

## ITALY: A NATIONAL AND LOCAL ANSWER TO THE CHALLENGES OF THE PLATFORM ECONOMY

This case study discusses the Italian legal framework related to platform work, with specific focus on actions taken by the Municipality of Bologna through adopting the 'Charter of Fundamental Rights of Digital Labour in the Urban Context'. The specific urban dimension of the policy response under investigation is quite unique in Europe. The Bologna City Council reasoned that since delivery riders' workplace is the streets of the city, it felt that it had the responsibility to take care of their situation.<sup>1</sup> Additionally, the initiative acted as a source of inspiration for Legislative Decree No 101/2019 at national level, improving working conditions of (self-employed) platform workers. At the same time, both instruments provide a (partial) solution to several challenges related to occupational safety and health (OSH). The case study is based on a review of relevant documents and literature, and includes information gathered through semi-structured interviews with stakeholders directly concerned with the design, implementation, monitoring and/or enforcement of this regulatory initiative.<sup>2</sup>

### Introduction

Digital platform work has been the subject of a lively debate in Italy in recent years. As is the case in many Member States, the main discussion revolves around the ambiguous employment status of platform workers active in the delivery sector. To fully understand the situation, one needs to be aware of four possible regimes applicable in Italy as far as the scope of labour law is concerned (see Table 1).

**Table 1: Different regimes applicable in Italy**

Regime	Definition	Protection
Employee	A person 'who undertakes to collaborate in the firm through remuneration, by providing intellectual or manual work, employed by and under the direction of the employer' (Article 2094 of the Civil Code)	Entitled to (full) labour law protection
Employer-organised work ( <i>collaborazioni continuative organizzate</i> or <i>co.co.org.</i> )	Work performance is 'organised' by the client, including in relation to the time and place of work (Article 2, § 1, Legislative Decree No 81/2015)	Entitled to (full) labour law protection
Employer-coordinated work ( <i>collaborazioni coordinate e continuative</i> or <i>co.co.co.</i> )	Work performance is 'coordinated' to the client's needs (with worker maintaining autonomy in the performance) + a continuous relationship between client and worker (Article 409, No 3) of the Civil Procedure Code)	Coverage by a set of protections including procedural protections, social security, insurance against accidents at work and occupational safety and health ( <i>but only if the work is performed at the client's premises</i> ).
Self-employed	A person 'who undertakes to perform a task or service using predominantly his or her own labour' and 'without any link of subordination' (Article 2222 of the Civil Code)	Except for some minimal rights, the self-employed are excluded from the protection of labour law.

Italian courts have reached different outcomes regarding the employment status of digital platform workers. However, a recent landmark case of the Supreme Court (Cass. 1663/2020) decided that a Foodora rider is to be considered as an 'employer-organised' worker (*co.co.org.*), and thus be covered by labour law (see Table 1). Nonetheless, the Supreme Court did leave room for interpretation regarding the full application of labour when it concluded that 'situations in which the full application of the discipline of subordination is ontologically

<sup>1</sup> M. Marrone and V. Finotto (2019), 'Challenging Goliath: Informal Unionism and Digital Platforms in the Food Delivery Sector. The case of riders union Bologna'. The Open Journal of Sociopolitical Studies.

<sup>2</sup> The stakeholders consulted for this case study were a representative from the City of Bologna directly concerned with the negotiation and implementation of the Charter, local trade unions representatives, a representative of Riders Union Bologna and an academic expert.

incompatible with the cases to be regulated' cannot be excluded (*'non possono escludersi situazioni in cui l'applicazione integrale della disciplina della subordinazione sia ontologicamente incompatibile con le fattispecie da regolare'*). Additionally, in late 2020, the Tribunal in Palermo (Decision No 3570, on 24 November 2020) classified a rider for the food-delivery platform Glovo as an 'employee', demonstrating that the issue is not yet settled in the Italian legal system.<sup>3</sup>

Within that context, the Italian legislator intervened explicitly in the area of platform work in 2019 (that is, Legislative Decree No 101/2019). First, it eased the scope of employer-organised work for people working through digital platforms, by eliminating the requirement that both time and place of work should be organised by the client and by adding that the organisation through a digital platform is a relevant criterion for the application of employer-organised work (*co.co.org.*). Second, the legislative initiative introduced specific rights for self-employed digital platform workers active in the delivery sector (Cape V-bis to the Legislative Decree No 81/2015 *'Tutela del lavoro tramite piattaforme digitali'* – 'Protection of work provided through digital platforms'). This included transparency and information rights; fixed hourly wages; anti-discrimination rights; data protection rights; and applicability of occupational safety and health provisions (see Section 1.2. for a further analysis). These provisions are to be considered as the default rule in the absence of any collective agreements in this area. In September 2020, a collective agreement was announced between Assodelivery (representing the majority of platforms active in the delivery sector) and a smaller trade union known as the General Labour Union (UGL).<sup>4</sup> The agreement was immediately contested by the major trade unions (Italian General Confederation of Labour (Confederazione Generale Italiana del Lavoro, CGIL); the Italian Confederation of Workers' Trade Unions (Confederazione Italiana Sindacati Lavoratori, CISL); and the Italian Labour Union (Unione Italiana del Lavoro, UIL)),<sup>5</sup> and the Ministry of Labour on the grounds that UGL was not representative of platform workers.<sup>6</sup> Additionally, the introduction of piece-work methods of payment in the collective agreement were deemed incompatible with Article 47 quater which requires platforms in the delivery sector to pay hourly wages.

