ vision of the future of work. Moreover, it shows that ‘start-up nation’ projection has not informed institutional work on the contract classification of platform workers in Denmark. Because of the non-representativeness of the interview sample, such findings need some specifications, which I provide in the following by presenting qualitative evidence on ‘imagined futures of work’ in Denmark.

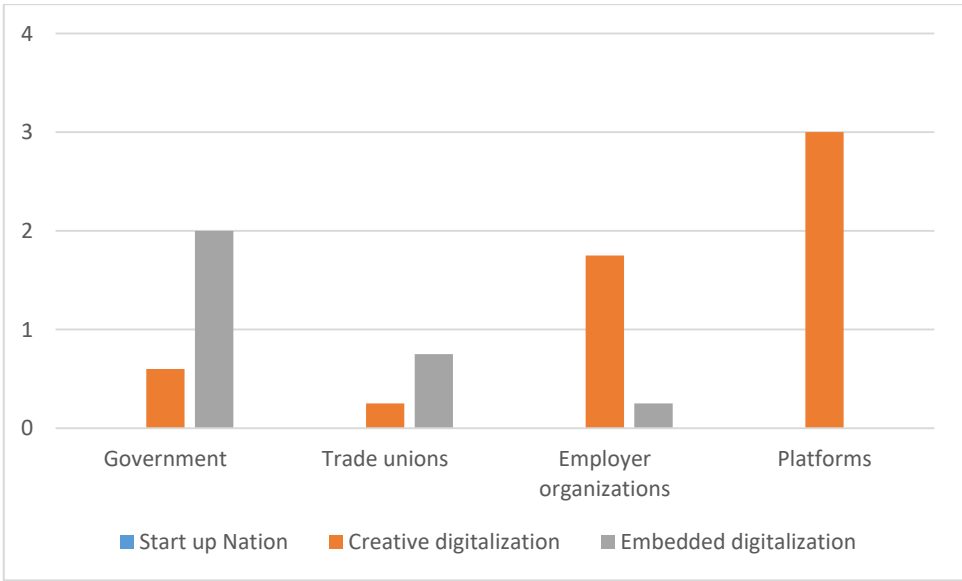


Figure 34 Imagined futures of work - weighted frequencies by actor type

7.3.3 Identifying ‘Imagined Futures of Work’: the Start-up Nation Future

Figure 34 suggests that the ‘start-up nation’ future had no proponents in Denmark. While it is true that such a future of work had a very limited diffusion, platforms like Wolt did advocate for such a future. Had I been able to collect interviews with Wolt managers, I would have reported more empirical of such a future of work from the interviews. While this would have enriched the present analysis, the finding purporting the limited scope of such a vision of the future would have remained unaltered. As recounted in Part 7.1, the Finnish platform has long chosen not to enter into a dialogue with trade unions by arguing that it is not an employer but a service intermediary company working with independent contractors. The rationale of such a choice is that becoming an employer would make the current business model unsustainable, thereby hampering the future of work. Although some form of dialogue has recently begun between and Wolt and 3F, interviews suggest that this is far from being a structured dialogue that will lead to a collective agreement. Testifying the weakness of the ‘start-up nation’ future of work in Denmark, platforms have not constituted, to my knowledge, their own associations as a way to advance their interests independently. This happened in France, Italy and partly in the Netherlands.

7.3.4 Identifying ‘Imagined Futures of Work’: the ‘Creative Digitalisation’ Future

Figure 34 shows how ‘creative digitalisation’ was mostly supported by employers and platforms and more marginally by the government and trade unions. This finding needs further elaboration. In Denmark, there was general agreement on the need to maintain the ‘Danish model’ in preparation for the future of work. Despite the intention to keep the centrality of collective bargaining, the ‘creative digitalisation’ future has been used to *reduce* uncertainty about how to negotiate collective agreements in the digital future. The most remarkable example of such a future is the Hilfr-agreement. As illustrated in Part 7.1, the liberal government backed such an agreement, which was signed by 3F, Danish Industry (DI) and Hilfr. The process that led to the Hilfr-agreement moved from the consideration that the system of collective bargaining was to be sheltered against the risks stemming from platform work. However, in the quest for finding novel ways to combine flexibility and protection, the agreement established a system that improved protection for workers and de facto allowed them to choose their own contract classification – self-employment or employment. By so doing, the agreement turned out to be an example of a regulation that strengthens the protection of self-employed platform workers - and allows them to choose whether to become employees - while not intervening directly on their contract

classification. For this reason, I argue that learning-driven institutional work that led to the signing of the Hilfr-agreement was anchored in a ‘creative digitalisation’ future. Interviews show how this did not happen intentionally, but it was driven by uncertainty on how to include the platform business model in the system of collective bargaining.³¹⁶ This suggests that ‘learning by experimenting’ can lead actors to support ‘imagined futures’ they would have not stand for in the first place. Finally, Figure 34 indicates that employer organizations were more frequently associated to a ‘creative digitalisation’ future than trade unions. This should not be generalized as it only indicates that employers involved in the signing of the Hilfr agreement were more future-oriented than trade unions involved in the same process.

7.3.5 Identifying ‘Imagined Futures of Work’: the ‘Embedded Digitalisation’ Future

As previously highlighted, there was a general concern in Denmark with the fact that platform work would undermine the Danish model of labour market regulation. Supporters of an ‘embedded digitalisation’ future insisted on the idea that platform workers are employees and therefore integral part of the collective bargaining system. 3F – at least the sections not involved in the sign the Hilfr-agreement – was/is a major proponent of such a future. Referring to the development of platform work, one interviewee notes how:

“suddenly it's not a bike, it's not a scooter: it's a small car. And then it grows, and it grows. And our mission is to stop that. Because it can undermine our collective agreement and in the end our Scandinavian system. [...] So that's the main reason why we are concerned.”³¹⁷

Another 3F unionist also projects the risks of an increase in self-employed figures in the Danish context:

“If you have many self-employed people they are not in a situation where they can bargain, you can't make collective agreements, because you can't do that if you are not employed. So the more self-employed people you see, the harder it gets to get collective agreements, and therefore the salary will keep going down, down, down.”³¹⁸

Learning-driven institutional work that led to the collective agreement with Just Eat was anchored in an ‘embedded digitalisation’ future, both from 3F and JustEat side. 3F is supporting such a vision of the future of work in the dialogue with Wolt as well. It will be interesting to see the outcome of

³¹⁶ DK-EO2, TU2, 3

³¹⁷ DK-TU5

³¹⁸ DK-TU6

a dialogue between two parties that support opposite futures – 3F/embedded digitalisation, Wolt/start-up nation.

Finally, the proposal from the government to introduce a presumption of employment mechanism for platform workers is also anchored in an ‘embedded digitalisation’ future, one that aims at considering platform workers employees – and therefore part of the collective bargaining system – until proven otherwise.³¹⁹ This explains the results emerging from Figure 34.

7.3.6 Conclusion

Building upon the importance of ‘projecting’ practices in the politics of platform workers’ contract classification, this chapter has delved into the question of *how* actors project. It has identified three imagined futures of work that actors used to *reduce* Knightian uncertainty.

The government and social partners’ institutional work was anchored in a ‘creative digitalisation’ future especially in relation to the signing of the Hilfr agreement. In more general terms, however, social partners did not consider such an agreement the ideal way to sign agreement with platforms. After the Hilfr agreement, both trade unions and employer organizations moved towards an ‘embedded digitalisation’ vision of the future of work. Moreover, the ‘start-up nation’ future was marginal in Denmark. Platforms like Wolt were among the few supporters of it.

The last chapter of this dissertation will compare these findings as well as findings of Parts 7.1 and 7.2 with results from other country cases in order to draw more generalizable conjectures on the politics of platform work regulation.

³¹⁹ DK-GOV3

8. NETHERLANDS

Introduction

This chapter digs into the contestation over the contract classification of platform workers in the Netherlands, which has mostly concerned platform work in food-delivery and ride-hailing sectors. It focuses on how governments, social partners as well as platforms, platform worker organizations and civil society actors have problematised and acted upon the question of contract classification, that is whether on-location platform workers should qualify as employees or self-employed. In so doing, it first identifies the main conflict lines and actor coalitions and dwells on the regulatory measures adopted (Part 8.1). Then it analyses the politics of platform workers' contract classification in light of the theoretical framework developed in Chapter 3. In Part 8.2, it identifies institutional objectives and practices and digs into their drivers i.e. their learning foundations. In Part 8.3, it concentrates on 'imagined futures of work' that have guided the regulation of platform work in the Netherlands.

8.1 The Politics of Platform Workers' Contract Classification in the Netherlands

Part 8.1 is structured as follows. Firstly, it provides background knowledge on how the Netherlands embarked upon liberalisation starting in the 1980s. In so doing, it dwells on the development of non-standard work with a focus on the rise in solo self-employment and its implications. Secondly, it describes the contestation on the question of contract classification of platform workers. Based on 13 semi-structured elite interviews combined with secondary sources, it delineates actors' positions and coalitional patterns. Thirdly, it concludes.

8.1.1 Transforming the Dutch Labour Market: the Rise of (Solo) Self-Employment in the Netherlands

The two international oil shocks and major transformations linked to the fading of the Fordist model of production posed major challenges to the small, open Dutch Economy in the 1970s (Visser & Hemerijck, 1997). At the turn of the decade, the Netherlands had to face concurrent crises. Shrinking profits and investment funds, unusually high public budget debt and soaring unemployment called for far-reaching institutional re-design (Gorter, 2000). From a labour market

and social security perspective, the Netherlands entered the 1980s as one of the most protective Western welfare states – particularly for male breadwinners on open-ended employment contracts (Flora, 1986). Throughout the 1970s, however, the Dutch political economy had had a hard time creating employment to the point that sociologist Therborn (1986) defined the Netherlands as “perhaps the most spectacular employment failure in the advanced capitalist world”. The simultaneous incapacity to generate employment growth coupled with the extensiveness of social benefits triggered a vicious circle in which an increasing number of unemployed claimed protection in a context of declining net contributors to the system of social security (Visser and Hemerijck, 1997). This made the Netherlands one of the examples of the ‘welfare-without-work’ syndrome that affected Continental welfare states starting in the 1970s (Esping-Andersen, 1996).

Yet challenging the understanding according to which Bismarckian welfare states were ‘frozen landscapes’ (Esping-Andersen, 1996), the Netherlands transformed its political economy substantially in the 1980s undertaking what Hemerijck and Visser (1997) famously defined ‘a Dutch miracle’. Far-reaching policy changes in industrial relations, social security and labour markets made such an overhaul possible.

As per industrial relations, the 1980s ushered in a period of wage moderation in the Netherlands (Visser, 1998). Wage restraint became the norm after the well-known ‘Wassenaar accord’ signed in 1982. First of all, the agreement restored corporatism, re-stating that social partners were to be the prime responsible for collective bargaining and curbing State intervention which had been marked in previous decades. To face the co-existent unemployment and employment growth crises, unions lifted their veto on negotiations concerning the suspension of wage indexation to prices, and employers opened to the possibility of reducing working times to foster employment creation. These two simultaneous concessions led to the ‘Wassenaar Accord’, which turned out to be an exchange between wage restraint and employment creation. After the Accord, indexation mechanisms were abolished. This led to a sharp decrease in real wages and wage costs which in turn restore profitability and fostered employment growth. The latter mostly happened via a tremendous increase in part-time job. From early 1980s to early 1990s, part-time employment grew remarkably from about 18% to about 30% of total employment. Currently, more than a third of total employment is part time (Figure 35).

Source: OECD Statistics

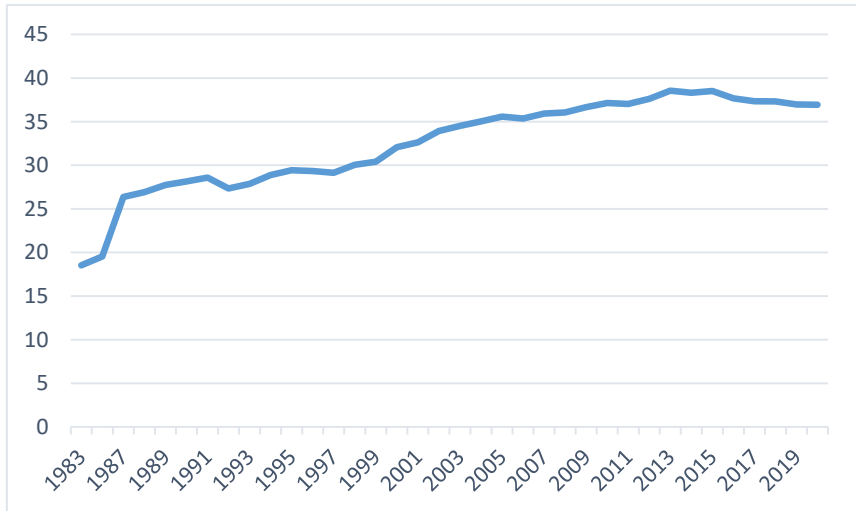


Figure 35 Part-time employment as % of total employment (1983-2019)

Part-time work especially grew among women, whose share in total employment went from 25% in 1977 to 39% in 1999. Male part-time work increased especially among young people and students, going from 3% in 1981 to 17% in 1997 (Delsen, 1998). By showing that more than a half of women employed have worked part time over the last two decades, Figure 36 illustrates how part time work has a marked gender dimension in the Netherlands. In this context of strong employment rate increase, unemployment decreased only slowly in the 1980s, going from about 9% to 5.5% at the start of the 1990s.

Source: OECD Statistics

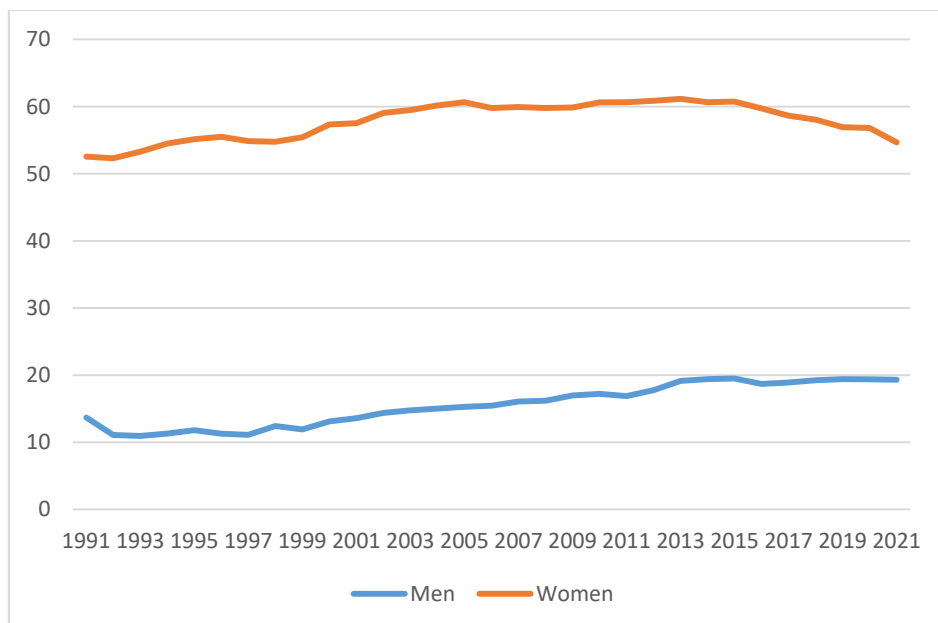


Figure 36 Part-time employment as a % of total employment, by gender (1991-2021)

While transformation in wage policies did allow for employment creation, the latter came with notable collective costs as “social partners externalized the costs of economic adjustment onto the social security system” (Hemerijck & Marx, 2010, p. 133). This made the number of social security applicants spiraling. To diminish the burden on the social security system, the second Lubbers government - formed by Christian Democrats – Conservative Liberals, in office from 1986 to 1989 - adopted a range of cost-containment measures. Replacement rates of social security benefits were reduced from 80% to 70% of previous wages. Nonetheless, the number of disability benefits recipients kept raising problematically. In 1989, a new government led by Prime Minister Lubbers and formed by Christian democrats and social democrats took office. The so-called ‘Lubbers-Kok’ cabinet, as it was called, eventually decided to restrict substantially access to disability program and other exit routes from labour market (Hemerijck and Marx, 2010). This phase was mostly characterized by a cost-reducing attitude. Initial intentions to link the social security system with active labour market policies did not translate into practice.

The 1990s marked a decisive step in this direction. The so-called ‘Purple coalition’ elected in 1994 placed the increase of labour market participation at the core of its agenda – its main slogan was ‘Jobs, Jobs, Jobs’. The new government attempted to boost job creation by introducing labour market flexibilisation and ensuring adequate protection to so-called ‘flex-workers’. In 1995, the then Minister of Social Affairs and Employment, Ad Melkert from the Labour Party, proposed a way to balance flexibility and (social) security in a memorandum entitled ‘Flexibility and Security’. Such a memorandum contained proposals on how to reform the dismissal protection of core employees as well as provisions aimed at enhancing the legal status of temporary agency workers. The memorandum first popularized the idea of combining flexibility and security as a way to prosper in the twenty-first century economy (Wilthagen & Tros, 2004). First proposed by sociologist and member of the Dutch Scientific Council for Government Policy (WRR), Professor Hans Adriaansens, the concept of ‘flexicurity’ – the combination of flexibility and security - gradually became well known and associated with the Dutch approach to contemporary labour markets (Viebrock & Clasen, 2009; Wilthagen & Tros, 2004). Wilthagen (1998) took up the concept and famously re-visited it. As put by Bekker and Mailand (2018), “normalizing atypical work” by enhancing protection for non-standard workers came to be the blueprint for the Dutch political economy (Visser, 2002; Wilthagen & Tros, 2004). Such measures were flanked by provisions spreading care, education and learning more widely over the lifecycle (Wilthagen, 2007). As a result, temporary employment constantly increased since the early 1990s (Figure 37).

Source: OECD Statistics

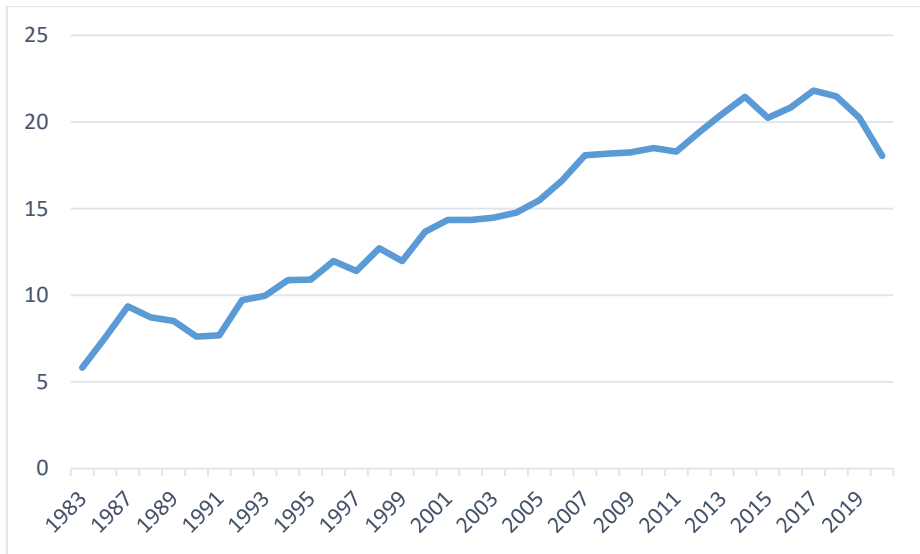


Figure 37 Temporary employment as a % total employment (1983-2019)

In this context, social partners signed the first collective agreement for temporary workers in 1995, followed by the agreement on ‘Flexibility and Security’ in 1996 (Hemerijck and Marx, 2010). In 1999, the Flexibility and Security Act codified the ‘flexicurity’ approach by i) enlarging the opportunity to start of a temporary agency work and diminishing restrictions on extant agencies; ii) introducing a maximum number and a total length of successive fixed term contracts; iii) clarifying the legal status of temporary agency workers (Bekker & Mailand, 2018).

The shift to flexicurity entailed a remarkable growth in the self-employment share on total employment (Arum & Müller, 2004; OECD, 2000). According to OECD data, about 17% of Dutch workers are currently self-employed – they were circa 12% in 1980. The most spectacular increase has occurred in solo self-employment, which went from about 5% in the early 1980s to about 13% of the total employment population in 2020 (Figure 38) (Kösters & Souren, 2014). Self-employment with employees has underwent a comparatively smaller increase (Jansen, 2020). The roots of such a growth lie in the institutional overhaul described above, which included a number of reforms aimed at making self-employment more attractive along with measures easing the hiring of firing of temporary freelancers (van Es & van Vuuren, 2011).

Source: OECD Statistics

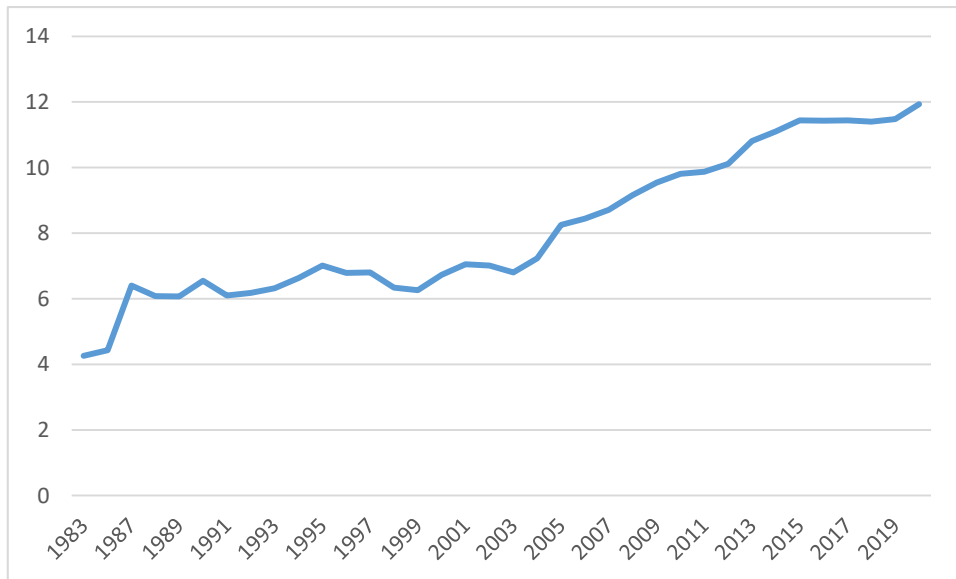


Figure 38 Self-employed without employees as a % total employment (1983-2020)

The increase in solo self-employment has become a salient political issue over the last years, especially in relation to the relatively limited level of protection enjoyed by these workers (Dekker, 2010; Eurofound, 2017; Jansen, 2017). In the originally Bismarckian Dutch welfare state, being self-employed entails that a person is excluded from most social insurance schemes in place (Buschoff & Schmidt, 2009; Dekker, 2010; Jansen, 2020; Kalleberg, 2000; Muehlberger, 2007). Because his/her hiring contract does not amount to an employment contract, the person is not covered by labour law. As a consequence, self-employed have no access to employment protection, no access to unemployment, sickness or disability benefits as well as to minimum wage (OECD, 2018). Self-employed thus count on social assistance as their safety net. Of course, they can choose to voluntarily be insured against unemployment, disability and sickness by opting for private insurance (Berkhout & Euwals, 2016). The fact that self-employed pay much lower taxes and do not pay any social insurance contributions has led many to warn against the financial viability of the Dutch labour market structure.

Indeed, the relative low cost of self-employment has proven to be an incentive for employers to hire independent workers instead of (temporary) employees (Kösters & Smits, 2022). This has raised problems of misclassification of workers and bogus self-employment. It is in this context that the debate on the contract classification of platform workers has grown relevant over the last decade – notably concentrating on big international platforms adopting an independent-contractor-based business model in which workers are partners and not employees. In a context where solo

self-employed is very high and not integrated in the social insurance schemes and fiscal incentives to become/hire a (solo) self-employed involuntarily favour bogus self-employment, the emergence of platforms that vocally promise to be ‘the future of work’ has constituted a wake-up call further igniting preoccupations with the structure of the Dutch labour market. Several actors have sought to push their positions forward. The next section reconstructs such a debate, highlighting the main actors and coalitions at play as well as their proposals.

8.1.2 Employees or Contractors? Contesting the Contract Classification of Platform Workers in the Netherlands

As illustrated, platform work developed in a context of unbalanced protection between employment and self-employment and of widely spread solo self-employment. Thus far, data on the actual diffusion of platform work remains scattered and markedly dependent on definitions. According to the COLLEEM Survey, 10.4% of active Internet users is a platform worker in the Netherlands. If one takes as a reference the total adult population, the percentage slightly decreases to 9.7% (Pesole et al., 2018). Urzì Brancati and colleagues (Urzì Brancati et al., 2019) sought to further specify this data by providing figures on frequency and income in relation to platform work. Because COLLEEM estimates tend to overestimate the proportion of high frequency Internet users, Urzì Brancati and colleagues (2019) adjusted them with the aim to calculate the percentage of individuals that have worked for platform at least monthly. The first figure turns out to be not significantly lower (10.2%) than COLLEEM’s, while the second decreases to 9%. Moreover, these authors combine information on frequency, time allocated, and income in order “to show the proportion of respondents who provide services via DLPs sporadically, as a secondary activity, and as a main job” (Urzì Brancati et al., 2019, p. 8). Not surprisingly, the proportion of people working in platforms as a secondary is higher than the proportion of people doing it as a first job hence primary source of income. The Netherlands, however, shows the second largest proportion (2.8%) of people working in a platform as first job activity after the UK.

While platform work measurement remains something of an ongoing endeavour, available figures allow us to conclude that the diffusion of platforms adopting an independent-contractor-based business model – and for this reason posing challenges over the contract classification of workers – is relatively limited. Nonetheless, the latter question has gained political prominence over the last decade. Differently from the other three countries under scrutiny in this dissertation, no piece of

legislation was adopted explicitly tackling the question of platform workers' contract classification, nor were collective agreements signed. Contestation, however, has been vibrant and enduring. Based on 13 semi-structured elite interviews complemented with secondary academic and policy literature, this section delves into the role of the government and social partners as well as platforms in this contestation.

Cabinet Rutte II and III: Between Digital Enthusiasm and Clarification of ZZP³²⁰'s Status

Two governments have dealt with the rise of platforms and platform work in the Netherlands so far. The so-called 'Rutte II' cabinet (2012-2017) was a grand coalition government between the conservative-liberal People's party for Freedom and Democracy (VVD) and the Labour Party (PvdA). Mark Rutte of the VVD served as a Prime Minister and Lodewijk Asscher of PvdA acted as Deputy Prime Minister and Minister of Social Affairs and Employment. The so-called 'Rutte III' cabinet (2017-2022) rested on a coalition between the VVD, Christian Democratic Appeal (CDA), Democrats 66 (D66) and Christian Union (CU). Since January 2021, the government was demissionary following a scandal about childcare allowances. Mark Rutte of the VVD served as a Prime Minister and Wouter Koolmees from D66 served as a Minister of Social Affairs and Employment.

The two governments' posture on platform work is to be understood against two important context elements. First, both Rutte II and III have shown a resolute political will to strengthen the position of the Netherlands as a digital frontrunner.³²¹ Second, both Rutte II and III have committed to clarifying the contract classification of solo self-employed (ZZPs).

A number of reports on digitalisation show the digital enthusiasm of Rutte II and III cabinets. The 'Digital agenda for the Netherlands' was published by the Ministry of Economic Affairs in 2016 (Government of the Netherlands, 2016). With the aim to stimulate "further digitization of the Dutch economy", it put forward a number of action lines in education, knowledge and innovation; open and high-speed infrastructure; security and trust; role of entrepreneurs, and digitization of specific sectors.

³²⁰ Dutch acronym to indicate 'solo self-employed'.

³²¹ According to the Digital Economy and Society Index (DESI) 2021, the Netherlands is the fourth most digitalised country in the EU27.

The first ‘Dutch digitalisation strategy: getting the Netherlands ready for the digital future’³²² was adopted in 2018 (Government of the Netherlands, 2018). ‘The strategy’ followed a two-pronged approach. On the one hand, it aimed at reinforcing the action of the government in key sectors for digitalisation such as mobility, energy and food supply, and e-government³²³. On the other hand, it set out to strengthen the socioeconomic foundations necessary to benefit from digitalisation. Changes in work, new skills and lifelong learning were recognized as one of such foundations. Among these transformations, the government recognized the need for “clarity about working via platforms”, especially with the aim to determine whether such workers are employees or independent contractors. “This lack of clarity”, the document goes, “affects the social rights and entitlements of platform workers, the obligations of platforms towards workers and the enforcement of taxation” (Government of the Netherlands, 2018, p. 32). This latter prong of ‘the strategy’ introduces the other main context element against which one should understand the action of the government on platform work, namely the political commitment to tame flexibility and especially bogus self-employment in the Dutch economy.

As hinted at above, fiscal incentives to become self-employed have favoured the growth of independent work – especially of solo self-employment. This has augmented the number of bogus self-employed, namely people working as independent contractors but having no or little autonomy de facto. Two laws to tackle such a trend were adopted by Rutte II. The law on Sham Employment Construction (‘Wet aanpak schijnconstructies’) was adopted in 2015, and the ‘Employment Relationships Deregulation Act’ (‘Wet deregulerend beoordelen arbeidsrelaties - wet DBA’) was introduced in 2016 to “resume public oversight over contracts and classification”.³²⁴

The focus on solo self-employment went on under ‘Rutte III’ Cabinet. In the ‘Coalition agreement’ (2017-2022) the government elaborated on the need to make sure that self-employed are actually independent and not working in a hidden employment relationship.³²⁵ Politically, the ‘Coalition agreement’ resulted from a compromise between conservative-liberal parties which stressed the importance of entrepreneurship to Dutch economic success and social democratic parties which highlighted how the level of fake self-employment had become unsustainable.³²⁶

³²² <https://www.nederlanddigitaal.nl/english/dutch-digitalisation-strategy>

³²³ The report entitled ‘Digital government agenda’ (2018) is devoted to this theme.

³²⁴ NL-GOV1

³²⁵ Ibid.

³²⁶ Ibid.

The ‘Agreement’ started from the premise that the ‘Employment Relationships Deregulation Act’ (‘DBA’) adopted in 2016 with the goal of clarifying the position of self-employed in the market had not met such an expectation and needed therefore to be replaced (Government of the Netherlands, 2017). To this purpose, the government committed to five provisions. First, in case of a low-rate long-duration contract, solo self-employed will be considered to be in an employment relationship. Second, self-employed in the high-end of the labour market will be allowed to opt out of salary taxes and employee insurance schemes in case they work on a contract entailing a high hourly wage and short-term duration or a high hourly wage combined paid for non-regular business activities. Third, a ‘client statement’ will be introduced to enable organisations to verify the status of self-employed whose price surpasses the ‘low’ rate. Such a statement “will provide organisations that engage self-employed workers the assurance that they will not be liable for salaries tax and employee insurance contributions” (Government of the Netherlands, 2017, p. 29). Fourth, a consultation with the social partners and other stakeholders will explore the possibility to include self-employment into the Civil code through the introduction of a specific contract for self-employed professionals. This would help clarifying the status of self-employed individuals. Fifth, modalities to augment the number of self-employed covered by the incapacity insurance will be explored.

It is in this context that the Ministry for Employment and Social Affairs (SZW) started to be concerned with developments in platform work. Evidence suggests that SZW did not start working on platforms on its own initiative, but it was rather “forced” to do so by the mounting political attention around the theme. As a Ministry official put it:

“I don’t think as a ministry we really deliberately took this central role. It was something in which we were pushed, I would say, because those situations of precarious platform work were mentioned in the media and there were questions from by members of Parliament. So we just had to work on it.”³²⁷

Following mounting criticism started around the contract classification of on-location platform workers working as freelancers but having very limited control over their working activity, the Ministry stepped in the debate. In 2017, the Ministry commissioned a study to SEO Economic Research with the aim of better understanding working conditions in platform work (SEO Economic Research, 2018). The study concluded that “the question whether these platforms are to be regarded as employers cannot be answered in general terms. The reason is that the question

³²⁷ NL-GOV3

whether a person is an employee or a contractor depends on the facts and circumstances of the individual case taken together.” In response to the SEO study, the Ministry took its first public stance on the matter.

“That was the first time that we as a government, in our response to this study, took an official stance. This stance basically was: it’s nice, it’s there, it’s an innovation, obviously as long as people stick to the rules. But it’s up to judges, to individual cases...to decide whether people are actually sticking to the rule or not.”³²⁸

The first reaction of the SZW was thus to leave decisions on the work qualification of platform workers in courts’ hands. Starting in 2018, the question of platform work entered SZW agenda as part of the ongoing and broader work on self-employment.

Provisions contained in the aforementioned ‘Coalition agreement’ were taken up in a number of ‘progress letters’ sent to the Parliament with the aim of providing updates on policy action on self-employment. The first letter³²⁹ was sent on June 2018 reporting on the ongoing activities to implement the provisions contained in the ‘Coalition agreement’. Most notably, the letter elaborated on i) measures to ensure that (bogus) self-employed in the low-end of the labour market can be more adequately protected, such as “the low-rate employment contract” ii) measures to guarantee that high-rate self-employed can opt-out from employment. Furthermore, the letter hypothesized to tackle the issue of bogus self-employment in platform work via the application of the Placement of Personnel by Intermediaries Act (WAADI).³³⁰ Also, in a paragraph entitled ‘labour market of the future’, the government stressed “that globalisation and new technology are changing the labour market. The variety of contract forms is increasing; the share of self-employed workers is growing as well as the share of employment relationships in which intermediaries play a role”.³³¹ The emergence of platform work clearly mirrors this trend, which “raises the question of what developments can be expected in the labour market and in employment relationships, and whether this should have an impact on the way risks are shared and protection is organized”.³³² To better understand such challenges, the government asked Mr. Hans Borstlapp to set up an independent commission tasked with investigating major problems with the current labour market

³²⁸ NL-GOV1

³²⁹ Parliamentary document 31 311, no. 207.

³³⁰ The study by SEO Economic Research (2018) had referred to Waadi as a possible policy option for regulating intermediation via digital platforms.

³³¹ Parliamentary document 31 311, no. 207.

³³² Ibid.

system and identifying viable policy solutions. One of the Ministry of Employment's officials responsible for the future of work well expands on the reasons why an independent commission was needed. To put it with the interviewee:

“I think the main political driver to ask an independent commission for an analysis and recommendations on developments the labour markets and especially the future of work was that the future of work was often discussed [...]; at the same time [...] the legislative changes in the labour markets in 2013 and 2017...were quite huge changes from the perspective of the ministry...”³³³

The interviewee refers to the reforms that had sought to ameliorate the conditions of solo self-employed by going “towards a more contract neutral approach”.³³⁴ Despite such reforms, however, there was

“Still the sense that those laws did not really change the fundamental structures of the labour market. So there was a broad consensus that the labour market required a more fundamental approach and update. But it was very difficult to get there, especially because there was no political consensus about which direction.”³³⁵

In other words, while the future of work had become a very much debated topic and policy changes in the labour market had been implemented, the Ministry came to realize that a more fundamental analysis of the issues at stake was in order.

Thus, the Commission was expected to bring some clarity on necessary labour market reforms also to overcome political divisions on the topic. The ‘Borstlapp Commission on the future of work’ published its report in January 2020 suggesting an overall re-direction of the Dutch labour market towards less generalized flexibility. In particular, the report highlighted how triangular relationships regulated via the so-called the Placement of Personnel by Intermediaries Act (WAADI) are an important value for the Dutch economy, yet they have also increasingly been used to augment external flexibility and save on labour costs. Because work done by independent contractors in the platform economy is a case of this trend, which leads to sham self-employment rather than to actual triangular relationships, WAADI legislation should not be considered appropriate for tackling regulatory challenges of on-location platform work. Experts of the Committee invited the government to work on clarifying the qualification of employment relationships. In cases where authority and control feature prominently in the relationship, the Commission suggests adopting a

³³³ NL-GOV3

³³⁴ Ibid.

³³⁵ Ibid.

legal presumption of employment through which a platform considered an employer until proven otherwise. In June 2020, the government sent another ‘progress letter’³³⁶ to report to the Parliament its work on socioeconomic situation of self-employed. In this letter, the government acknowledged the work of the Committee as well as of ‘The Netherlands Scientific Council for Government Policy (WRR)’³³⁷ and re-expressed its firm willingness to strengthen the contract classification of platform workers. Despite criticisms raised by the Committee, the government stressed how including “certain forms of platform work” in the regulation of triangular relationships could be an option.

In its response to the Borstlapp report, however, the government noted how the WAADI option turned out in fact not to be suitable due to the marked heterogeneity within the platform work ecosystem. In particular, law on triangular relationships would not solve the question of vulnerable independent contractors working via platforms. Thus, a solution in the employment relationship realm seems to be more indicated. As the response letter goes, “it therefore seems worth examining the possibilities of including a legal presumption for platform workers in Book 7 of the Civil Code. It is thus possible to provide that a worker who is linked to orders or clients via a digital platform [...] is presumed to perform that work on the basis of an employment contract. Such a rebuttable presumption of law obviously requires further elaboration and precise preparation, but is expected to help platform workers to benefit more easily from the protection they enjoy.” (Government of the Netherlands, 2020, p. 3).

Social Partners and the Contract Classification of Platform Workers

The rise of platform work in the context of heated discussions on how to re-calibrate the Dutch labour market amounted to a considerable challenge for representatives of organized interests. Because the majority of platform workers are not standard employees and platforms are not traditional firms, Dutch social partners have had a hard time seeking to represent their interests. Alongside traditional actors such as trade unions (Federation of Dutch Trade Unions – FNV; Trade Unions Federation for Professionals – VCP) and employer organizations (General Association of Employers of the Netherlands – AWWN; Confederation of the Netherlands Industry and

³³⁶ Parliamentary documents 31 311, no. 219.

³³⁷ The reference is to the WRR report “Het Betere Werk: De nieuwe maatschappelijke opdra”.

Employers - VNO-NCW) novel actors directly representing platforms and platform workers emerged, discussed and often engaged in strict institutional relationships with traditional ones.

Trade Unions and the Contract Classification of Platform Workers: The Cases of FNV and VCP

Trade unions have been very active in trying to represent platform workers' – especially food-delivery couriers and drivers – interests. The most active union has been the FNV which is a left-wing trade union strongly related to the Labour party.

A first element emerging from the interviews with FNV representatives is how FNV has understood the question of contract classification of platform workers as part of a broader problem in the Netherlands concerning the magnitude of vulnerable and bogus self-employment. According to an FNV policy officer specialized in employment conditions:

“We [in the Netherlands] are approaching a point of no return as for the number of precarious workers; we have to do something about it, which is exactly what we have been saying for the last 10 years or so.”³³⁸

The campaign leader on platform work for FNV echoes such concerns and highlights how:

“We [FNV] constantly set attention to problems of platform workers, and we say that what we see with platform workers and freelance model...that's what going to happen in 10-year time everywhere...so is not specific to platforms, it is a problem in society...and we should care because it costs the workers a lot of payment, but also the work safety, work motivation, job quality; it also costs as a society a lot of taxes so if we go further on this road we lose our system...”³³⁹

As pointed out in section 8.1.1, the very high level of self-employment is one of the drivers of precarity as it fosters bogus self-employment. FNV fully shares concerns with widespread sham self-employment. As one of the interviewees notes:

“We [in the Netherlands] have a lot of self-employed, a big chunk of that is bogus self-employment. Due to legal system it is difficult to kind of determine whether someone is employee or self-employed.”³⁴⁰

³³⁸ NL-TU1

³³⁹ NL-TU2

³⁴⁰ NL-TU1

FNV first started to be interested in platform work in 2016, when the government asked the Socio-Economic Council (SER) to work on a study³⁴¹ investigating opportunities and challenges of digitalisation for the Dutch society. Among various topics, the SER report ‘Humans and technology: working together’ also discussed the emergence of digital platforms. As a member of the Commission that developed such a report, one of the FNV representatives interviewed³⁴² stresses how at that time platforms were mostly seen as innovators representing the new paradigm of the ‘sharing economy’, so there was no real problematisation of the question of contract classification of platform workers. However, the debate shifted within one year to include a focus on negative sides of platform work as well.³⁴³ FNV emerges as a major protagonist in this turn.

The position of FNV on the contract classification has been that platform workers are employees – especially due to the low degree of control they have over working activity³⁴⁴ - and as such should have access to employment and social protection. FNV notes how the current regulatory framework on work classification would be enough to distinguish between true and false self-employment, yet there is a lack of political will to apply the rules. In the words of a FNV representative:

“In the NL the government isn’t upholding the rules that already exist...concerning freelancing; so it’s really easy to be freelancers...really easy as an employer to make your employees freelancer because the government isn’t doing anything right now.”³⁴⁵

Linking the political stalemate with the classification question, the interviewee explains how:

“We think of platform workers - workers doing jobs in the physical world for a digital company - as any other workers, same rights as any other workers...same right to protection; and we think that Dutch law right now is perfectly fitting for platform work...so we don’t think that there is a separate regulation needed; the only thing needed is better upholding of the existing rules and regulations.”³⁴⁶

As in France and Denmark, there were also some discussions in the Netherlands about the possibility to create a third status – between employment and self-employment – to regulate platform work. The position of FNV in this regard is clear:

³⁴¹ <https://www.ser.nl/nl/publicaties/mens-en-technologie>

³⁴² NL-TU1

³⁴³ Ibid.

³⁴⁴ NL-TU1, TU2

³⁴⁵ NL-TU2

³⁴⁶ Ibid.

“there are some voices saying: let’s create a third category. Our position is that it is not necessary [...] you can apply the current system to platform work. It is not new. It’s an app. Of course, how the work is divided is new. But the nature of the work it’s still either you are a self-employed or you are an employee.”³⁴⁷

Over the years, FNV has become increasingly closer to platform workers. This has happened especially with Deliveroo food-delivery couriers, with which FNV has built a structured relationship culminated in the creation of FNV riders union. FNV has been especially active in supporting workers willing to sue platforms for misclassification reasons. In a July 2018 ruling,³⁴⁸ the Amsterdam court established that a Deliveroo rider was a self-employed based on the contract he had signed with the company. Nonetheless, the Court acknowledged the high degree of contestation of such contracts, calling upon the Parliament to take action and legislate on the matter. In January 2019, the same court, again filled by the FNV, issued two important verdicts that take an opposite direction. One classified Deliveroo riders as employees³⁴⁹; the second³⁵⁰ established that the collective agreement on ‘Road transport and haulage over the road’ should apply to Deliveroo riders. Following these cases, Deliveroo appealed. In February 2021, nonetheless, the Amsterdam Court of Appeal confirmed that Deliveroo riders are employees.³⁵¹ Furthermore, FNV took Uber to court in June 2021 arguing that the ride-hailing was misclassifying workers.³⁵² In September 2021, Amsterdam tribunal ruled³⁵³ that the character of the relationship between Uber and its drivers entailed dependency hence employment.³⁵⁴

Based on such rulings, FNV has sought to make a wider case according which platform work especially in the ride-hailing and food-delivery sector always entails subordination. Two policy documents are relevant in this regard. In the ‘White paper on the damage done by uber and the need to intervene’ (FNV, 2020b), FNV states that “The app and Uber itself behave like any other employer: namely, by giving assignments, by distributing work, and by assessing, hiring, and dismissing people”. Likewise, in the document entitled ‘Riders deserve better’ (FNV, 2020a), FNV highlights the subordination and poor working conditions of food-delivery couriers in the Netherlands. To counter this situation, FNV calls on the government to: first, enforce the rules

³⁴⁷ NL-TU1

³⁴⁸ CV EXPL 18-2673

³⁴⁹ Court of Amsterdam January 15, 2019, ECLI:NL:RBAMS:2019:198.

³⁵⁰ Court of Amsterdam January 15, 2019, ECLI:NL:RBAMS:2019:210.

³⁵¹ 200.261.051/01

³⁵² <https://www.dutchnews.nl/news/2021/06/dutch-trade-union-takes-uber-to-court-over-freelance-drivers/>

³⁵³ ECLI:NL:RBAMS:2021:5029

³⁵⁴ <https://www.dutchnews.nl/news/2021/09/uber-drivers-are-employees-not-freelancers-says-amsterdam-court/>

contained in the Employment Relationships Deregulation Act (DBA) on bogus self-employment subject to lifting the moratorium on such a legislation; second, introduce legislation foreseeing a rebuttable presumption of employment mechanism with a reversed burden of proof.

The ‘Trade Union Federation for Professionals’ (Vakcentrale voor Professionals; VCP) also took active part in the discussion. VCP shared the concerns of FNV with regard to imbalances in the Dutch labour market. The VCP representative interviewed well explains the problematic contextual elements:

“In the NL we have general problem that goes beyond the platforms: it is our overstimulation to become self-employed. [This] is partly because the labour cost are relatively high because of social security systems...but then also...probably 20 years ago by now they started to introduce fiscal stimulation to self-employment and here you get some tax discount to become to make it easier for you...so two things: one when you are in an employment contract the price is high, and the price of self-employment become lower and lower and lower.”³⁵⁵

VCP also seems to share the position of FNV regarding possible solutions to such imbalances. The interviewee stresses how “the government is not maintaining the regulation we have...” because “they have been very afraid to maintain the laws because they keep getting to hear like these laws and regulation they are not helping innovation”.³⁵⁶ The regulation the interviewee refers to is the DBA Act, aimed at clarifying the boundaries between employees and self-employed in the labour market.³⁵⁷

That said, however, VCP presents a more positive vision of the platform economy than FNV especially insofar as it recognizes more thoroughly the innovation potential of such a market segment. Despite being critical towards the independent-contractor based business model prevalent in on-location platform work, the VCP representative acknowledged how Uber positively contributed to challenge the status quo in the Dutch taxi market which left no room for innovation.

³⁵⁵ NL-TU3

³⁵⁶ Ibid.

³⁵⁷ Ibid.

Employer Organizations and the Contract Classification of Platform Workers: The Case of AWWN and VNO-NCW

In the highly institutionalized Dutch system, employers' organizations have been active in the debate as well. Generally, employers have shown appreciation for the innovative character of the platform economy.³⁵⁸ At the same time, they have become increasingly critical of the imbalances in the Dutch labour market. In diagnostic terms, employers and unions agree on the fact that flexibility has been taken too far. Disagreements, nonetheless, are marked on the cure to be adopted.

AWVN and the 'Platform Future of Work'

As the main business association, the General Employers' Association of the Netherlands (AWVN) offers a good indication of how the business community thinks and act in future of work terms. The interview with AWWN representative focused on the creation of the 'Platform Future of Work' (PFF). PFF was funded within AWWN in 2019 as a group specifically dealing with discussions on labour market. PFF's main goal was to steer reflection on how to change the Dutch labour market so that major imbalances would decrease without hindering innovation. The interviewee, one the PFF founders, notes that:

“When we started the platform our take on what was happening in the discussion was that there was a lot of polarization between employees and employers...the general analysis was that something was wrong with the Dutch labour market. Flexibility had gone up a lot and some people on the labour markets were victims of these flexibilisation policies.... that analysis was shared between employers and employees and other stakeholders on the labour market. But the way forward we very much disagreed about that. And the general polarization was that employees wanted to the labour unions wanted to stick to the system that they knew system that is in some aspects decades old. And the employers organizations embraced flexibilisation and embraced new ways of working, and were against stricter regulations so that it's a bit stereotypical...”³⁵⁹

The Platform set out to overcome what the interviewee describes as polarization: to show, in other words, “politicians, labour market stakeholders, that there was a way out...a way in between”³⁶⁰. In PFF's understanding, both extremes of the debate were true but their contrast was no longer fruitful in terms of policy ideas. On the one hand:

³⁵⁸ NL-EO1, 3

³⁵⁹ NL-EO2

³⁶⁰ Ibid.

“ZZPs do need more protection than they currently have. And yes, the labour unions have a point in saying that they undermine some of the social security arrangements we have in the Netherlands. That’s true. But on the other hand, this is a way of working that people really embrace, especially highly educated people who have interesting lives besides their work, they want to combine work with other responsibilities with other interests, and they want to have autonomy over their work. All these kinds of things that describe a modern worker that fits this independent way of working very well. And you have to admit that this is also happening now. And you can’t just be against it. So both realities are true. And we really wanted to integrate them.”³⁶¹

The question then becomes: What does an in-between way mean for PFF? The report ‘The Upgrading of Work’ published by PFF provides an answer. According to PFF, the Netherlands has to re-think what they call “the value of work”. The value of work, in PFF terms, revolves around three questions that are currently problematic in the Netherlands. First, despite relatively low unemployment rates, there are still too many people “standing next to the labour market trying to get hold of it but not succeeding”. This calls for easing the access to the labour market. The second point has to do with the conditions through which people can more easily be capable of earning income. To develop such conditions, the overall quality of work should be enhanced. The third issue is well summarized by interviewee’s words: “How do we make a sort of backup system for people when they lose their job that is sustainable? And not only being unemployed, but also losing capabilities, losing knowledge, not being able to learn fast enough to have value on the labour market.”

Posing a rhetorical question and reflecting on its policy implications, the interviewee says:

“If you ask me, what is the future of work? What do you strive for? Then it’s this! And what do we want to leave behind? Well, the main thing is that and I already mentioned this... the labour market in the Netherlands is very much organized around the contract around the agreement that you have with your employer or with the organization where you work. And we ended up in a situation where people with a permanent contract have everything [...] while flexible contracts have a lot less protection, less opportunities, more chance of getting poor, losing their jobs, heavier work, less pensions, and etc.”³⁶²

The strict relationship between the employment contract and employment protection is thus identified as a main obstacle to the realization of the vision of the future described above. As the interviewee clearly states:

³⁶¹ NL-EO2

³⁶² Ibid.

“What we want to leave behind is a system that divides on the basis of contract, we really want a system that is supportive for everyone...regardless of what position you have in the labour market, this is what we really are striving for with our platform.”³⁶³

On the question of platform work, which is expected to be an important component of the future of work, the interviewee notes how certain ways of organizing work are not sustainable in the Netherlands because they imply not respecting the system of guarantees which is in place. At the same, PFF recognizes the importance of platform work and seeks to develop a public reflection on how to reconcile this form of work with the fundamental values enshrined in the system. In the words of the interviewee:

“How can we make our system more flexible for work that is organized on the spots on the day AND on the hour? How can we organize the work, but also abiding to the values that we have in the Netherlands. So that is the way forward: we have to find ways in which the values are still the same. But the system has to adapt to this new reality.”³⁶⁴

This position distances PFF from other actors such as FNV. On the one hand, PFF and FNV agree on the fact that workers

“should have a voice in the way their work is organized, there should be a level playing field, there should be some power against the power of companies, the power of the work, or the power of employees against the power of the company.”³⁶⁵

On the other hand,

“We [PFF] are not really hooked on the idea of the collective labour agreement as being the only solution. It could also be in another form, maybe even digital ways of engaging people; the traditional way of making our collective labour agreements by negotiating with representatives of both parties...those are quite traditional methods, which don’t really suit the platform or economy. So we don’t want to push on doing it that way. Because it’s it just it doesn’t fit. We focus on the goal. And the goal is that workers, whatever position they have, wherever in what segment of the economy, they work, doesn’t matter, they should have a voice they should have influence they should be able to make a collective feast.”³⁶⁶

From the interviewee, it emerges how ‘the Platform’ followed a two-level strategy to influence the discussions. The strategy consisted of both extensive media coverage and especially constant

³⁶³ NL-EO2

³⁶⁴ Ibid.

³⁶⁵ Ibid.

³⁶⁶ Ibid.

dialogue with policy makers as well as other social partners.³⁶⁷ As the contribution to the SER report demonstrates (see section on the SER below), PFF has become influential in the debate on the future of work and specifically on platform work in the Netherlands.

VNO-NCW: NL digital and The Platform Collective

Another major player involved in the discussion on the contract classification in the platform economy has been NL Digital. The latter is a trade association member of umbrella organization VNO-NCW representing about 600 companies especially in ICT. Given the growing importance of digital business, it has more recently started to represent digital platforms. The change in the name from Nederland ICT to NL Digital well exemplifies such a shift.³⁶⁸ A more tangible consequence of such an organizational re-orientation has been the setting up in early 2020 of the so-called ‘Platform Collective’ (hereinafter: the Collective) within the organization.

‘The Collective’ was created as a sub-group responsible for digital matters within NL Digital. A very diverse set of platforms is part of it ranging from Booking.com, Microsoft and Meta to Uber and Deliveroo. The creation of ‘the Collective’ responded to a double need. On the one hand, NL Digital aimed at attracting new members in the digital sector. On the other hand, digital companies in NL Digital needed a more specific lobbying support to try to influence policies. As a member of ‘the Collective’ highlights:

“When it comes to platform economy regulation...it’s such a grey area...So there’s so much to lobby on... So we actually, I think it was a combination of them, explaining to us that they really needed more lobbying power on the platform economy and the platform work they were doing. And on the other hand, we also saw it as an opportunity to attract new members that now weren’t really served by us. So that’s basically how it started.”³⁶⁹

Of course, the heterogeneity of platforms within ‘the Collective’ poses challenges in terms of interest representation. The debate on the contract classification of platform workers mostly concerns Deliveroo and Uber. In February 2021, the two platforms published a statement via ‘the Collective’ in which they clarified their position on regulation of work via platforms. Their argument revolves around the centrality of flexibility to the platform business model. Not only is

³⁶⁷ NL-EO2

³⁶⁸ <https://www.nldigital.nl/news/nederland-ict-wordt-nldigital/>

³⁶⁹ NL-EO1

flexibility important for platforms to operate, but also for workers to be able to reap the benefits of autonomy at work. Because workers are let free to organize their work, platforms cannot be qualified as employers. As a result, the only qualification to maintain such a flexibility is self-employment. Instead of sticking to the binary division between more protected employees and less protected self-employed, the two platforms suggest to adopt a contract neutral approach and “look for solutions where everyone who works has protection and security”. France is taken as an example of this path. The interviewee from ‘the Collective’ echoes the position of Uber and Deliveroo by underlining how:

“We think that is a very important thing that we need to realize that like we are in a new economy now. And we are all trying to hold on to old systems. But I do feel like years ago, it was like only if you work on contracts, you’re good and you’re safe. But I think now if you look at the newer generation, a lot of people like to have flexibility. So I think on one hand...I think we do need to look at being self-employed in a more positive way. And not like always only scary, and it only has downsides.”³⁷⁰

Such a perspective clearly emerges from the interview with Uber Netherlands as well. When asked about Uber conception of work, the interviewee stresses how:

“Drivers are independent and use the platforms: I think this is also the key to your question: at a global level we truly believe that people should have their own choice...if they want to be independent they should be allowed to be so and be completely flexible...work when you want how you want where you want...that’s very much the reason why most people came to the Uber app and started using it and continue to do so.”³⁷¹

Flexibility is thus indicated as a key to Uber attractiveness. Another central element are low entry barriers to work.

“I think that’s [flexibility] the first reason; one is also the access to work [...] as long as you meet the requirements you are able to [...] very easy way to start earning money, if you more distant to the labour market; so people not integrated in the country, don’t have a high education level, like is more difficult to find a job and easier to find discrimination, and the fact that there’s no job interview, no selection process...you just need the safety and legal requirements to start working.”³⁷²

Taken together, these elements have collided with the system of labour law in place in the Netherlands. In the beginning, Uber unilaterally tried to force the rules by insisting on the positive externalities of its disruptiveness. It then gradually became more aware of the need to build

³⁷⁰ NL-EO1

³⁷¹ NL-PLMAN1

³⁷² Ibid.

constructive dialogue with the parties involved in the Polder model. The creation of “the Collective” testifies the shift in the policy attitude of Uber (as well as Deliveroo).

However, Uber still asks for a change in the system such that flexibility and protection can go hand in hand. The interviewee notes how: “I don’t think the model is adapted to fit the labour situation”³⁷³. Elaborating on possible solutions, the interviewee stresses that:

“We actually would like labour law to adapt so that we can give more protection without it being a risk for us, but flexibility we have that model because we truly believe that’s what people really want.”³⁷⁴

The need to move to a more ‘contract neutral’ approach thus emerges again as a central request of platforms.

The SER Report: ‘How Does the Platform Economy Work?’

All the discussions among social partners as well as platforms and platform worker organizations converged in the report published by the Socio-Economic Council (SER) in October 2020 (SER, 2020). One of the fundamental institutions of the Dutch ‘Polder model’, the SER is a consultative body to the government on socioeconomic issues.³⁷⁵ It is composed by social partners as well as crown-appointed independent members.

The report was developed by an ad-hoc commission for platform work following a parliamentary request (SER, 2020). The Commission acknowledged the potential benefits of the platform economy both for workers, consumers and firms. To make sure such benefits do not come with harms for society, the Report points to four aspects – two of which are especially important to this work. First, the SER highlights how the employment relationship between workers and platforms is often unclear. While “most [...] platforms deploy workers as if they are zzp’ers, [...] it is questionable whether that is always correct”. Because the qualification of the employment relationship is crucial to determining the application of collective agreements and other rights, “the Council recommends that decisions on this matter be taken quickly, and that oversight by the Tax

³⁷³ NL-PLMAN1

³⁷⁴ Ibid.

³⁷⁵ The other social partner institution is the Labour Foundation. The latter does not include the government. It is a locus for social partners to discuss socioeconomic questions and lay the groundwork for social dialogue.

and Customs Administration and the Labour Inspectorate be stepped up rapidly”. Second, and relatedly, the SER notes how segments of the platform economy such as cleaning, driving and food-delivery fall short with regard to decent work as workers have limited access to social security and are often directed by algorithms.

8.1.3 Conclusion

To conclude, this chapter has shown how question of contract classification of platform workers emerged in the Netherlands as part of a wider concern with the level of solo self-employment that often turns into bogus self-employment. Both the government and social partners recognize such a trend as bringing systemic risks for the Dutch labour market. Divergences have arisen around the way to tackle this problem, and the contract classification of platform workers was a battlefield in which different solutions were confronted.

The government alternated platform enthusiasm with attempts to clarify the status of ZZPs to make the labour market of the future more sustainable. The discussion about the introduction of a presumption of employment as well as the request to the Borstlapp Commission to draft a report on the future of work reflected such a political will. The report was widely influential in suggesting that the Dutch labour market needs re-calibration. Unions were generally in favour of classifying on-location platform workers as employees, whereas platforms – backed by employers – stood for a ‘contract neutral’ approach. Food-delivery couriers created independent organizations which started as separated from unions and then came closer to them – e.g. the creation of FNV Rider Union.

The second part of this chapter (8.2) analyses the regulatory process described above in light of the theoretical framework developed in Chapter 3. It does so by identifying institutional work objectives and practices and digs into their drivers i.e. their learning foundations.

8.2 The Learning Foundations of Institutional Work in the Netherlands

8.2.1 What Did Actors Do? Unveiling Institutional Work Objectives and Practices

Part 8.1 has shown how multiple actors were involved in the debate on platform workers' contract classification in the Netherlands. As detailed in Chapter 2 and 3, actors sought to shape the rules linking the protection of platform workers with their contract classification. To do so, they put in place a number of institutional work practices (Lawrence & Suddaby, 2006). These practices have three alternative goals, namely 'challenging', 'sheltering' and 'rising awareness' on rules (see Chapter 3). Actors who perform challenging practices want to change the rules linking contract classification and protection in such a way that independent platform workers can be protected – to varying extents - even without being classified employees. Actors who perform sheltering practices want to keep the rules linking contract classification and protection, meaning that platform workers should be protected as employees *because* they are de facto dependent workers. Actors who undertake rising awareness practices seek to stimulate reflection.

The thematic analysis of the interviews shows how 'challenging' was the most prominent institutional work objective in the Netherlands. In general terms, this means that the majority of actors interviewed were willing to change the strong link between employment contract and protection. To have a more meaningful understanding of institutional work objectives, however, we need to know how actor types were associated with different objectives. To this end, Figure 39 presents 'objectives' disaggregated by actor type as emerging from interview coding. Values are weighted frequencies of institutional work objectives in interviews belonging to the same actor category.

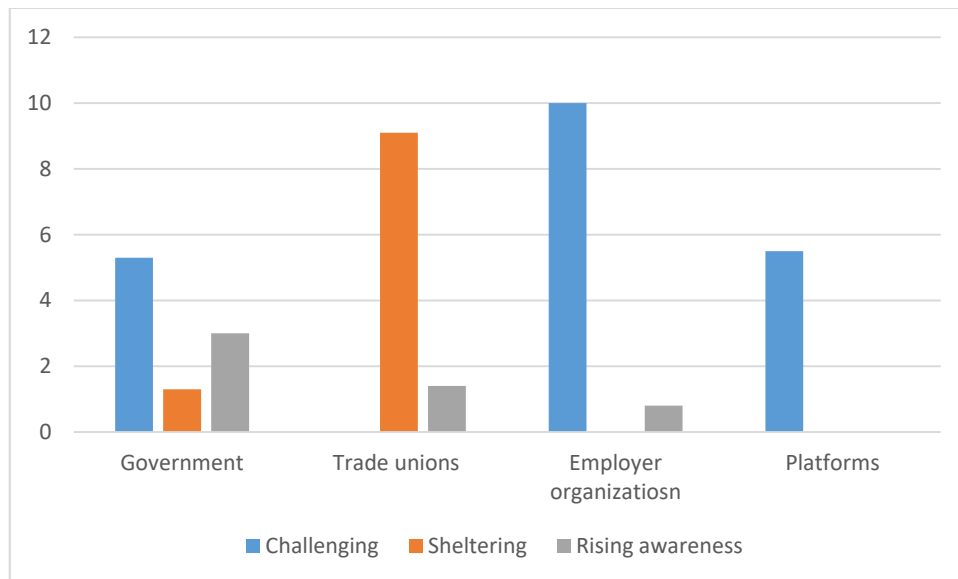


Figure 39 Institutional work objectives - weighted frequencies in interviews of the same actor category

Figure 39 shows a clear division between trade unions pursuing ‘sheltering’ goals and other actors pursuing ‘challenging’. This finding calls for an important specification. While Figure 39 reveals that the government, employers and platforms pursued the same institutional work objectives, this does not mean that they supported *exactly* the same thing. In fact, employers had a stronger and more cooperative relationship than the government had with platforms. The establishment of ‘Platform Future of Work’ (PFF) and ‘The Platform Collective’ (PC) within AWWN and VNO-NCW testifies such a close tie. The action of the government was more nuanced. On the one hand, governmental policy efforts generally went into the direction of curtailing the differences in access to employment and social protection between employees and self-employed. On the other hand, the proposal coming from the Ministry of Social Affairs to introduce a presumption of employment mechanism entailed ‘sheltering’ objectives. This well shows the extent to which preferences about how to tackle the question of contract classification were (are) not preset but under constant formation. All in all, platforms and employers’ challenging agendas were especially aligned while governmental objectives were somewhat more ambiguous.

Moreover, Figure 39 shows that government and social partners were involved in ‘rising awareness’ on the question of platform workers’ contract classification. The government had ‘rising awareness’ goals especially in the first phases of platform work development. The request to SEO Economic Research to work on a report to investigate such a novel form of work is an example of such goals.

The establishment of the independent Borstlapp Commission had ‘rising awareness’ goals as well. French governments too have pursued ‘rising awareness’ objectives, especially in the first phases of the debate on contract classification. Studies and reports of the ‘Inspection Générale du Travail’ (IGAS) and Conseil National du Numérique (CNNum) were central in this regard. Compared to Dutch case, however, the French governments never really considered to intervene on platform workers’ contract classification. In this sense, the importance of ‘rising awareness’ was more limited as the government had a clear regulatory stance since the beginning (see Chapter 5.1). We will further develop this point in Chapter 9. Social partners ‘rising awareness’ goals were mostly associated to their activity in the Socio-economic Council (SER), whose work has been crucial to improve the understanding of the question of contract classification and beyond. The Dutch social partnership seemed to have helped the ‘rising awareness’ function of social partners, which was more limited or non-existent in the other country cases.

To pursue such objectives, actors put in place a number of institutional work practices. Figure 40 shows the distribution of institutional work practices in percent across the interviews. ‘Generalizing’ happens when an actor justifies their position on platform work regulation by arguing that it is important for labour market and social protection tout court. ‘Reflecting’ occurs when an actor’s focus is on stimulating reflection on a certain topic with the aim of furthering knowledge. ‘Projecting’ takes place when an actor establishes a connection between future developments in platform work and current regulatory needs. ‘Creating’ refers to the active process through which an actor employs its institutional creativity to deal with challenges of platform work. ‘Organizing’ happens when an actor copes with the challenges of contract classification by pulling together individual interests. ‘Deterring’ occurs when an actor seeks to establish constraining rules that impede the development of opposed regulatory stances.

As Figure 40 shows, ‘reflecting’ and generalizing were the two most diffused practices. The fact that no statutory legislation or collective agreement has been adopted in the Netherlands, despite prolonged heated discussions, explains the weight of reflecting. At the same time, the importance of ‘generalizing’ is explained by the widespread tendency to understand the question of platform workers’ contract classification as a manifestation of bigger problems of the labour market.

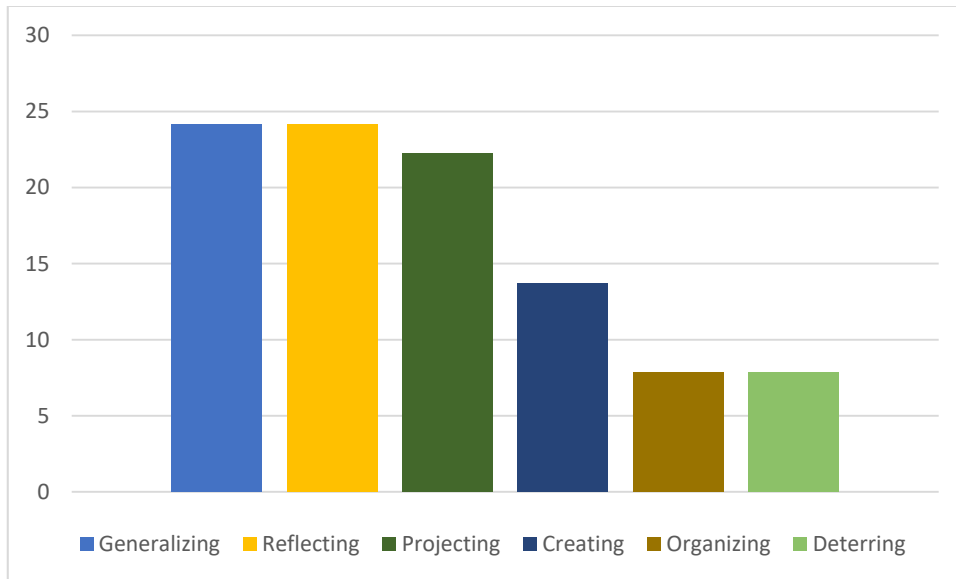


Figure 40 Institutional work practices across the interviews – distribution in percent

To have a more meaningful understanding of practices, we have to look at how practices are distributed across actor types: this will allow to understand who did what. Figure 41 connects institutional work practices and actor types by showing weighted frequency of institutional work practices in interviews belonging to the same actor category. Figure 41 illuminates several findings that deserve specification. In what follows, I explain how different practices were associated to various actor categories. I proceed practice by practice.

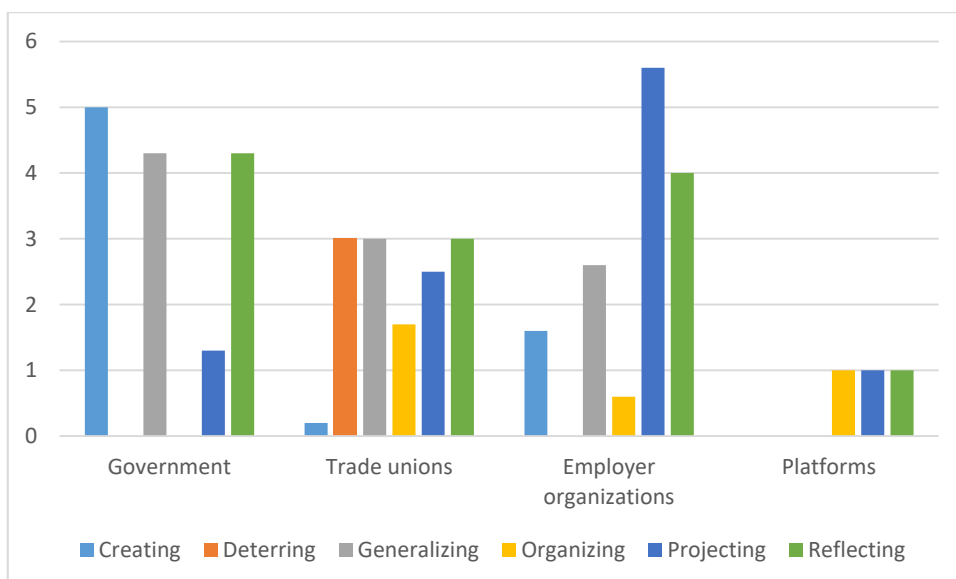


Figure 41 Institutional work practices - weighted frequencies in interviews of the same actor category

Creating

Figure 41 shows that ‘creating’ was especially frequent in relation to government’ institutional work. Despite no platform work statutory regulation was introduced, the government - more specifically the Ministry of Social Affairs– did show creativity in designing possible regulatory solutions to the whole ‘self-employment question’ and particularly to platform work. The minimum tariff for low-earning self-employed was a measure proposed to tackle inequalities between self-employed and employees that also regarded platform workers. The proposal to regulate platform work via WAADI legislation is a sign of creative agency that seeks to find policy solutions to novel problems, and so is the proposal to adopt a presumption of employment mechanism to regulate on-location platform work. The proposals are very different from each other, despite coming from the same institution – the Ministry of Employment and Social Affairs. This shows how no pre-determined path was there to be followed, which made institutional creativity necessary to respond to political demands on the matter.

Employer organizations also emerge as creative actors. The establishment of Platform Future of Work and the Platform Collective respectively within AAVN and NLDigital is here understood as a sign of institutional creativity.

Deterring

It emerges from Figure 41 that FNV engaged in – limited - ‘deterring’ practices. The outcome of legal action against Deliveroo and Uber described in Part 8.1 was crucial to strengthen its ‘sheltering’ goals supported by FNV. Figure X shows that this practice had a limited purview. Triangulation of interviews with secondary sources, however, reveals that ‘deterring’ was more diffused than interview data suggests. The European Commission Staff Working Document (European Commission, 2021) published during the social partners consultations preceding the adoption of the Proposal for a Directive on platform work indeed shows that 6 court cases involving the contract classification of platform workers were held in the Netherlands from July 2018 to February 2021. While it is hard to know the role of trade unions in each of these cases, it is reasonable to expect that they were significantly involved in them given the institutional and financial resources needed to sue platforms.

Generalizing

Figure 41 reveals how both governments and social partners engaged in substantial ‘generalizing’. Broadly put, this has to do with the fact that the question of contract classification in platform work is largely regarded as a manifestation of the extent to which contract classification is problematic in the labour market as a whole. As pointed out in Chapter 6.2, this way of ‘generalizing’ followed a similar logic than ‘generalizing’ practices in Italy, which connected the question of contract classification to regulatory challenges of platform work to already widespread precariousness in the labour market. This interestingly shows how practices can be remarkably alike in abstract terms despite very different contexts and problems. As Figure 41 shows, the government was especially active in drawing this link. Interviews with government officials, indeed, clearly frame the question of platform work within “the general classification question [...] which has been a huge problem in the Netherlands for a while”³⁷⁶. As detailed in Part 8.1, this question revolves around the contract classification of entrepreneurs without employees. In this regard, policy advisor to the Ministry of Social Affairs notes how the government

“is really struggling with how they have to be in the policies, because they're not really employees and are not really entrepreneurs as well. So they are somewhere in the middle.”³⁷⁷

The setting up of the Borstlapp Commission somewhat resulted from the need to comprehend the general picture. The Commission’s report in itself engaged in impactful ‘generalizing’ practices when it treated platform work as part of broader labour market challenges that the Netherlands has to cope with.³⁷⁸

Trade unions also acted on platform work by ‘generalizing’, as they conceived it as one part of a “societal problem that society has to fix”,³⁷⁹ i.e. the increasingly higher number of solo self-employed with vulnerable economic profiles in the labour markets. This creates problems of sustainability for the social security system and social dialogue architecture, as these individuals normally pay fewer taxes and are not represented by social partners. The tendency to ‘generalize’ in a similar manner was rather present especially among Italian and Danish unions (see Chapters 6.2 and 7.2). The former feared that the progressive growth of the platform business model would further weaken their social legitimacy and bargaining power, while the latter warned against the fact

³⁷⁶ NL-GOV1

³⁷⁷ NL-GOV2

³⁷⁸ NL-GOV3

³⁷⁹ NL-TU1

that a growing share of platform work in the labour market would dismantle the so-called Danish model. ‘Generalizing’ practices of employers were more prone to highlighting how the development of platform work today is functional to a tomorrow’s flourishing digital economy.

Organizing

‘Organizing’ practices were typical of social partners. There are two main examples of organizing that emerge from the interviews. On the workers side, the setting up of FNV Riders Union is an example of ‘organizing’ deriving from the encounter between a traditional union (FNV) and a novel actor (Deliveroo workers’ independent group). As such, this suggests that the Dutch social partnership system managed to incorporate the interests of on-location platform workers. This does not mean, however, that it incorporated platform work in general. By contrast, the majority of platform workers were not involved in any form of union organizing. The tendency for unions to represent platform workers is well established in the other three countries as well. The most similar example to FNV Riders Union was the CGT-affiliated ‘Syndicat des Coursiers à Vélo de la Gironde’ (SCVG), which resulted from an independent group of couriers and a CGT section (see Chapter 5.1).

On the employer side, platforms initially got together in ShareNL. This ‘organizing’ effort, however, did not lead to expected results and rapidly transformed into a consultancy company.³⁸⁰ A more consistent ‘organizing’ example was the creation of the Platform Collective created within VNO-NCW. Different from trade unions, employers’ organizing was aimed at pulling together digital platforms’ interests in general. The focus on the contract classification, thus, was a portion of a bigger policy programme – for instance, Meta and Microsoft are alongside Uber in the Platform Collective. This shows how Dutch employers have an all-encompassing interest in the digital economy. To my current knowledge, Danish, French and Italian employer organizations have a more limited policy agenda in this respect.

³⁸⁰ NL-EXP1

Projecting

Figure 41 shows how every actor type was involved in projecting – especially the social partners. The emergence of platform work, which threw further light on widespread bogus self-employment and promised to be tomorrow’s way of working, made actors mobilize to propose their favourite vision of the future.

The government has been working on self-employment for years. The focus has long been on reducing inequalities in the labour market because they had reached a harmful level for society. With the emergence of platform work, this ‘presentist’ approach turned into a future-oriented approach as problems became more easily projectable. The paragraph on ‘labour market of the future’ in the first progress letter well exemplifies this shift. The Ministry of Social Affairs writes:

“In addition to the ambitious agenda for what is needed now, the government also wants to address the debate on the challenges of the future. The government notes that globalisation and new technology are changing the labour market. The variety of contract forms is increasing; the share of self-employed workers is growing as well as the share of employment relationships in which intermediaries play a role. The study on platform work also shows that the labour market is facing new challenges, such as companies that organise their business in such a way that they can work with the self-employed rather than employees. All this raises the question of what developments can be expected in the labour market and in employment relationships, and whether this should have an impact on the way risks are shared and protection is organised (through labour law, social security and taxation).”³⁸¹

Thus, the growth of on-location platform work pushed the Ministry to work even more decisively on the question of self-employment to avoid that an undesired future would develop. While there was consensus on the need to act, no agreement on what a desirable future would look like was reached at the government level as well as between social partners (see Part 8.3). The lack of legislation and collective agreements specifically targeting the question of contract classification differentiates the Netherlands from Denmark, France and Italy.

Interviews suggest that social partners undertook extensive projecting as well. Both trade unions and employer organizations acted in the present by assuming that platforms will be at the core of the future of work. Figure 41 suggests that employer organizations were especially active in assuming that the future of work needs action in the here and now. Obviously, visions of the future

³⁸¹ Parliamentary paper 31 311, No 207.

diverged between unions and employers – and beyond. Part 8.3 will concentrate on *how* actors projected by identifying different ‘imagined futures of work’.

Reflecting

Lastly, Figure 41 finds that the government embarked upon an extensive effort to understand the various policy implications of the digital transformation. Policy ideas contained in the ‘Digital Agenda for the Netherlands’ as well as in the ‘Dutch Digitalisation Strategy’ mirrors such an effort and amounts to a ‘reflecting’ practice aimed at acquiring knowledge and developing policy routes to tackle the digital transformation. ‘Reflecting’ on how to deal with the digital transformation of work intersected ‘reflecting’ on how to solve imbalances between employees and self-employed in the Dutch labour market. The ‘progress letters’ on self-employment are an example of government’s ongoing reflection on labour market reforms. The question of contract classification of platform workers lied at the intersection of the two strands of reflection. As one interview suggests, the government started ‘reflecting’ on the matter in 2017 by commissioning an exploratory study on the matter to SEO Economic Research. The entire following policy action resulted from an ongoing ‘reflection’ on how to regulate the contract classification of platform workers. References to platform work in the ‘progress letters’ to the Parliament testify how such a reflection was integrated into the larger one on how to fix inequalities in the labour market. A decisive point for governmental reflection came with the publication of the ‘Borstlapp’ report. Interviews show that the government ‘needed’ the Report to have a more profound analysis of the problems at stake. On the other hand, interviews also show how the report stimulated further reflection. It can thus be argued that ‘reflecting’ both caused and followed the ‘Borstlapp’ report, which pursued ‘rising awareness’ goals.

Both trade unions and employers engaged in ‘reflecting’ to acquire a deeper comprehension of the question of contract classification. Reflecting was functional to sustain their respective institutional work objectives, that is sheltering and challenging. The two reports on Uber and Deliveroo published by FNV result from such a ‘reflecting’ action. The setting up of both the Platform Collective within NLDigital and the Platform Future of Work within AWWN are two tangible outcomes of employers’ reflecting practices. In the Dutch context, social partners also had the opportunity to reflect collectively in the SER. The report published by the SER Committee on platform work is the result of such a joint ‘reflecting’. Again, the Dutch social partnership seemed

to have fostered social partner ‘reflecting’, which in other countries was less extensive and/or had a more limited impact on the policy process.

Finally, data also suggests that the biggest – and most debated – platform in such a contestation, i.e. Uber, also went through a ‘reflecting’ phase. In this case, ‘reflecting’ revolved around their attitude towards national regulation. While in the beginning Uber promoted a disruptiveness-at-all costs approach, it came to realize how dysfunctional such an attitude and began working to be more transparent and open to dialogue with existing societal actors.³⁸² This emerged from interviews with Uber managers in France and Italy as well (see Chapters 5.1 and 6.1).

In conclusion, this section has showed institutional work objectives and practices that permeated the politics of platform workers’ contract classification in the Netherlands. The next section moves on to consider the drivers of such an institutional work, namely its learning foundations.

8.2.2 Why Did Actors Do It? The Learning Foundations of Institutional Work

After identifying institutional work objectives and practices, this section investigates their drivers. To do so, it unveils what I term the ‘learning foundations’ of institutional work as emerging from the thematic analysis of the interviews conducted on MAXQDA. Figure 42 illustrates learning mechanisms per actor type. Values are weighted frequencies of the three learning mechanisms in interviews belonging to the same actor category.

³⁸² NL-PLMAN1

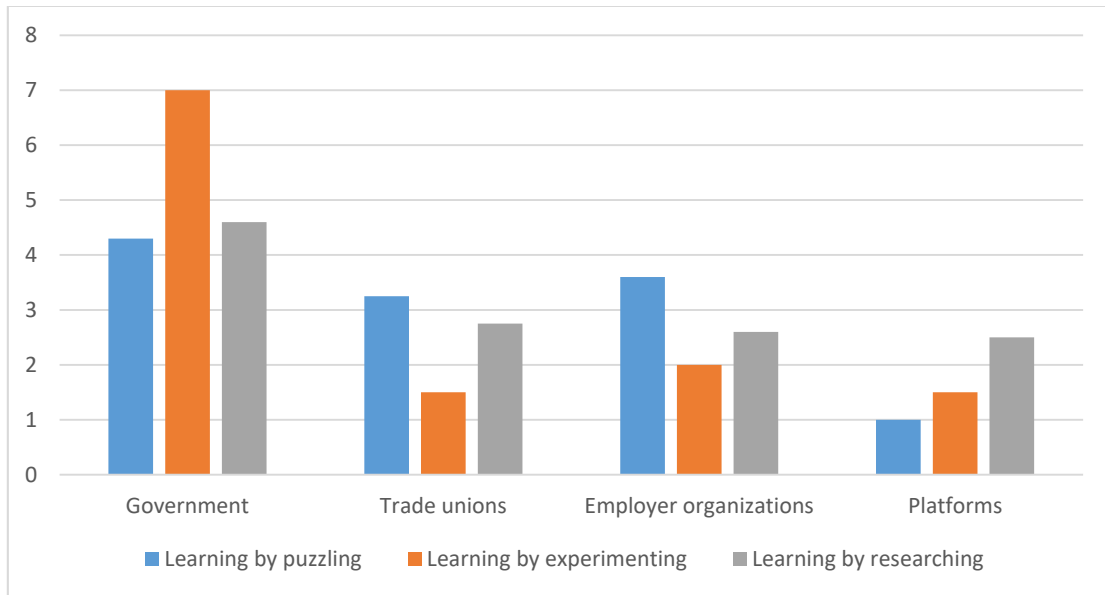


Figure 42 Learning mechanisms by actor type – weighted frequencies in interviews of same actor category

Figure 42 finds that: i) the action of the government was most prominently driven by learning by experimenting, ii) platforms went through significant knowledge accumulation, iii) social partners had a more balanced learning mix in which puzzling, but also knowledge accumulation, were especially important. In what follows, I delve into and further elaborate on these findings by presenting qualitative evidence on the learning foundations of each actor type’s institutional work.

The Learning Foundations of the Government’s Institutional Work

The interview with a Ministry of Employment’s official shows how there was limited knowledge about platform work in the beginning – let alone about platform work regulation. Asking SEO Economic Research to work on a report on platform work came as a first attempt to overcome uncertainty. This report allowed the Ministry – and beyond – to acquire knowledge on the issue at stake, amounting to a real-world example of how ‘learning by puzzling’ can generate ‘learning by researching’ mechanisms.

Of course, puzzling did not end after the first round of knowledge accumulation. By contrast, it re-started in full swing when the government had to work on concrete regulatory solutions for the question of contract classification of platform workers. As described, the first proposal made by the government was to apply WAADI legislation to platform work. By highlighting the tentative character of this choice, the interview with a Ministry of Employment’s official clearly reveals

'learning by experimenting dynamics'. 'Creating' practices previously described were thus largely driven by experimentation. In the words of the interviewees:

"I think the WAADI was mentioned not so deliberately in the letter. [...] It was more or less, how do you say? Yeah, that was very fast decision: Okay, platform work has to do with triangular relations. We have WAADI for that. So let's work it out in the next couple of months."³⁸³

Because such a regulatory path rapidly revealed its weaknesses, the WAADI option was soon set aside. This taught the Ministry what *not* to do. Experimentation, in other words, led to knowledge accumulation. To put it with the interviewee:

"As we were working on it [WAADI], it became immediately clear that it was not a good idea... because the WAADI has a broader scope than only people with employment contracts. So in a lot of cases the WAADI was already applicable on those platform workers but was not correctly enforced or could not be correctly enforced. In other words, the rights could not be effectuated by the workers... So that was the reason we came to think about some different solution."³⁸⁴

Once discarded the WAADI option, the Ministry entered a puzzlement phase again. As described above, the Ministry was unsatisfied with the then existing understanding of the phenomenon (both of platform work and more in general of major issues in the labour market). For this reason, it asked the Borstlapp Commission to provide a comprehensive analysis of the Dutch labour market. The Borstlapp Report came as a major 'learning by researching' moment for the Ministry – and beyond. By spotlighting structural flaws of the Dutch labour market, the Report had a "massive influence on the labour market debate in the Netherlands"³⁸⁵. The interviewee stresses how before the Borstlapp Report the Ministry was in a phase of learning by puzzling and experimenting various ways to tackle the question of contract classification. As (s)he puts it:

"Until last year, we just kept on trying to make various solutions work and to solve the gig work issue as part of the bigger problem."³⁸⁶

Nonetheless,

³⁸³ NL-GOV1

³⁸⁴ Ibid.

³⁸⁵ Ibid.

³⁸⁶ Ibid.

“To put it diplomatically, none of these measures were a huge success, right? The minimum tariff for self-employed, for instance, failed completely.”³⁸⁷

Thanks to the Borstlapp Report, however, “momentum was created to do a bit more”.³⁸⁸ Drawing on one of the recommendations of the Report (learning by researching), the government announced that it would explore the presumption of employment as a solution to platform work regulation. The interview with the Ministry official who worked on this proposal sheds light on the relationship between learning by researching and experimenting. Despite the considerable knowledge acquired with the Brostlapp Report, the Ministry could not be sure this solution would actually work. Because the question “was so deeply politicized”³⁸⁹, however, there was a need to act swiftly. This led to tentatively propose the presumption of employment as a solution (learning by experimenting). The genesis of the idea of presumption is especially telling in this respect. The interviewee recounts how (s)he developed the presumption hypothesis together with one colleague.

“We were sitting together and we were like...what do we do? We have to announce something on platforms, because there's a lot of attention in the cabinet on the topic so we have to come up with something...[...] the colleague was working a legal presumption more generally as a solution for the classification problem. I was working on platform work. And we said, ok, how about the legal presumption of platform work?”³⁹⁰

This throws light on the centrality of uncertainty and active tending of actors in the design of regulatory solutions. By highlighting the learning foundations of the policy action of the government on self-employment in general, the interviewee with one of the former policy advisor of the Minister of Employment is also instructive in this regard. As previously indicated, the government committed itself to work on self-employment via the Coalition agreement signed in 2017. Due to the complex character of the issue, the government did not have any readymade solutions. The importance of experimentation clearly emerges from the words of the interviewee:

“We tried to design a solution for the whole sort of self-employed, but well because this group is so diverse turned out that doesn't really work. So we did some small steps, actually, we did something in the fiscal... in the tax payments, so we decreased the tax deduction they get. And we're still working on a web module, so a web tool where employers can check if they can hire people as solo self-employed, or get they need to hire him as employees. So that's the pilot now. We're working on that.”³⁹¹

³⁸⁷ NL-GOV1

³⁸⁸ Ibid.

³⁸⁹ Ibid.

³⁹⁰ Ibid.

³⁹¹ NL-GOV2

Moreover, the interview reveals the role of knowledge scarcity and puzzling by stressing how:

“Maybe we should try to tackle smaller part of problems so we can make some laws that are...well...not fixing the whole thing at once, but searching for solutions on more limited parts like platform work...”³⁹²

Confirming the ongoing learning process and the centrality of actor puzzling and researching in it, the interviewee adds:

“Well, I think, No, we have not found the best solution yet. I think the way we look at sort of self-employed shifted a little over the years, because I think the problem of the low paid became bigger, or became...I'm not sure if it became bigger, but we became more aware of it. So I think the willingness to find a solution for those for those people, is bigger now. And it really just takes time. I'm not sure something really happened. And, well, we, we did some...we took some steps.”³⁹³

Finally, an excerpt from the interview with a Ministry official working on the future of work illustrates my argument particularly well. Describing the activity of the Ministry on the question of contract classification of platform workers, (s)he stresses how:

“there's a lot more opportunism and coincidence and individual politicians and civil servants that happen to create momentum for legal presumption or whatever. It's a lot more caused by opportunism and coincidences, than by structural factors, I would say.”³⁹⁴

Because this statement tends to suggest a free-floating agency, it is to be taken with a grain of salt. That said, it brings important evidence supporting the argument of this dissertation on the centrality of uncertainty and actors' institutional creativity in regulatory processes.

The Learning Foundations of Social Partners' and Platforms Institutional Work

In the so-called 'Polder model', social partners have a central role not only in signing collective agreements but also in influencing government socioeconomic policies through institutions like the SER and the Labour Foundation. The previous section shows how organizing is the most frequent institutional work practice among trade unions. 'Organizing', however, did not start automatically. Because of their institutional structure, trade unions often simply did not know have adequate channels to represent platform workers.³⁹⁵ In this phase, unions learnt by 'puzzling' about

³⁹² NL-GOV2

³⁹³ Ibid.

³⁹⁴ NL-GOV1

³⁹⁵ NL-TU1, 3

possible strategies to have a voice in the discussion on the future of work. Interviews with FNV unionists reveal an internal reflection not only on organizing strategies, but also broader questions. As one unionist put it:

“How do we think about labour regulation? I know it’s a general question, but we need to figure it out: How do we do with labour organization? How do we deal with the question of self-employment? How do we ensure that the world is doing better?”³⁹⁶

In organizational terms, the setting up of FNV Riders Union was a case of experimentation to overcome pervasive uncertainty on how to represent platform workers. Indeed, the FNV campaign on platform work allowed FNV to acquire knowledge about working conditions in the on-location platform economy and develop sounder strategies to represent workers’ interests. As an FNV policy officer notes:

“it's getting better because we're really understanding what's happening. [...] It's only by really being there, understanding how that works [that unions can accumulate the necessary knowledge to push their policy proposal forward].”³⁹⁷

Nonetheless, this was a difficult process for the union as they had to strike a balance between their existing policy proposals and the needs of platform workers. In the words of the interviewee:

“Because the interest of the workers is not the general interest [...] it’s difficult to find a way which is in accordance with our policy [...] but we are really trying to start from there and showing what's happening and then kind of develop a policy proposal that fit into our general political strategy.”³⁹⁸

In such an attempt, knowledge production was a central element to overcome puzzling and be able to make safer experiments. The aforementioned publications on Uber and Deliveroo represents an example of how FNV generated knowledge to better advance its vision in the regulatory debate, that is learnt by researching.

Learning emerges as central to employer organizations as well. The latter, too, went through a puzzlement phase in which they formulated questions (‘reflecting’) to better grasp the challenges at stake. A member of the Platform Future of Work dwells on the kind of guiding questions of AWVN on the matter.

³⁹⁶ NL-TU3

³⁹⁷ NL-TU1

³⁹⁸ Ibid.

“How can we make our system more flexible for work that is organized on the spots on the day on the hour, but not in the long term? How can we organize the work, but also abiding to the values that we have in the Netherlands?”³⁹⁹

Puzzlement also emerges in relation to broader – but related – questions such as:

“How can we make people more financially independent? And also, how can we improve the quality of work? Knowing that we have to work a lot longer to make our pensions, how do we make the work interesting? How do we do? How do we make work easy to do physically and mentally? And also, how do we make a sort of backup system for people when they lose their job that is sustainable? And not only being unemployed, but also losing capabilities, losing knowledge, not being able to learn fast enough to be to have value on the labour market?”⁴⁰⁰

To provide an answer to such questions, AWWN is envisaging different regulatory paths. On the one hand,

“making collective labour agreements part of the platform economy [would be a solution], which means that the platform companies will be part of an existing collective labour agreement. Sometimes they're not really pleased with that. But yeah this is how to have fair competition.”⁴⁰¹

On the other hand,

“Another solution is to make a new collective labour agreement or some sort of collective agreement that fits a part of the segment of the platform economy, and stands alone. So it's new. And we're also looking into that.”⁴⁰²

It clearly emerges from the interview how the establishment of the Platform Future of Work – a case of ‘creating’ practice – was driven by a learning by experimenting logic aimed at tackling these questions.⁴⁰³ Likewise, the establishment of the Platform Collective within NLdigital stemmed from a puzzlement on how employer organizations should represent digital companies in the current economic system. At the roots of ‘the platform’ there is a re-crafting of the organization. As the interviewee discusses,

“[Before] it was more really on ICT. And then we saw that like...a lot of companies...basically everyone's working in digital now. So we felt a way to translate it into digital, because we felt we had a broader scope than just ICT companies.”⁴⁰⁴

³⁹⁹ NL-EO2

⁴⁰⁰ Ibid.

⁴⁰¹ Ibid.

⁴⁰² Ibid.

⁴⁰³ Ibid.

⁴⁰⁴ NL-EO1

Following such a ‘learning by researching’ phase, the organization changed its name from Nederland ICT to NLdigital. ‘The Platform’ was set up within NLdigital as a tool to strengthen lobbying and foster public discussions on platform economy matters. In this sense, it amounted to a ‘creating’ practice driven by a learning by experimenting logic to tackle representational challenges for employers in the digital economy. The case of ‘the platform’ well illustrates the learning circle theorized in Chapter 3: knowledge accumulation on socioeconomic impact of technological change led to puzzling which in turn led to experimenting via the creation of ‘the platform’.

Finally, interviews with experts and SER members also show how puzzling, experimenting and researching were important drivers of SER action on the topic of platform work. Together with the Borstlapp Report and WRR Report, the SER Report on platform work was highly influential in the debate on contract classification of platform workers. The SER was a significant knowledge producer (learning by researching) that helped both its members and other actors at play to reduce uncertainty and lay the groundwork for safer experimentation. Because different learning mechanisms can coexist within the same institution, it also emerges how the SER puzzled especially about a question concerning its composition as a body dealing with self-employment-related issues but having no seat for self-employed. As a SER member put it:

“Should the freelancers also have a seat in the SER? Because now, people talk about freelancers, but they don't talk with the freelancers. And we have 1.3 million of them. So that's a bit problematic.”⁴⁰⁵

The growing importance of independent work has been one of the arguments used by platforms like Uber to promote their business model. The two interviews with an Uber manager show how the company has continuously supported such a business model ever since it entered the country. Yet it clearly emerges how it went from a hostile attitude towards labour regulation and its institutions to a more collaborative style. This suggests how the lobbying and organizing practices of Uber were largely driven by knowledge accumulation (learning by researching) to make sure its initial approach would not undermine its business in the country.

To conclude, using a compelling metaphor, a SER member and expert refers to the whole debate on platform work and contract classification as follows:

⁴⁰⁵ NL-EXP1

“There was simply a lack of knowledge because no one anticipated this. If you discover new planets, you don't know. You don't understand the physics of the planet.”⁴⁰⁶

This throws further light on the centrality of ‘learning by puzzling’ mechanisms and, as a consequence, of learning in general as a central driver of political action.

8.2.3 Conclusion

This chapter has first identified institutional work objectives and practices. Then, it has unveiled their learning foundations.

It found that the politics of platform workers’ contract classification in the Netherlands it was mostly characterized by ‘challenging’ objectives. This mirrors the general agreement among about the unsustainability of current imbalances in the labour market. The only ‘sheltering’ actor were trade unions and particularly FNV, which was also discontent with the present labour market context but maintained that platform workers qualify as employees. The government took a similar direction when it proposed to introduce a presumption of employment.

Such goals were pursued via a number of institutional work practices. ‘Generalizing’, ‘reflecting’ and ‘projecting’ were common practices across actor types. The fact that no regulatory measure has been adopted so far explains the prevalence of such practices that are no directly linked to concrete action. Nonetheless, these two practices testify the importance of actors in actively looking for policy solutions. Moreover, while the government showed particular creativity in its action, ‘organizing’ was typical of traditional social partners. Trade unions’ ‘detering’ was also relevant.

Institutional work practices were largely driven by learning mechanisms. The institutional work of the government was the most learning intensive compared to other actors’ institutional work. Experimentation emerges as the most notable driver of the government’s institutional work. The social partners had a relatively balanced learning mix in which puzzling and knowledge

⁴⁰⁶ NL-EXP1

accumulation respectively were more important than ‘learning by puzzling’ mechanisms. Finally, knowledge accumulation emerges as the most important driver for platforms’ institutional work. By showing how (different type of) learning mechanisms were central drivers of institutional work, the chapter recalls the centrality of uncertainty in decision-making processes. Despite action being institutionally embedded, this chapter finds that the content regulation can only be understood by empirically scrutinizing learning processes that actually shape it. This is not to argue that institutional structures do not matter; rather, to emphasize how learning processes as drivers of institutional action have been downplayed by structuralist explanations, which has significantly hampered our understanding of the microfoundations of institutional action.

The last part of this chapter (8.3) is devoted to understanding the boundaries of learning processes. To do so, following the theoretical approach developed in Chapter 3, it concentrates on ‘imagined futures of work’ that have guided the regulation of platform work in the Netherlands.

8.3 How Do Actors Project? Imagined Futures of Work in the Netherlands

8.3.1 Introduction

‘Projecting’ emerges as one of the most frequent institutional work practices identified in part 8.2. As it interrogates the temporal dimension of agency, which is crucial in the discussions on the future of work, ‘projecting’ is of particular relevance particularly to this dissertation. As we have seen, ‘projecting’ reveals that actors have frequently drawn connection between their present action and its implications for the future of work. More precisely: they have used their vision of the future as a compass to orient their action in the present.

In a context where platform work is widely regarded as the future of work, there is no agreement among various social and political actors as to *how* such a future should look like. ‘Projecting’, in other words, conceals diverging ‘imagined futures of work’ actors have used to *reduce* uncertainty about the future of work. This chapter reconstructs the politics of expectations (Beckert, 2016) of the future of work in the Netherlands by unveiling diverging ‘imagined futures of work’ that have informed actors’ projecting.

The remainder of the chapter is organized as follows. The first part zooms in into ‘projecting’ practices and introduces the concept of ‘imagined futures of work’. The second part illustrates the different ‘imagined futures of work’ in which learning-driven institutional work was anchored. The third part summarizes the results.

8.3.2 Theorizing ‘Imagined Futures of Work’

Part 8.2 showed that ‘projecting’ was the second most frequent institutional work practice and different actors contributed differently to it – employer organizations were the two most projecting-intensive actors. Such actors were future-oriented in the sense that they put forward diverging visions of how the Netherlands will benefit from digitalisation while avoiding further deterioration of labour market and welfare state in the digital future. Drawing on Beckert (2016), I

introduce the concept of ‘imagined futures of work’ to understand *how* actors projected. I define an ‘imagined future of work’ as an imaginary of the future digital society centring on a specific idea of how tomorrow’s work and protection should be. ‘Futures’ differ along two dimensions. A first dimension pertains to whether actors have optimistic or pessimistic attitudes towards platform work and digitalisation in general. The second dimension regards the way actors understand employment and social protection in the future of work, namely individuals-centred or jobs-centred. While the former entails that workers should be protected as individuals, the latter prescribes that workers should be protected according to their occupation, i.e. their contract classification. By crossing these two dimensions, we obtain four ideal-typical ‘imagined futures of work’ (Table 21).

	Protecting jobs	Protecting individuals
Opportunity	Digitalisation: optimistic attitude Protection: employment contract	Digitalisation: optimistic attitude Protection: regardless of contractual arrangement
Threat	Digitalisation: pessimistic attitude Protection: employment contract	Digitalisation: pessimistic attitude Protection: regardless of contractual arrangement

Table 21 Dimensions of ‘imagined futures of work’. Own elaboration.

Based on this ideal-typical classification, I identify three ‘imagined futures of work’ emerging from my analysis of actors’ temporal orientation towards the future, i.e. Start-up Nation, Creative digitalisation, Embedded digitalisation. ‘Start-up Nation’⁴⁰⁷ presents an optimistic attitude towards digitalisation and conceives of protection as independent from contract classification. Detachment from contract classification is necessary as it allows for more flexibility for firms and autonomy for workers. ‘Creative digitalisation’ concurs with the need to identify novel ways to organize protection that go beyond contract-centred approaches, but approaches digitalisation with a

⁴⁰⁷ The expression ‘Start-up Nation’ originally comes from the French context, as explained in Chapter 5.1. However, because it straightforwardly connotes a certain idea of the future digital society, I here use it in a more general and abstract fashion to refer to imaginaries of the future presenting the two characteristics outlined in the text.

sceptic to pessimistic outlook. This results in more cautious regulatory postures. ‘Embedded digitalisation’ comes with a pessimistic understanding of digitalisation and posits that protection should not be decoupled from the employment contract as the latter is a fundamental protection tool in itself. Table 22 places them in the quadrants presented above.

	Protecting jobs	Protecting individuals
Opportunity	-	Start-up Nation
Threat	Embedded Digitalisation	Creative Digitalisation

Table 22 Typology of ‘Imagined futures of work’. Own elaboration.

Figure 43 shows the weighted frequency of codes on ‘imagined futures of work’ by actor type. It finds that: i) the government’s institutional work was anchored in both ‘creative digitalisation’ and ‘embedded digitalisation’; ii) trade unions were strong supporters of an ‘embedded digitalisation’ future; iii) employer organizations pursued a ‘start-up nation’ imaginary in coalitions with platforms. In what follows, I further elaborate on such findings by presenting qualitative evidence on ‘imagined futures of work’ in the Netherlands.

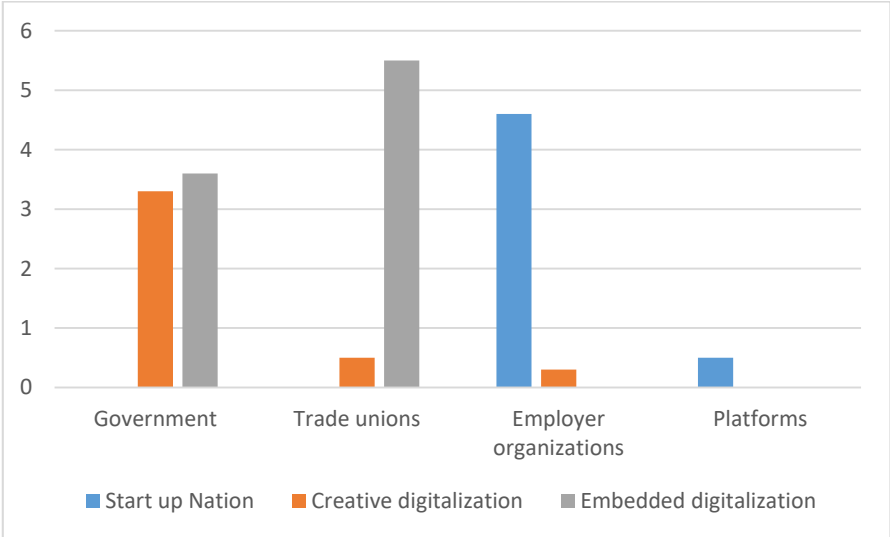


Figure 43 Imagined futures of work - weighted frequencies of futures codes by actor type

8.3.3 Identifying ‘Imagined Futures of Work’: the Start-up Nation Future

Despite the ‘start-up nation’ future played a prominent role in the Dutch politics of the contract classification of platform workers, Figure 43 shows only a relatively small contribution of platforms to such a vision of the future of work. Had I been able to interview more platform managers, I would have arguably found more evidence indicating that platforms institutional work was rooted in a ‘start-up nation’ future. However, the interviews with Uber provide a sense of how platforms have projected. Such interviews show how the platform has become more open to dialogue with social and political actors over the last years.⁴⁰⁸ In other words, this means that its institutional work was especially driven ‘learning by researching’ mechanisms. Its position on the future of work has nonetheless not mutated in this process as Uber continues to advocate for the revision of employment and social protection systems. In so doing, it considers platform work as an opportunity and argues for more protection to be granted to freelance platform workers – so that platforms can continue working with their business model.

Employer organizations also embraced such a future of work, especially through the Platform Collective and the Platform Future of Labour (see Chapter 8.1). The ‘creating’ institutional work behind the Platform Future of Labour is one of the clearest empirical examples of how imaginaries shape action in the present. To put it with the interviewee:

“One of the reasons that we created and are part of the platform future of labour it is because we would like to take step forward to the future...to make the future of labour happen in a way that we'd like to see it.”⁴⁰⁹

One of the members of ‘the Platform’ well elucidates the future (s)he supports:

“If you ask me, what is the future of work? What do you strive to? What do we want to leave behind? Well, the main thing is that and I already mentioned this... the labour market in the Netherlands is very much organized around the contract around the agreement that you have with your employer or with the organization where you work. And we ended up in a situation where people with a permanent contract have everything. The best social security benefits, the highest incomes, the most work security, not everything that you can imagine, is attached to this permanent contract, while flexible contracts have a lot less protection, less opportunities, more chance of getting poor, losing their jobs, heavier work, less pensions, and etc. And also the independent contractors, the independent workers don't have anything in terms of protection, but have a very interest very attractive fiscal arrangement, so they don't pay a lot of taxes. So this is these differences between these three positions on the labour markets are way too big. They're just got out of hand in the past couple of decades. And this is our main goal. So what we want to leave behind is a system that divides

⁴⁰⁸ This emerges also from interview with an Italian platform manager, IT – PLMAN1.

⁴⁰⁹ NL-EO2

on the basis of contract, we really want a system that is so social fundament for everyone...regardless of what position you have in the labour market, this is what we really are striving for and with our platform.”⁴¹⁰

According to the interviewee, this change is not only desirable because of its implications, but also due to its inevitability:

“These modern working arrangements are not going to change, are not going away. People like to work in platform work or like to work flexible or like to decide on the day, whether they work six hours or eight hours or three hours or at what company they work today and tomorrow it can be another company. So this is something that you have to embrace to make possible.”⁴¹¹

The interviewee also underlines how important is to ensure that such a future is compatible with living and working standards of the Netherlands. As (s)he puts it:

“We are really trying to embrace digitalisation, we believe it's important for the Netherlands. New business models...it's a good way, it's innovation. But you have to follow the values that we have embraced in the Netherlands for a long time. And let's search with everyone involved for a way that makes the regulations fits these new kinds of work, but also the values that we have.”⁴¹²

In other words, the way forward consists of “finding ways in which the values are still the same and the system adapts to the new reality. [...] We need to realize this vision of the future”.⁴¹³

Learning-driven institutional work of the Platform Collective also relied on a ‘start-up nation’ vision to *reduce* uncertainty about the future of work. According to the interviewee, current employment and social protection systems are no longer fit the present socioeconomic reality.

“We do believe that this whole stigma about...if you are self-employed then you are less safe. I think that is a very important that we realize that we are in a new economy now, but we're all trying to hold on to old systems....Years ago it was like: only if you work on contracts you're good and you're safe. But I think now if you look at the newer generation, a lot of people like to have flexibility. So I think we do need to look at being self-employed in a more positive way. And not like always only scary and it only has downsides, because a few especially from a government perspective, there are still a lot of people look at it.”⁴¹⁴

⁴¹⁰ NL-EO2

⁴¹¹ Ibid.

⁴¹² Ibid.

⁴¹³ Ibid.

⁴¹⁴ Ibid.

To bring about the desired transformation, the ‘Collective’ acted following a ‘start-up nation’ future with the aim of weakening the link between the employment contract and protection. As the interviewee put it:

“I think it could be relevant to look at a hybrid model or a new type of contract, where you can say yes, you are self employed, but you have a bit more security...”⁴¹⁵

Inevitability also emerges from the interview with the Platform Collective.

“[As a model] I definitely appreciate being self-employed and having more Social Security more, and I think that is something that will happen anyway. I mean, we already see it in the European Union, there are discussions going on. It's what France already has been doing. There are other countries that are doing that. So I think it's just a matter of time until that will happen. And for my experience, that's also what platforms like Deliveroo and Uber actually want.”⁴¹⁶

This excerpt well shows how ‘imagined futures of work’ can circulate transnationally, also among countries with very different characteristics. Futures circulation can favour the development of transnational coalitions that may be influential in non-national policymaking fora like the EU.

8.3.4 Identifying ‘Imagined Futures of Work’: the ‘Creative Digitalisation’ Future

The ‘Creative digitalisation’ future, which combines pessimistic attitudes towards digitalisation with an individuals-based understanding of employment/social protection, has emerged especially in relation to government’ learning-driven institutional work. After initial inaction, the Liberal government included platform work in the policy action to tackle protection imbalances between employees and other workers. This shows how the government looked at platform work (also) as a potential threat to the already hyper-flexibilised Dutch labour market. The option to regulate platform work via WAADI law reflected the intention to improve platform workers’ protection without necessarily classifying them as employees. Taken together, these two elements amount to a ‘creative digitalisation’ future. However, the government soon began following a different vision of the future (see section below). This shows how learning processes can lead actors to support ‘imagined futures’ they would have not stand for in the first place.

⁴¹⁵ NL-EO2

⁴¹⁶ NL-EO1

Another notable projecting actor in the Netherlands was the Borstlapp Commission. In general terms, the Commission recommended that protection and working conditions differences between employees and other forms of atypical work should be gradually reduced to ensure a fair future of work. This corresponds to a ‘creative digitalisation’ future. However, when it came to the contract classification of platform workers, the Commission suggested to adopt a presumption of employment where necessary. It can therefore be said that the Commission followed an ‘embedded digitalisation’ future with regard to platform work (see following section). This shows how futures that imagine a different relationship between work and protection in the digital society can coexist in an actor’s thinking and action. By extension, it also demonstrates the centrality of uncertainty in the regulation of platform work.

8.3.5 Identifying ‘Imagined Futures of Work’: the ‘Embedded Digitalisation’ Future

The ‘embedded digitalisation’ future was widely spread in the Netherlands. Trade unions, especially FNV, were concerned with the independent-contractors-based platform business model and proposed that platform workers would qualify as employees. Independent groups of platform workers also stood up for such a future, secondary sources suggest. One interviewee from FNV expressed dissatisfaction with the prevalent narratives of platforms.

“I think it’s not fair the story going like new app companies growing and old unions... for us it's really trying to debunk that this is new, fancy. Of course their business model is new, the app is new... but legally it's normal: it's the boss [...] telling you what to do and someone making profits out of this. So how it works, but they should also be responsible for that.”⁴¹⁷

According to FNV, the way platforms should be responsible is by employing workers. As the interviewee puts it:

“We have to fix the inequalities of the labour market. And we have to treat platform workers as normal employees.”⁴¹⁸

To ensure that the future of work will be fair, FNV indeed contends that the current set of rules should be applied. In this regard, the FNV representative stresses how the existing regulatory framework

⁴¹⁷ NL-TU1

⁴¹⁸ Ibid.

“is perfectly fitting for platform work so we don't think that there is a separate regulation needed; the only thing needed is better upholding of the existing rules and regulations.”⁴¹⁹

Similar concerns are also expressed by VCP.⁴²⁰

After pursuing a ‘creative digitalisation’, the Dutch government embraced an ‘embedded digitalisation’ vision by proposing a presumption of employment mechanism. This is similar to what happened in Denmark, despite the two government were of different political orientation (see Chapter 9). Such a proposal was also contained in the highly influential report of the Commission Borslapp, which espoused an ‘embedded digitalisation’ future in relation to platform work.

8.3.6 Conclusion

Building upon the importance of ‘projecting’ practices in the politics of platform workers’ contract classification, this chapter has delved into the question of *how* actors project. It has identified three imagined futures of work that actors used to *reduce* Knightian uncertainty.

To sum up, the government learning-driven institutional work was anchored in two ‘imagined futures of work’, namely ‘creative digitalisation’ and ‘embedded digitalisation’. A strong divergence in terms of visions of the future of work emerges between trade unions and employer organizations: while the former largely acted following an ‘embedded digitalisation’ vision, the latter embraced a ‘start-up nation’ imaginary. The marginal presence of ‘creative digitalisation’ in both trade unions and employer organizations has to do with interviews with members of the SER, a central social dialogue institutional of the Polder model in which social partners seek to develop common ground on socioeconomic issues. Indeed, ‘creative digitalisation’ represents somewhat a middle ground between ‘embedded digitalisation’ and ‘start-up nation’. The marginal importance of a ‘start-up nation’ imaginary associated with platforms has certainly to do with the very limited size of the sample. In fact, platforms are the supporters par excellence of a ‘start-up nation’ imagined futures of work.

⁴¹⁹ NL-TU2

⁴²⁰ NL-TU3

The last chapter of this dissertation will compare these findings as well as findings of Parts 8.1 and 8.2 with results from other country cases in order to draw more generalizable conjectures on the politics of platform work regulation.

9. A Comparative Analysis of ‘Imaginative Institutional Work’ in Denmark, France, Italy, and the Netherlands

Country chapters have delved into the politics of platform workers’ contract classification. They have mapped actor constellation and coalitions and illuminated the process that – has not - led to regulation. Such findings have then been analysed in light of the theoretical framework developed in Chapter 3. In so doing, institutional work practices and their learning foundations have been identified as well as ‘imagined futures of work’ in which learning-driven institutional work was rooted. This chapter compares imaginative institutional work across countries and actor types with the aim to reach a higher degree of abstraction and develop more generalizable conjectures on the cross-country dimension of social and political processes of platform regulation.

The remainder of the chapter is organized as follows. The first section compares imaginative institutional work on platform workers’ contract classification in ‘dualisation’ countries. The second section compares imaginative institutional work on platform workers’ contract classification in ‘embedded flexibilisation’ countries. The third section compares imaginative institutional work across these groups of countries. The fourth section concludes by summarizing the findings and reflecting on their empirical and theoretical contributions.

9.1 Within-pair Comparison: Imaginative Institutional Work in ‘Dualisation’ Countries

In Chapter 2, we elaborated on the importance of ‘varieties of liberalisation’ to understand platform work regulation. In Chapter 4, we noted how France and Italy can be referred to as cases of ‘dualised’ liberalisation countries where open-ended core employment contracts continue to be well-protected while non-standard work is left with less coverage. In this section, we compare imaginative institutional work in the French and Italian cases against this common background. Crucially, the comparison contrasts complex regulatory processes entailing various ‘imagined futures of work’ and associated regulatory proposals and outcomes. In so doing, it does not conceive of regulatory outcomes as stable, definitive solutions to the question of contract classification; rather, it understands them as more or less provisional tools resulting from different learning processes and ideas of the future of work. Therefore, outcomes are considered as parts of the process under scrutiny, not as its termination. This entails that outcomes are not important per

se, yet because they belong to complex learning-driven and future-oriented processes through which actors seek to cope with and reduce Knightian uncertainty.

Governments

Chapter 5.1 illustrated how the French government took a positive stance towards digitalisation, highlighting the need for France to embrace it as a gateway to the future of work. The social responsibility agenda developed to regulate platform workers' contract classification reflected not only such an attitude but also the intention to legitimize an individuals-based employment and social protection as opposed to a contract-based model protecting jobs. Indeed, I have shown that French government pursued learning-driven 'challenging' institutional work goals anchored in a 'start-up nation' future of work. The imaginative institutional work of the French government differed substantially from the action of Italian government. As Chapter 6.1 shows, the learning-driven institutional work of the so-called 'Yellow-green' government started by advocating for platform workers to qualify as employees and then adapted to a 'third status' solution. In so doing, the government mostly pursued 'sheltering' objectives that aimed at maintaining the preferred link between the employment contract and protection in the future of work ('embedded digitalisation'). Also, recent evidence suggests that the Italian government under Draghi cabinet (2021-2022) discussed the possibility to introduce a presumption of employment mechanism as well. The interest in the presumption of employment of the Italian government seems nonetheless quite consequential to the adoption of the Proposal for a Directive on platform work – which put forward a contract-centred approach.

Thus, the governments' imaginative institutional work of the two 'dualisation' countries differed remarkably. On the one hand, measures adopted by the French government left platform workers outside the scope of labour law thereby risking to perpetuate dualisation and fragmentation dynamics. On the other hand, imaginative institutional work of the Italian government started precisely from the willingness to combat 'outsiderness' by granting platform workers with the strongest protection possible. While the 'Legge riders' eventually did not embrace such a solution, it extended dependent work protection to economically dependent platform workers, which represented an inclusionary measure (Carella & Marengo, 2022). However, it is to be noted how 'Legge riders' also contained provisions which were rooted in a 'creative digitalisation' vision of the future of work which seeks to protect individuals instead of jobs. This provisions went closer to

the French approach, but were driven by less optimistic attitudes towards platform work and exclusively regarded ‘occasional’ platform workers – not all.

Trade unions and platform worker organizations

Interviews with French trade unions provides little evidence for trade unions to have engaged in ‘reflecting’ practices. This comes as surprising, given that trade unions have struggled to understand what to do even in France. Indeed, as Chapter 5.1 showed, the CGT even established a devoted section for food-delivery couriers. This finding arguably depends on the limited number of interviews with French trade unionists, and it may therefore be worth further investigation. In a similar vein, interviews show how French trade unions have given no support to an ‘embedded digitalisation’ future of work. This is misleading as the CGT vocally espoused such an imaginary. The same imaginary was followed by platform worker organizations especially of food-delivery couriers, which were vocal opponents of the governmental agenda on platform work. Furthermore, ‘creating’ and ‘organizing’ institutional work of CFDT was driven by experimenting learning mechanism rooted in a ‘creative digitalisation’ future of work. The three major Italian trade unions did not espouse such a future of work. Indeed, as Chapter 6.2 details, Italian unions engaged in remarkable ‘reflecting’ practices which were functional to ‘organizing’ and ‘creating’. Such practices were driven by learning mechanisms anchored in an ‘embedded digitalisation’ future of work. The only exception was union UGL Riders, which engaged in learning-driven ‘creating’ and ‘organizing’ practices rooted in a ‘start-up nation’ future of work. A tangible example of its institutional work was the agreement signed with Assodelivery in 2020 that re-stated the self-employed classification of food-delivery couriers. As we have seen in Chapter 6.1, the agreement was heavily discussed but remained marginal overall. Thus, imaginative institutional work of French and Italian trade unions entailed profound reflection to develop strategies that would help overcome uncertainty. Such strategies were mostly rooted in an ‘embedded digitalisation’ future of work. However, CFDT departed from such an imaginary by proposing to reinforce protection of independent platform workers via collective agreements. The action of UGL Riders echoed the approach of CFDT, but it came from a smaller trade union and was anchored in a more optimistic view of platform work.

Finally, like in numerous other countries, independent platform worker organizations were set up in France and Italy– especially in ride-hailing and food-delivery sectors. In both countries, such organizations were especially vocal and contributed to the politicization of the question of contract classification. Also, the development of such organizations highlighted unions’ difficulties in

representing platform workers. However, traditional trade unions soon began trying to organize such workers. While unions have been quite active in so doing, their representativeness in platform work remains limited due to workforce fragmentation and frequent workers' appreciation of flexibility. While platform worker organizations were mostly opponents to the government agenda in France, in Italy they were directly involved into its development especially during the 'Yellow-green' government. The Italian case was unique in this regard (see Chapter 6.1).

Employer organizations and platforms

Unfortunately, I have collected no interviews with French employer organizations. I therefore cannot advance empirically-grounded claims on their institutional work and related 'imagined futures of work'. Recent secondary sources, however, note that French employers have expressed no public position on the question of contract classification (Chagny, 2022). Confindustria and Confcommercio supported a 'third status' approach which reinforced the link between employment contract and protection. Employer organizations mostly engaged in 'reflecting' and 'generalizing' practices, which shows their relatively secondary role in the debate.

Platforms have been the most difficult actors to interview. What emerges from the low number of interviews I was able to collect is that the international platforms all imagined a 'start-up Nation' future of work and were very active in working for it materialize. The only exception was Just Eat, who decided to start employing food-delivery couriers thereby subscribing to an 'embedded digitalisation' future of work. To strengthen their voice, platforms created their own organizations such as Assodelivery in Italy and API in France. As previously hinted at, Assodelivery signed a collective agreement with UGL Riders union. The agreement was the only consistent example of 'start-up nation' future of work in Italy. In terms of relationship with governments, platforms have found favourable ground for their business model in France. Platform managers interviewed have explicitly referred to the initiatives of the French government as a positive development.

9.2 France and Italy: Diverging Solutions to Tame Dualisation

Three unexpected elements emerge from the comparison between the two 'dualisation' countries. Such elements regard actors whose imaginative institutional work was i) similar but unexpected in light of the 'variety of liberalisation' profile of the country, ii) different despite acting in a similar

country in terms of ‘variety of liberalisation’. Similarities and differences between the two countries were detected by looking at various ‘imagined futures of work’ at play and associated regulatory proposals and decisions. As previously noted, regulatory outcomes are not conceived of as stable, definitive solutions to the question of contract classification, but as more or less provisional parts of the broader process of ‘imaginative institutional work through which actors seek to cope with and reduce uncertainty. In what follows, institutional work practices and learning mechanisms are not used for comparison as they do not indicate which policy direction a given country/actor is taking – but ‘only’ what it is doing and what drives it.

First, French and Italian governments had markedly different policy priorities on and imaginaries of platform work. This resulted in very different regulatory processes and legislation. In the French case, the government has consistently pushed for a ‘start-up nation’ future of work. Such a position found fierce opposition, yet it largely informed the social responsibility agenda developed from the 2016 ‘Loi Travail’ onwards. The French government claimed that a social responsibility approach would help counter protection imbalances between standard and non-standard jobs by providing a specific set of rights to freelancer platform workers. This is line with the broader policy objective pursued by recent French governments to decouple employment and social security from contract classification. However, opponents of the social responsibility agenda stressed that such an approach would actually strengthen dualisation dynamics as platform workers are de facto dependent workers who need employment protection. In this sense, while moving from the goal to diminish the differences between protection of standard and non-standard jobs, the government agenda seems likely to reinforce them by developing ad-hoc protection outside labour law for a specific category of non-standard workers. In the Italian case, the government initially pushed for an employment solution and eventually opted for a third status solution that extended employment protection to economically dependent platform workers. In this sense, measures advanced and proposed by the Italian government seem more straightforwardly aimed at countering ‘dualisation’ dynamics by granting employment protection to a specific category of non-standard workers, i.e. platform workers. Nonetheless, this emerges as a politically contingent move related to the governments in office. It should therefore not be interpreted as a general policy direction espoused by Italian governments over the last years. All in all, in both cases intention emerges to overcome ‘dualisation and fragmentation’ dynamics that characterize French and Italian labour market and social protection systems. At the moment of writing, measures adopted in France seems more likely to reinforce labour market segmentation than legislation passed in Italy. Further empirical research

on platform workers' access to employment and social protection in the two countries would be needed to ascertain whether and to what extent this holds true.

Second, we noted how trade unions – especially CGT and CGIL – and platform worker organizations had similar positions in opposing legislation that would not tackle the question of contract classification. In this sense, it can be argued that the bulk of trade unionism was in favour of reducing dualisation dynamics by re-affirming the centrality of the division between dependent and independent work. However, the case of CFDT in France, which proposed that platform workers' protection would be reinforced via collective bargaining but without intervening on their contract classification, had no correspondence in the Italian case. Indeed, the three major trade unions were in favour of an employment solution in Italy. This tendency in French unionism seems to align with the governmental priority to reinforce protection of (solo) self-employed with a view to ensuring that protection is no longer centred on job but on individuals. Indeed, the idea to ameliorate independent platform workers social protection via social dialogue has gained traction also in the government agenda after the failure of the 'chartes' (see Chapter 5.1).

Figure 44 provides a visual representation of unexpected elements emerging from the comparison between imaginative institutional work in France and Italy. As anticipated, unexpected elements were not detected by looking at diverging outcomes conceived as stable solutions; by contrast, the comparison was focused on regulatory processes of which outcomes were 'only' a part and by no means a conclusion. Figure 44 should be read against this consideration. Boxes with same dashed line style emphasize actors whose imaginative institutional work was similar but unexpected in light of the 'variety of liberalisation' profile of the country. This was the case of trade unions and platform worker organizations. Boxes with 'x' and '/' indicate actors whose imaginative institutional work was different despite acting in a similar country in terms of 'variety of liberalisation'. This was the case of the governments and (some) trade unions. Ticker arrows connect the two regulatory approaches – i.e. employment and self-employment – to actors whose imaginative institutional work affected regulation the most.

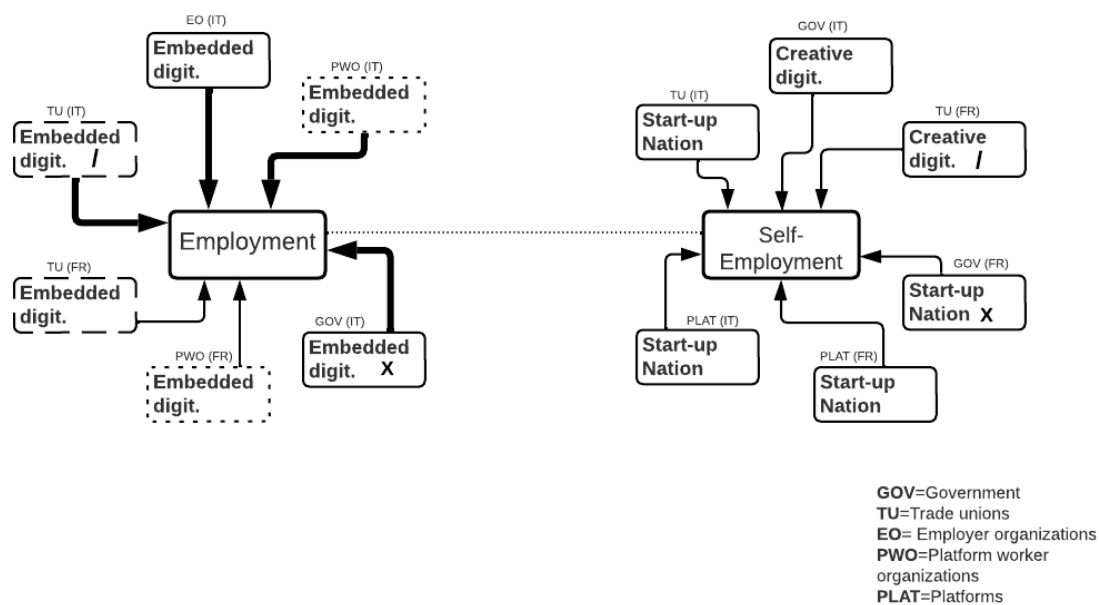


Figure 44 Imaginative institutional work in 'dualisation' countries

9.3 Within-pair Comparison: Imaginative Institutional Work in 'Embedded Flexibilisation' Countries

In Chapter 2, we elaborated on the importance of 'varieties of liberalisation' to understand platform work regulation. In Chapter 4, we noted how Denmark and the Netherlands can be referred to as cases of 'embedded flexibilisation' countries where high flexibility in the labour market is coupled with generous compensating and activating social policies across the board. In this section, we compare imaginative institutional work in the Dutch and Danish cases against this common background. Crucially, the comparison contrasts complex regulatory processes entailing various 'imagined futures of work' and associated regulatory proposals and outcomes. In so doing, it does not conceive of regulatory outcomes as stable, definitive solutions to the question of contract classification; rather, it understands them as more or less provisional tools resulting from different learning processes and ideas of the future of work. Therefore, outcomes are considered as parts of the process under scrutiny, not as its termination. This entails that outcomes are not important per se, yet because they belong to complex learning-driven and future-oriented processes through which actors seek to cope with and reduce Knightian uncertainty.

Governments

As we showed in Chapter 8.1, the question of platform workers' contract classification emerged in the Netherlands as part of a broader concern with misclassification in the labour market. 'Generalizing' was indeed the most frequent institutional work practice across actor types. Through a process of intense learning, the Dutch governments went from a mostly positive attitude towards platform work to a more critical consideration of its effects on the already highly flexible and fragmented Dutch labour market. In the beginning, digital enthusiasm and preoccupation with misclassification in the labour market seemed not to be explicitly connected, but they gradually became so in a process of knowledge accumulation ('learning by researching'). This led Rutte III cabinet to draw a more explicit connection between the platform business model and the question of misclassification. As illustrated, the Ministry of Social Affairs (SZW) hypothesized several regulatory routes, ranging from measures that would not concern the employment to provisions such as a presumption of employment clause that would do so. In so doing, SZW engaged in 'creating' and 'reflecting' institutional work practices, mostly driven by learning by puzzling and experimenting. In turn, learning-driven institutional work was rooted in two different 'imagined futures of work', i.e. 'creative digitalisation' and 'embedded digitalisation'.

Similar to the Dutch case, the Danish government also discussed the introduction of a presumption of employment mechanism to regulate platform work, which was later set aside due to insufficient parliamentary support. With such a proposal, the government went from pursuing 'challenging' goals rooted in a 'creative digitalisation' vision of the future of work to supporting 'sheltering' objectives anchored in an 'embedded digitalisation' future of work. Differently from the Dutch case, however, the presumption of employment was discussed after the change in government from Liberal to social-democratic-led cabinet. Given the strong independence of social partners, the adoption of such a statutory intervention would be a highly innovative element, interviews show.⁴²¹

All in all, the governments of the two 'embedded flexibilisation' countries have first expressed relatively positive attitudes towards platform work, and then *learnt* how it could endanger their welfare systems. This led them to propose – not (yet?) adopt - the most protective measure for platform workers, following the same shift in 'imagined future of work'. The presumption of employment aims at bringing platform work into the standard employment relationship. The fact

⁴²¹ DK-GOV2

that the Dutch and Danish governments have proposed such a measure is somewhat surprising as it goes against an ‘embedded flexibilisation’ logic according to which flexibility and protection go hand in hand. Interestingly, moreover, the Dutch and Danish governments putting forward the presumption of employment were of different political orientation, i.e. centre-right in the Netherlands, social-democratic in Denmark. Finally, we know from ongoing negotiations of the text of the EU Directive on platform work that both governments have at least initially supported the introduction of a rebuttable presumption of employment in EU legislation. This further shows how the governments of the two ‘embedded flexibilisation’ countries have come to privilege protection *over* flexibility in the debate on platform workers’ contract classification – instead of supporting protection *and* flexibility measures.

Trade unions and platform worker organizations

Chapter 8.1 showed that Dutch trade unions embarked upon a profound internal discussion on their role of workers’ representatives in a rapidly changing world of work. According to our findings (see Chapter 8.2), ‘creating’, ‘generalizing’ and ‘reflecting’ institutional work was mostly driven by puzzling and experimenting learning mechanisms. After initial difficulties, this intensive learning process rooted in an ‘embedded digitalisation’ future of work led them – especially FNV - to become protagonists of the debate on contract classification. Differently from their Dutch counterparts, Danish unions have engaged in relatively limited ‘reflecting’ practices to understand what to do. This can be understood in light of the fact that their role is comparatively stronger than in the Netherlands, which reduces the need for internal reflection aimed at overcoming the freezing effect of uncertainty. Consistently, ‘organizing’ was indeed the most prominent institutional work practice among Danish trade unions. This suggests that Danish unions needed comparatively less preliminary reflection to start organizing platform workers. That said, data shows how ‘learning by puzzling’ was a crucial driver of Danish unions’ ‘organizing’ institutional work. Indeed, Chapter 7.3 recounts how 3F institutional work was anchored both in a ‘creative digitalisation’ and ‘embedded digitalisation’ future, which shows how preferences were not fixed at all even in the case of a powerful actor like Danish unions. The support to the government proposal of a presumption of employment was a (unexpected) manifestation of the ‘embedded digitalisation’ future of work. Indeed, this was very unusual in the Danish context, which shows how uncertainty can affect actors’ preferences in a path-deviating fashion. In the initial phases of the debate, Danish unions were sceptical about a presumption of employment as it would potentially limit social partners’

independence. After years of intense puzzlement, experimentation and knowledge accumulation, they came to be favourable to such a proposal advanced by the social-democratic government.

Finally, like in numerous other countries, independent platform worker organizations were set up in the Netherlands and Denmark – especially in ride-hailing and food-delivery sectors. In both countries, the development of such organizations initially highlighted unions' difficulties to represent platform workers. However, traditional trade unions soon began trying to organize such workers. While unions have been quite active in so doing, their representative strength in platform work remains limited due to workforce fragmentation and frequent workers' appreciation of flexibility.

Employer organizations and platforms

Like trade unions, Dutch employer organizations engaged in remarkable 'reflecting' practices, but with different institutional work objectives. Indeed, their 'projecting' and 'generalizing' practices were driven by learning mechanisms anchored in a 'start-up nation' future of work in which platform work is beneficial to individuals who can enjoy protection regardless of their contract classification. This departs from the imaginative institutional work of Danish employer organizations, which had, like trade unions, the firm intention to maintain the Danish model of collective bargaining in view of the future of work. Similar to trade unions, they fully engaged in 'organizing' platforms. Interestingly, their learning-driven institutional work was anchored both in a 'creative digitalisation' (Danish Industry, DI) and in an 'embedded digitalisation' (Danish Chamber of Commerce, DE) imagined future. Differently from Dutch employers, there was no room for a 'start-up nation' future of work among Danish employers. Also, Danish employers were united against the proposal of the presumption of employment advanced by the social democratic government. This does not mean that they were against the application of employment protection to platform workers, like their Dutch counterparts; rather, it was mostly due to the fact that they saw such a measure as a potential threat to social partner independence.

Platforms have been the most difficult actors to interview. What emerges from the low number of interviews I was able to collect is that the international platforms all imagined a 'start-up nation' future of work and were very active in working for it materialize. The only exception was Just Eat, who decided to start employing food-delivery couriers thereby subscribing to an 'embedded digitalisation' future of work. In the Danish context, this resulted in a collective agreement with

3F. As we have seen above, platforms' 'start-up nation' future of work was aligned with employer organizations in the Netherlands.

9.4 Denmark and the Netherlands: Protection *and* Flexibility, or Protection *over* Flexibility?

Three unexpected elements emerge from the comparison between the two 'embedded flexibilisation' countries. Such elements regard actors whose imaginative institutional work was i) similar but unexpected in light of the 'variety of liberalisation' profile of the country, ii) different despite acting in a similar country in terms of 'variety of liberalisation'. Similarities and differences between the two countries were detected by looking at various 'imagined futures of work' at play and associated regulatory proposals and outcomes. As previously noted, regulatory outcomes are not conceived of as stable, definitive solutions to the question of contract classification, but as more or less provisional parts of the broader process of 'imaginative institutional work through which actors seek to cope with and reduce uncertainty. In what follows, institutional work practices and learning mechanisms are not contrasted for comparative purposes as they do not indicate which policy direction a given country/actor is taking – but 'only' what it is doing and what drives it.

First, the governments of the two 'embedded flexibilisation' countries have first expressed relatively positive attitudes towards platform work, and then *learnt* how it could endanger their welfare systems. This led them to propose and support also at the EU level a presumption of employment mechanism. This suggests that Dutch and Danish governments have realized how a protection-over-flexibility approach is better suited for their respective futures of work than what one would have expected from 'embedded flexibilisation' countries, that is a protection *and* flexibility approach.

Second, Dutch and Danish employer organizations have supported different 'imagined futures of work'. There was a fundamental difference between the two actors: while Danish employers stressed that platforms should adapt to the Danish model, the Dutch emphasized how existing rules should adapt to platform business model. Thus, presumption of employment proposal aside, Danish social partners were relatively united on how to tackle platform work. By contrast, Dutch

social partners were divided as employers followed a ‘start-up nation’ future of work and trade unions subscribed to an ‘embedded digitalisation’ imaginary.

Third, we find that the bulk of trade unions and platform worker organizations in both countries have supported regulation that would include platform workers into the standard employment relationship. Like proposals advanced by respective governments, trade unions and platform worker organizations’ positions counter the logic of ‘embedded flexibilisation’. This suggests that the development of platform work has boosted what was already underway in Denmark and the Netherlands, that is a broader re-thinking of the relationship between protection and flexibility.

Figure 45 provides a visual representation of unexpected elements emerging from the comparison between imaginative institutional work in Denmark and the Netherlands. As anticipated, unexpected elements were not detected by looking at diverging outcomes conceived as stable solutions; by contrast, the comparison focused on regulatory processes, of which outcomes were ‘only’ a part and by no means a conclusion. Figure 45 should thus be read against this consideration. Boxes with same dashed line style indicate actors whose imaginative institutional work was similar but unexpected in light of the ‘variety of liberalisation’ profile of the country. This was the case of the governments (t¹), trade unions and platform worker organizations. Boxes with ‘x’ indicate actors whose imaginative institutional work was different despite acting in a similar country in terms of ‘variety of liberalisation’. This was especially the case of platform worker organisations. Ticker arrows connect the two regulatory approaches – i.e. employment and self-employment – to actors whose imaginative institutional work affected regulation the most.

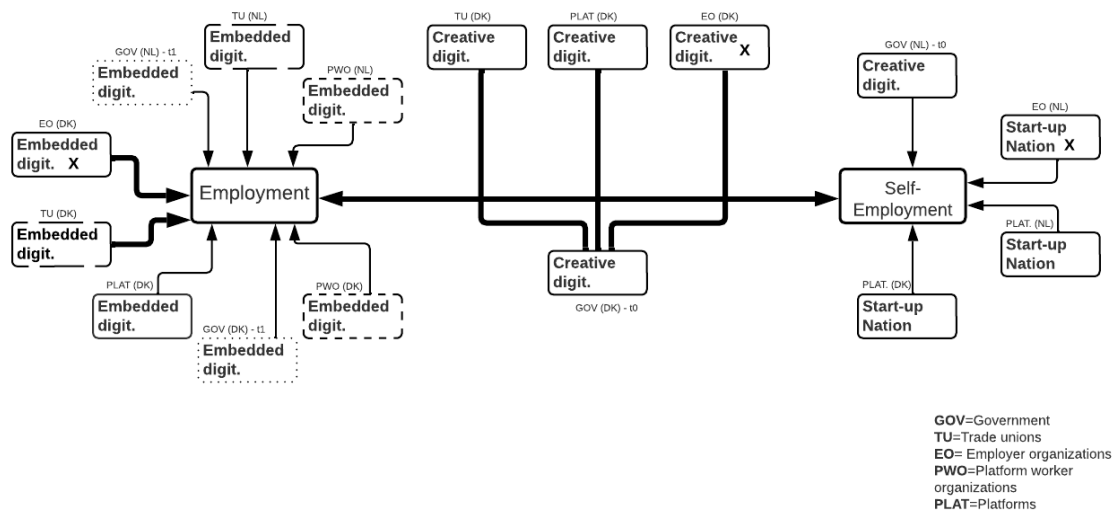


Figure 45 Imaginative institutional work in 'embedded flexibilisation' countries

9.5 Cross-pair Comparison: Spotting Similarities between Different Countries

After delving into differences between ‘similar countries’, this section undertakes a cross-case comparison that aims at detecting possible similarities between different countries. Likewise within-pair comparison, the following comparison contrasts complex regulatory processes, not simply diverging outcomes. This entails that outcomes matter insofar as they are part of processes of imaginative institutional work.

The first cross-pair similarity has to do with governments’ imaginative institutional work. In Chapter 5.1, we showed how the French government consistently pushed for a social responsibility agenda rooted in a ‘start-up nation’ future of work. In this regard, we find a partial similarity with Rutte II government (2012-2017) in the Netherlands, which initially refrained from proposing an employment contract-centred regulation. However, the Dutch approach was not accompanied by a coherent policy framework like the French one. Indeed, the Dutch government came to propose the adoption of a presumption of employment, which has never been taken into consideration in France. Thus, the Dutch government imaginative institutional work initially resembled those of the French government, but then changed significantly and became very much alike the Italian and the Danish one. Indeed, the French government was the only government projecting a ‘start-up nation’ future, the other three acted according to ‘embedded digitalisation’ and/or ‘creative digitalisation’

imaginaries of the future of work. This means that imaginative institutional work of the two ‘embedded flexibilisation’ governments resembled that of one ‘dualised’ country (Italy) and departed from imaginative institutional work undertaken in the other ‘dualised’ country (France). This shows how the ‘variety of liberalisation’ profile is not well suited to account for such differences.

Second, we illustrated how major trade unions were mostly in favour of an employment solution, that is their learning-driven institutional work was anchored in an ‘embedded digitalisation’ future of work. This was true for Italy, Denmark and the Netherlands, but not entirely for France, where the CFDT has supported a ‘creative digitalisation’ future of work in which platform workers are independent. Thus, it can be argued that ‘embedded flexibilisation’ and Italian trade unions were united on the question of the contract classification of platform workers and different from French trade unions. Hence France again emerges as different from the other three cases. In this respect, the action of the CFDT seems to follow the logic of ‘portable social rights’ advocated by French governments according to which employment and social protection should be detached from contract type and attached to citizenship (Caillaud, 2020). To be sure, this does not mean that the action of the CFDT was in line with the ‘start-up nation’ future of work of the government. Rather, it suggests that an important portion of French unionism was relatively close the government in suggesting to reinforce protection of freelancer platform workers instead of re-classifying them as employees. This happened especially after the failure of social charters. Indeed, after the latter were judged unconstitutional, the CFDT idea to protect independent platform workers via social dialogue gained traction in government circles. Thus, while in Denmark, Italy and the Netherlands trade unions were mostly focussed on emphasising that many among platform workers are in fact employees, French trade unions were more divided as the CFDT privileged solutions that would not intervene on the contract classification. This amounts to another notable difference between France and the other three countries under scrutiny.

A third interesting cross-pair similarity pertains to employer organizations. In Chapter 6.1, we showed how Italian employer organizations took part in the policy process leading to ‘Legge riders’, though they were less vocal than trade unions on the question of platform workers’ classification. In Chapter 7.1, we showed how Danish employer organizations were central protagonists of the politics of contract classification. Despite different degree of activities, both countries’ employer organizations supported an ‘embedded digitalisation’ future of work in which platform workers are

employees – or para-subordinate workers in the Italian case. Employer organizations in Italy and Denmark thus undertook similar imaginative institutional work. Unfortunately, we cannot make a comparison between French and Dutch employers to check whether some interesting similarity exists. What we know, however, is that Dutch employers were largely in favour of the approach taken by the French government. Further research would be needed to know more about the position of French employer organizations – both in relation to their Dutch counterpart and more in general.

Figure 46 provides a visual representation of similarities described above. Boxes with same dashed line style indicate actors whose imaginative institutional work presented similar characteristic despite acting in different ‘variety of liberalisation’ contexts.

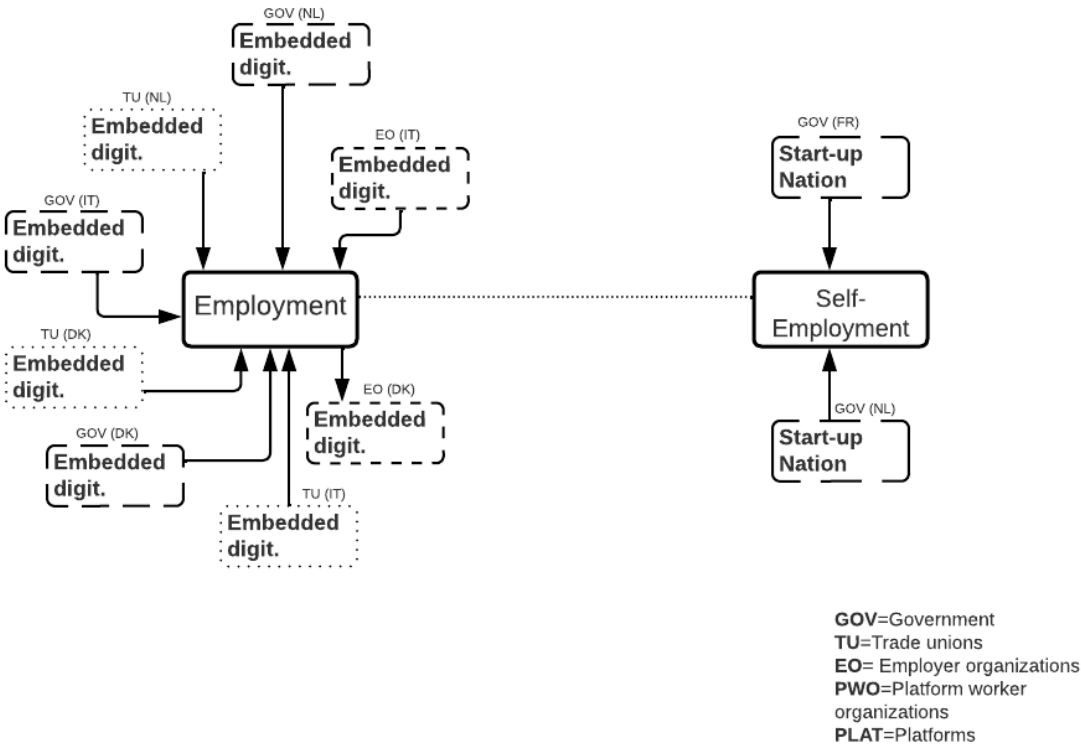


Figure 46 Cross-case imaginative institutional work

Finally, it is to be noted how the three cross-case similarities detected are based on the relevance of ‘imagined futures of work’ and therefore of ‘projecting’ practices. However, country chapters revealed that ‘projecting’ practices were not equally important across the cases. That is, ‘imagined futures of work’ mattered, but had not the same impact across selected countries. By specifying that ‘imagined futures of work’ have varying degrees of importance, this findings helps better the results of the previous comparison. As illustrated in Chapter 6.3, ‘projecting’ was comparatively less important in Italy than in the other three countries under scrutiny. This suggests that actors involved in the debate on platform workers’ contract classification in Italy had a different relationship with the future of work, namely that they less frequently associate their action in the present with the future of work. Why was this the case? My contention is that the intensity of ‘projecting’ practices depends on the extent to which actors feel part of a socio-political system that has at least a minimal shared vision of where it stands and where it aims at standing in the future. The three projecting-intensive countries are certainly not free from social and political conflicts around their past and current policy goals. They nonetheless have a specific, though contested understanding of the socioeconomic model they want to be. This self-awareness is a pre-condition for discussing diverging visions of the future, namely for ‘projecting’ practices. Interviews suggest that Italy lacks such an awareness, which is why the politics of contract classification of platform workers was significantly less grounded in the future than it was elsewhere. That said, no clear cut answer to this question emerges from my data. A more accurate understanding of the cross-case importance of ‘projecting’ practices would provide important insights as to under what conditions actors’ orientation towards the future is particularly impactful. This would in turn avoid evening out the concept of ‘imagined futures of work’.

The next section summarizes the findings emerging from within and cross-pair comparison and discuss their empirical and theoretical implications.

9.6 Conclusion and Discussion

Building upon country chapters, this chapter has compared imaginative institutional work in France, Italy, Denmark, and the Netherlands. Following criteria outlined in Chapter 4, it first compared ‘similar’ countries - Denmark and the Netherlands, France and Italy – with the aim to

explore within-pair differences. Then it compared ‘different countries’ so as to look for possible cross-pair similarities.

Three main unexpected outcomes emerged as for ‘embedded flexibilisation’ countries. First, while their governments first expressed relatively positive attitudes towards platform work, they soon *learnt* how it could endanger their welfare systems. This led them to propose a presumption of employment and support its adoption at the EU level. This went against the logic of ‘embedded flexibilisation’. Second, there was a fundamental difference between Danish and Dutch employer organizations: while the former stressed that platforms should adapt to the Danish model, the latter emphasized how existing rules should adapt to platform business model. This meant that Danish social partners were relatively united on how to tackle platform work. By contrast, Dutch social partners were divided as employers followed a ‘start-up nation’ future of work and trade unions subscribed to an ‘embedded digitalisation’ imaginary. Third, trade unions and platform worker organizations in both countries have supported regulation that would include platform into the standard employment relationship. Like proposals advanced by respective governments, trade unions and platform worker organizations’ positions counter the logic of ‘embedded flexibilisation’.

Two main unexpected outcomes emerged in relation to ‘dualisation’ countries. First, while both French and Italian governments aimed at enhancing platform workers’ protection with a view to avoiding dualising effects, their imaginative institutional work was anchored in markedly different imaginaries of the future of work. This resulted in very different regulatory processes and legislation. On the one hand, the French legislation never called into question the autonomy of platform workers, and first sought to enhance protection via voluntary mechanisms and then through social dialogue. On the other hand, the Italian government initially advocated for platform workers to qualify as employees, then it opted for a ‘third status’ solution which extended employment protection to economically dependent autonomous platform workers. In a nutshell: while the Italian legislation took a contract-centred approach, this was not the case of the French government. Second, the case of CFDT in France, which proposed that platform workers’ protection would be reinforced via collective bargaining but without intervening on their contract classification, had no correspondence in Italy, where the three major trade unions were in favour of an employment solution in Italy. This tendency in French unionism seems to align with the

governmental priority to reinforce protection of (solo) self-employed with a view to ensuring that protection is no longer centred on job but on individuals.

Finally, four notable cross-pair similarities emerge.

First, imaginative institutional work of the two ‘embedded flexibilisation’ governments resembled that of one ‘dualisation’ country (Italy) and departed from imaginative institutional work undertaken in the other ‘dualisation’ country (France). This shows how the ‘variety of liberalisation’ profile is not well suited to account for such differences. Instead, the different ‘imagined futures of work’ espoused by the governments account for such patterns. Second, the CFDT approach to platform work regulation was not only different from the other dualised country, i.e. Italy, but also from Denmark and the Netherlands, where trade unions were mostly focussed on emphasising that many among platform workers are in fact employees. This amounts to another notable difference between France and the other three countries under scrutiny. Third, we find that Italian and Danish employer organizations undertook similar imaginative institutional work by supporting an ‘embedded digitalisation’ future of work in which platform workers are employees – or para-subordinate workers in the Italian case. This was certainly different from the Dutch case, where employer organizations openly subscribed to the approach of the French government. Finally, we also find that the importance of ‘projecting’ practices was comparatively less in Italy than in the other three countries. This depends, I argue, on the extent to which actors feel part of a socio-political system that has at least a minimal shared vision of where it stands and where it aims at standing in the future.

The comparison between these four cases provides both empirical and theoretical contributions that have broader implications for the understanding of the politics of digital work regulation.

Empirically, we find that the emergence of platform work has re-emphasized the contradictions of both ‘embedded flexibilisation’ and ‘dualisation’ models. Hence actors involved in the debate on contract classification have more or less explicitly sought to make up for such contradictions, so as to ensure functioning employment and social protection systems in the future of work. On the one hand, ‘embedded flexibilisation’ countries sought ways to re-think the balance between protection and flexibility. On the other hand, ‘dualisation’ countries attempted to reduce coverage imbalances between standard and non-standard workers. This implies that there was a widespread

awareness about limits of respective models and a certain willingness to tackle them. Therefore, the main question was not about *whether* re-considering the protection of non-standard work, but about *how* to do it. Faced with such a question, actors had two options: they could either privilege contract-centred protection by arguing that flexibility had gone too far, or privilege flexibility by contending that it ought to be associated with non-contract-based protection. This chapter shows that the bulk of actors in the countries under scrutiny opted for the second regulatory route, be they acting in ‘embedded flexibilisation’ and ‘dualisation’ countries. Denmark, Italy and the Netherlands all opted – and are still doing so at the EU level – for solutions that would tame flexibility in platform work by making it closer to dependent work. This means that the independent-contractor-based platform business model was deemed as incompatible with future-proof social security systems in these countries. The only exceptions in these countries were the Dutch employer organizations, UGL union in Italy and international platform companies, which explicitly stood up for keeping the self-employment contract classification in platform work. Such actors explicitly referred to the French approach. Indeed, France took another direction, especially the French government and a part of French trade unionism represented by the CFDT. These findings reveal how regulatory processes of platform work were not necessarily in line with expectations arising from labour market and social protection institutional characteristics. This leads us to discuss the theoretical contributions of such findings.

By showing the limitations of explaining platform work regulation with reference to prevalent mode of liberalisation of a country, this chapter – and this work as a whole - spotlights the importance to focus on actors’ uncertainty-ridden decision making processes as a way to understand how institutions are constantly re-interpreted by agents. Especially when novel phenomena like digital platforms emerge, actors lack an informed understanding of the issue at stake and therefore of regulatory solutions to tackle it. This means that it takes learning - puzzling, experimenting and researching - to design a regulatory framework that is sufficiently shared. Learning, in other words, is a necessary condition to *cope with* knightian uncertainty. It is through learning processes, whose outcome is never preset, that institutions are constantly re-interpreted. To be sure: the fact that actors actively mould institutions by learning, and that learning outcomes are never predetermined under uncertain circumstances, does not mean that agency is free-floating. While the bulk of institutionalist studies has put an emphasis on the impact of past decisions and events on agency, this work shows that to comprehend the boundaries of learning mechanisms that shape the implications of technologies it is necessary to focus on how imaginaries of the future

drive actors. By giving a projectable objective to learning mechanisms, ‘imagined futures of work’ serve as a compass for agency to orient its action. At the same time, the present comparison also throws light on the fact that ‘imagined futures’ do not matter equally everywhere as actors need a certain minimal agreement on the past to discuss the future. Finally, and more generally, imaginative institutional work provides insights on how to study platform work regulation without falling prey of institutional determinism. Because the whole debate on digitalisation has a strong future-oriented character, this approach is also well-suited to investigate the decision-making processes regarding the implications of other digital technologies such as artificial intelligence or big data. This opens up promising research avenues for future research which we will discuss in the next, concluding chapter.

10. Conclusion. Contributions, Limitations, and Way Forward

Moving from the interest in socio-political processes shaping the implications of novel technologies for work in capitalist economies, this dissertation has investigated the politics of platform work regulation with a focus on the question of contract classification of platform workers.

In the midst of yet another debate on the future of work, the rise of platform work, and especially of ‘on-location’ platform work which relies on independent contractors to provide a range of services, has sparked intense debates on how to ensure that employment and social protection systems keep pace with labour market transformations. On the one hand, some have stressed that coverage of freelancer platform workers should be strengthened regardless of their contract classification. This would adequately shelter workers, while allowing platforms to continue operating in a flexible regulatory environment. On the other hand, others have stressed how platform work has all the features of dependent work and should therefore qualify as such. Situated in a middle ground, advocates of intermediate solutions have suggested to adopt existing or develop new ‘third status’ measures which extend dependent work protection to economically-dependent self-employed. Such diverging positions led to often confrontational regulatory processes.

Such regulatory processes led to the adoption of various regulatory measures. While existing research recognizes the importance of actors in institutional processes, it treats agency as a mere translator of ‘institutional orders’. Unsatisfied with extant accounts, I set out to elucidate actor-centred mechanisms of problematisation and decision-making driving platform work regulation under conditions of radical uncertainty. To this end, I formulated two research questions:

1. How have national actors problematised and responded to the question of platform workers’ contract classification?
2. What were the drivers of such problematisation and responses?

A first step to address such questions required clearly defining platforms and platform work while illustrating the technological and politico-economic context in which they developed. This is what

I did in Chapter 2. First, I delved into what has been termed the ‘platform ecosystem’ as a way to come to terms with the marked heterogeneity characterizing platform business models. Platform work has too frequently – and mistakenly - been treated as a monolith. So definitional clarity was essential to begin with.

Second, to better understand the origins of the platform business model, I placed it into the context of broader transformations occurred in Western capitalism over the last four decades. On the one hand, technological developments in micro-electronics, computers and telecommunications paved the way for the ‘massification’ of the Internet, which not only provided unprecedentedly wide access to information and knowledge, but also proved fundamental to the globalization of the economy. This led many to depict the Internet and the World Wide Web as liberating tools for individuals from the hierarchical and repetitive way of conceiving the economy typical of the Fordist society. Such an attitude was part and parcel of the philosophy of the nascent platform business. On the other hand, platforms developed in a politico-economic environment in which neoliberal prescriptions pushed to liberalize labour markets via the introduction of novel forms of ‘non-standard’ work contracts usually associated with more flexibility and more restricted coverage than open-ended contracts typical of the ‘Trentes glorieuses’. Starting in the 1980s, non-standard work has been favoured as a way to bolster employment creation and productivity. What had come to be called the ‘standard employment relationship’ thus was fundamentally called in question. Because of protection imbalances between ‘standard’ and ‘nonstandard work’, the rise of latter gradually begged the question of how to re-calibrate employment and social protection systems so as to make sure that non-standard workers are adequately sheltered.

Among various kinds of non-standard work, economically dependent self-employment or solo self-employment posed particular challenges. While such workers have restricted access to social protection because of their de jure independence, their de facto working conditions resemble those of wage earners. This means that such self-employed face a mismatch between the social risks they face and the coverage they have access to. This is exactly the situation in which the bulk of on-location’ platform workers find themselves. All in all, we learnt from Chapter 2 that the question of contract classification did not begin with the rise in platform work, yet the latter acted as a catalyser contributing to put such an issue back again at the core of political agendas.

Against this background, my research questions called for a theoretical framework that would allow to account for how reflexive actors mould institutions under conditions of radical uncertainty. Chapter 3 developed the theoretical framework with this goal in mind. ‘Imaginative institutional work’ focuses on how actors shape institutions – not the other way around – under conditions of ‘Knightian’ uncertainty. In so doing, it looks at *what* they do (‘institutional work’), *why* they do it (‘learning mechanisms’) and within which cognitive boundaries (‘imagined futures’). It thereby aims at refining our understanding of the microfoundations of institutional action.

Country chapters were constructed in such a way as to answer the two research questions by applying an ‘imaginative institutional work’ spin. The first part of each country chapter addressed the first research question and investigated the politics of platform workers’ contract classification. It reconstructed the process of problematisation, coalition building and delved into the content of adopted regulatory measures – statutory legislation and collective agreements. The second and third parts of each country chapter answered the second research question and analysed the politics of contract classification employing an ‘imaginative institutional work’ angle. To begin with, institutional work objectives and practices and their learning foundations were identified, then the focus was placed on ‘imagined futures of work’ as a way to enlighten different ways of ‘projecting’. Three ‘imagined futures of work’ were identified depending on their attitudes towards digitalisation and their understanding of employment and social protection in the future of work, namely ‘start-up nation’, ‘creative digitalisation’, and ‘embedded digitalisation’.

Drawing on country cases, Chapter 9 compared ‘imaginative institutional work’ both within pairs of similar countries and across pairs of different countries. The comparison brought to light both empirical and theoretical contributions to the understanding of platform work regulation across countries.

Empirically, this work finds that processes of imaginative institutional work were often not in line with expectations deriving from the variety of liberalisation profile of selected countries. Indeed, it emerges how the growth of platform work has re-emphasized the contradictions of both ‘embedded flexibilisation’ and ‘dualisation’ models. As a result, actors involved in the debate on contract classification have more or less explicitly sought to make up for such contradictions, so as to ensure functioning employment and social protection systems in the future of work. On the one hand, actors in ‘embedded flexibilisation’ countries sought ways to re-think the balance between

protection and flexibility. On the other hand, actors in ‘dualisation’ countries attempted to reduce coverage imbalances between standard and non-standard workers. Therefore, the main question was not about *whether* re-considering the protection of non-standard work, but about *how* to do it. Faced with such a question, actors could either privilege contract-centred protection by arguing that flexibility had gone too far, or privilege flexibility by contending that it ought to be associated with non-contract-based protection. We found that the bulk of actors – both in ‘embedded flexibilisation’ and ‘dualisation’ countries - in the countries under scrutiny opted for the second regulatory route. Denmark, Italy and the Netherlands all opted for solutions that would tame flexibility in platform work by making it closer to dependent work. This means that the independent-contractor-based platform business model was deemed as incompatible with future-proof social security systems in these countries. The only exceptions in these countries were the Dutch employer organizations, UGL union in Italy and international platform companies, which explicitly stood up for keeping the self-employment contract classification in platform work. Such actors explicitly referred to the French approach. Indeed, France took another direction, especially the French government and a part French trade unionism represented by the CFDT. While there has been strong support for an ‘embedded digitalisation’ future of work in France, regulation has been informed by a ‘start-up nation’ imaginary. In a nutshell: imaginative institutional work in Denmark, Italy and to some extent the Netherlands was relatively similar and differed from France. At the same time, country chapters show that imaginative institutional work was considerably less future-oriented in Italy than in the other three cases. My tentative explanation is that the intensity of ‘projecting’ practices depends on the extent to which actors feel part of a socio-political system that has at least a minimal shared vision of where it stands and where it aims at standing in the future.

Theoretically, this work shows the importance to focus on actors’ uncertainty-ridden decision-making processes as a way to understand how institutions are constantly re-interpreted by agents. Especially when novel phenomena like digital platforms emerge, actors lack an informed understanding of the issue at stake and therefore of regulatory solutions to tackle it. This means that it takes learning - puzzling, experimenting and researching - to design a regulatory framework that responds at least to some of the challenges at stake. Learning, in other words, is a necessary condition to *cope with* knightian uncertainty. It is through learning processes, whose outcome is never preset, that institutions are constantly re-interpreted. To be sure: the fact that actors actively mould institutions by learning, and that learning outcomes are never predetermined under

uncertain circumstances, does not mean that agency is free-floating. While the bulk of institutionalist studies has put an emphasis on the impact of past decisions and events on agency, this work shows that to comprehend the boundaries of learning mechanisms that shape the implications of technologies it is necessary to focus on how imaginaries of the future drive actors. By giving a projectable objective to learning mechanisms, ‘imagined futures of work’ serve as a compass for agency to orient its action. At the same time, the present comparison also throws light on the fact that ‘imagined futures’ do not matter equally everywhere as actors need a certain minimal agreement on the past to discuss the future. Finally, and more generally, imaginative institutional work provides insights on how to study platform work regulation without falling pray of institutional determinism.

No doubt this work presents a number of shortcomings as well. From an empirical perspective, the reconstruction of regulatory processes suffered from differentiated access to various actor categories. This was partly due to the pandemic and partly to the unavailability of actors. In this regard, platforms were the most difficult actors to interview on the question of contract classification. This has forced me to rely more on secondary than on primary sources to account for their imaginative institutional work. From a theoretical standpoint, institutional work practices emerge as useful heuristics, yet in some cases they are too linked to opportunity structures of actors, loosing analytical purchase as a result. This is the case of ‘organizing’ practices, for instance, which is by definition a practice associated to social partners and not to governments. Moreover, as we previously noted, ‘Imaginative Institutional Work’ does not explain why ‘projecting’ practices are more relevant in some contexts than in others. Such limitations provide opportunities for future research to refine and improve or disprove my empirical findings and theoretical approach. Avenues for future research also emerge from elements that this work has not covered as they go beyond its scope.

First, this work focussed on two of the three ‘varieties of liberalisation’ identified by Thelen (2014). It would be important to delve into the politics of platform workers’ contract classification in liberal countries as well. This would not only expand the empirical focus, but also allow to advance conjectures that are more generalizable across capitalist diversities.

Second, while the focus on contract classification of platform workers is a key issue both in academic and policy terms, recent research has shown that a change in the contract classification

does not necessarily lead to improvement in employment and social protection of platform workers. Indeed, in most cases, access to insurance-based schemes is subject to long contributory periods, and platform workers, even with the status of a salaried worker, may not have a sufficient contributory history to meet the requirements. As Hooker and Antonucci note (2022:9), “in Member States that, like Spain and Sweden, have already taken measures to reduce false self-employment among platform workers, platforms have used exactly such employment forms to minimise their responsibilities towards workers” (see also Friedrich Ebert Stiftung 2022). In light of this, future research should concentrate on employment and social protection *beyond* contract classification. This would complement my focus on contract classification and hopefully improve our understanding of barriers to adequate social protection faced by platform workers – and non-standard workers more in general. A beyond-classification approach would also allow to study employment and social protection in relation to a larger set of platforms and platform workers, namely not only cases of mis-classification, but also cases in which workers experience insufficient access to employment and social protection despite working under a correct qualification.

Third, a crucial task for future research will also regard the investigation of the role of the European Union in platform work regulation. As well known, the European Commission presented a Proposal for a Directive on platform work in December 2021 (Spasova & Marengo, 2022). To tackle inadequate employment and social protection, such a Proposal put forward a presumption of employment mechanism – in line with Danish, Dutch and Italian governments. It followed, in other words, an ‘embedded digitalisation’ future of work. The Proposal is currently under negotiations in the European Parliament and in the Council of Member States. While the latter favours such a vision of the future of work, divisions among member states are stark and may modify the architecture of the Proposal. Be that as it may, the latter has attracted considerable attention to the role of the EU in the regulation of platform work, which has recently attracted scholarly attention (Spasova & Marengo, 2022). Future research should therefore continue investigating the EU politics of platform work and its connections with national politics.

The EU is also playing an important role in the regulation of other manifestations of digitalisation such as artificial intelligence, which leads me to highlight a fourth research avenue for future studies. Because the whole debate on digitalisation has a strong future-oriented character, ‘Imaginative Institutional Work’ can also be used to investigate both national and EU decision-making processes regarding the implications of other facets of digitalisation like artificial

intelligence, algorithmic management and big data. For instance, it would be interesting to know whether and how ‘imagined futures’ driving regulation of artificial intelligence differ from those guiding platform work regulation. This would allow contrasting ‘digital futures of work’ and learning-driven institutional work concerning different facets of digitalisation, which would hopefully lead to a broader and deeper understanding of the direction our societies are taking. While the future of work is already unfolding.

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Annex A - Interview Questionnaire

The following questionnaire was used to collect the 68 semi-structured interviews. Here, questions are presented in the most abstract possible fashion so as to cover all actor types and country contexts. In fact, questions were adapted depending on actor and country specificities. The adaption process nonetheless never altered the substantive meaning of questions.

Questions tackle three main points: the position on digitalisation, the position on contract classification of platform workers, the relationship with other actors involved in the question of contract classification.

1. Digitalisation is an increasingly debated topic. How does your organization relate to it? Please explain the general posture of your organization towards the digitalisation of the economy.
2. Platform work is part and parcel of the debate on digitalisation. How did the interest in the contract classification of platform workers begin? Was there a specific trigger or the result of a gradual process?
3. Which regulatory position on the contract classification of platform workers did your organization take? And why?
4. Has such a position evolved over time? If so, please explain how and why
5. Which initiatives were developed to push such a position forward? And how were they decided? Please describe the process that led from taking position to action.
6. What are your relationship with other actors active in the debate on contract classification? Please cover the main actors involved.
7. Has your relationship evolved over time? If so, please explain how and why. Please cover the main actors involved.
8. What is the position of your organization on regulatory proposals and/decisions the question of contract classification taken by the other organizations? Please cover the main actors involved.
9. Has your position on proposal and decisions taken by other actors evolved over time? If so, please explain how and why. Please cover the main actors involved.

Annex B – Interview Table

List of the 68 elite and expert interviews collected by country.

FRANCE

Country	Interview code	Interview category	Role of interviewee	Interview date	Place of interview
FR	EXP1	Expert	Labour Sociologist (Université Paris Dauphine-PSL)	11/2/2020	Paris
FR	EXP2	Expert	Labour Sociologist (Université Paris Dauphine-PSL)	11/2/2020	Paris
FR	EXP3	Expert	Labour Sociologist (Université Paris Dauphine-PSL)	11/2/2020	Paris
FR	EXP4	Expert	Labour law scholar	21/2/2020	Paris
FR	EXP5	Expert	Labour sociologist (Université Paris-Diderot)	27/2/2020	Paris
FR	EXP6	Expert	Information sociologist	27/2/2020	Paris
FR	EXP7	Expert	Labour law scholar (Université de Poitiers)	4/3/2020	Online
FR	EXP8	Expert	Labour sociologist (Institute Polytechnique de Paris)	26/10/2020	Online
FR	PWO1	Independent trade unionist	Founder of CLAP	21/2/2020	Paris
FR	PWO2	(Independent) Trade unionist	Secretary of riders' union Gironde, CGT	27/2/2020	Online
FR	GOV1	Policymaker	Ministry of Economy and Finance official	12/2/2020	Paris
FR	GOV2	Policymaker	Inspecteur Générale des Affaires Sociales, IGAS	19/2/2020	Paris
FR	GOV3	Policymaker	Digital National Council, President	28/2/2020	Paris
FR	GOV4	Policymaker	Digital National Council, Rapporteur	28/2/2020	Paris

FR	GOV5	Policymaker	Former IGAS member	4/12/2020	Online
FR	GOV6	Policymaker	Former advisor to the Prime Minister	31/03/2022	Online
FR	TU2	Trade unionist	CFDT/Union Indépendants member	28/03/2022	Online
FR	TU2	Trade unionist	FO member	07/04/2022	Online
FR	CS1	Civil society	Sharers and Workers founder	17/2/2020	Paris
FR	CS2	Civil society	Member, Coop des Communs	19/2/2020	Paris
FR	CS3	Civil society	Director General, Coopaname	21/2/2020	Paris
FR	PLMAN1	Platform manager	Uber France Manager	26/3/2020	Online

ITALY

Country	Interview code	Interview category	Role of interviewee	Date of interview	Place of interview
IT	EXP1	Expert	Labour law scholar (University of Bologna)	11/3/2020	Online
IT	EXP2	Expert	Economist/platform work, INAPP	17/3/2020	Online
IT	EXP3	Expert	Labour law scholar (IE Law School, Madrid)	-	Online
IT	GOV1	Government	Co-author of a platform work regulation proposal under the Yellow-Green Government	4/12/2020	Online
IT	GOV2	Government	Director General of Employment relationships and industrial relations, Ministry of Employment	26/4/2021	Online
IT	GOV3	Government	Former head of technical secretariat, Ministry of Employment	26/1/2022	Online
IT	GOV4	Government	Pro tempore juridical advisor to the Ministry, Ministry of Employment	21/2/2022	Online
IT	TU1	Trade unionist	Communication consultant, UILTuCS	12/3/2020	Online
IT	TU2	Trade unionist	Confederal Secretary, CGIL	3/11/2020	Online

IT	TU3	Trade unionist	Confederal Secretary, UIL	25/11/2020	Online
IT	EO1	Employer organization	Employment, Welfare and Human Capital Director, Confindustria	13/06/2022	Online
IT	EO2	Employer organization	Welfare and Employment Policy Director, Confcommercio	29/08/2022	Online
IT	PWO1	Platform activist	Riders' union Bologna	2/10/2020	Online
IT	PWO2	Platform activist	Deliverance Milano	30/05/2022	Online
IT	PLMAN1 (Informal chat)	Platform manager	Manager. Unknown platform.	27/4/2021	Online

DENMARK

Country	Interview code	Interview category	Role of interviewee	Interview date	Place of interview
DK	GOV1	Policymaker	Member of the Council of the Sharing Economy	6/10/2020	Online
DK	GOV2	Policymaker	Senior legal adviser, Ministry of Labour	6/11/2020	Copenhagen
DK	GOV3	Policymaker	Senior legal adviser, Ministry of Labour	24/08/2022	Online
DK	TU1	Trade unionist	Business policy consultant, FHO	18/9/2020	Online
DK	TU2	Trade unionist	Political communications advisor, 3F Private Service Hotel and Restaurant	19/10/2020	Copenhagen
DK	TU3	Trade unionist	Professional consultant, HK	19/10/2020	Copenhagen
DK	TU4	Trade unionist	Professional consultant, HK Private	19/10/2020	Copenhagen
DK	TU5	Trade unionist	Negotiating Secretary, 3F Transport	4/11/2020	Copenhagen
DK	TU6	Trade unionist	Negotiation responsible – Just Eat agreement	06/05/2021	Online
DK	TU7	Trade unionist	Responsible for dialogue with Wolt	12/01/2022	Online
DK	TU8	Trade unionist	Professional secretary, 3F	24/02/2022	Online

DK	TU9	Trade unionist	Worker organizer, food-delivery sector, 3F	24/02/2022	Online
DK	EO1	Employer organization representative	Director, DI	3/11/2020	Online
DK	EO2	Employer organization representative	Director, DI	16/11/2020	Copenhagen
DK	EO3	Employer organization representative	Deputy Director, DE	07/05/2021	Online
DK	EO4	Employer organization representative	Attorney-at-law, DE	07/05/2021	Online
DK	PLMAN1	Platform manager	Hilfr Co-founder	18/11/2020	Online
DK	EXP1	Expert	Employment Relationship scholar (FAOS Copenhagen)	8/11/2020	Online

NETHERLANDS

Country	Interview code	Interview category	Role of interviewee	Interview date	Place of interview
NL	EXP1	Expert	Economist, Member of the SER Committee on platform work	6/3/2020	Online
NL	EXP2	Expert	Digital sociologist	25/3/2020	Online
NL	EXP3	Expert	Labour lawyer, Member of the SER Committee on platform work	26/3/2020	Online
NL	TU1	Trade unionist	Policy officer employment conditions, FNV	5/3/2020	The Hague
NL	TU2	Trade unionist	Platform work campaign leader, FNV/Member of the SER Committee on platform work	29/9/2020	Online
NL	TU3	Trade unionist	Policy advisor, VCP/ Member of the SER Committee on platform work	13/10/2021	Online
NL	EO1	Employer organization member	NLdigital and Platform Collective member	20/05/2021	Online
NL	EO2	Employer organization member	AWVN and Platform future of work member	20/12/2021	Online
NL	GOV1	Policymaker	Policy advisor at the Ministry of Employment, focus on platform work	22/3/2021	Online
NL	GOV2	Policymaker	Policy advisor to the Ministry of Employment	20/4/2021	Online
NL	GOV3	Policymaker	Coordinating policy advisor, Ministry of Employment	8/4/2022	Online
NL	PLMAN1	Platform manager	Uber manager	20/3/2020	Online
NL	PLMAN1(repetead)	Platform manager	Uber manager	28/05/2021	Online