Finally, particularly interesting in Italy are the multiple initiatives at regional and/or local level concerning platform work. For instance, the Lazio region adopted legislation in 2019 regulating remuneration, social protection and health and safety for all types of digital platform workers.<sup>7</sup> This includes access to training, the obligation to provide health and safety equipment, coverage of the maintenance costs for this equipment, and the prohibition of compensation per task (which is also important from an OSH perspective). Digital platforms are also obliged to provide insurance for work accidents and occupational diseases. Another example is legislation introduced in the region of Piedmont (2019)<sup>8</sup> which aims to codify criteria Italian courts applied in the classification of digital platform workers.<sup>9</sup> Importantly, the proposal also explicitly includes the right of trade unions to be consulted in the design of algorithms according to the 'Human-In-Command' (HIC) approach.<sup>10</sup> Moreover, rating mechanisms based on the performance of digital platform workers are to be prohibited. Both initiatives seem to be inspired by actions of the municipality of Bologna which has been at the forefront in the debate around digital platform work, mainly through adopting the 'Charter of Fundamental Rights of Digital Labour in the Urban Context' (*'Carta dei diritti fondamentali del lavoro digitale nel contesto urbano'*). This document will form the centre of our analysis in the next section of this case study. The innovative and proactive approach that the City of Bologna has taken in the field of platform work can act as a source of inspiration

<sup>3</sup> Additionally, in 2021, the Milan public prosecutors' office and the Italian Labour Inspectorate jointly ordered four major food delivery platforms (Foodinho-Glovo, Uber Eats, Just Eat and Deliveroo) to hire over 60,000 couriers as employer-organised workers (*co.co.org.*) and pay a total of €733 million in fines. The sanctions are primarily linked to alleged violations of health and safety regulations, following an investigation launched in July 2019 after a series of digital platform workers' accidents. In a press release, the Milan public prosecutors' office stated that 'it is essential to proceed with a modification of the contract', because '[...] it is not an autonomous and occasional service but a coordinated and continuous service'. The investigation also revealed the workers were managed by an algorithm which ranked riders according to performance. According to the Deputy Prosecutor, 'the system forces the rider to accept all orders in order not to be demoted in the ranking and then have less work', which is '[...] the reason why it is impossible to take holidays or sick leave'. Moreover, the four companies are also explicitly asked to provide digital platform workers with adequate equipment, such as bicycles with lighting or suitable clothing.

<sup>4</sup> See: <https://www.politico.eu/article/delivery-companies-unveil-labor-deal-with-italian-far-right-union/>

<sup>5</sup> See: [https://www.eesc.europa.eu/sites/default/files/files/volantino\\_riders-cgilcisluil\\_inglese.pdf](https://www.eesc.europa.eu/sites/default/files/files/volantino_riders-cgilcisluil_inglese.pdf)

<sup>6</sup> See: <https://www.eurofound.europa.eu/data/platform-economy/initiatives/collective-agreement-between-assodelivery-and-ugl>

<sup>7</sup> Regione Lazio, Legge Regionale 12 aprile 2019, No 4. 'Disposizioni per la tutela e la sicurezza dei lavoratori digitali'.

<sup>8</sup> Regione Piemonte, Proposta di Legge Regionale 27 giugno 2018, No 306 'Disposizioni in materia di lavoro mediante piattaforme digitali'.

<sup>9</sup> Iudicone, F. and M. Faioli (2019), *'Country Background: Italy'*, Don't Gig Up! State of the Art Report, Noisy-le Grand, France: Institut de Recherches Economiques et Sociales.

<sup>10</sup> The High-Level Expert Group (HLEG) on AI defines HIC as 'the capability to oversee the overall activity of the AI system (including its broader economic, societal, legal and ethical impact) and the ability to decide when and how to use the system in any particular situation'. AI HLEG (2019), 'Ethics Guidelines for Trustworthy AI'. Available at: <https://digital-strategy.ec.europa.eu/en/library/ethics-guidelines-trustworthy-ai>

for other cities in Europe that face similar problems with the emergence of the platform economy in recent years.

## Charter of Fundamental Rights of Digital Labour in the Urban Context

Following heavy snowfall in the autumn of 2017, a group of delivery riders in Bologna laid down their work and went to the municipality building, demanding decent working conditions and highlighting the importance of health and safety when performing their tasks. The City Council of Bologna quickly responded and invited digital platforms to discuss how the working conditions of digital platform workers in Bologna could be improved. Soon after, negotiations between the municipality, trade unions (that is, local branches of CGIL, CISL and UIL), Riders Union Bologna and digital platforms began, which eventually led to the adoption of the Bologna 'Charter of fundamental rights of digital labour in the urban context' (2018).<sup>11</sup> Up until now, four platforms active in the delivery sector signed the voluntary agreement (MyMenu and Sgnam, which merged into one company: MyMenu/Sgnam, Domino's Pizza and Winelivery), which together provide work to a majority of platform workers active in the food-delivery sector in Bologna.<sup>12</sup> The role of Riders Union Bologna cannot be underestimated in this local process. The movement's activities were specifically aimed at mobilizing local citizens and the formal institutions of the city, in particular the City Council (Martelloni, 2018). The grassroots organisation provides a key example of how informal unionism is able to challenge poor and unsafe working conditions (including occupational safety and health) in digital platform work (Zamponi, 2018; Johnston et al., 2019; Johnston, Caia, Silberman, et al., 2020).

The scope of the Charter extends to all platform workers operating in the city of Bologna, irrespective of their employment status (Article 1.2.). In that way, the Charter avoids the challenge related to classifying platform workers, for which the local level lacks the necessary competence. From a pragmatic standpoint, the general unwillingness of platforms to agree on a different classification other than the self-employed status would have made it impossible to reach an agreement (Martelloni, 2018). The Charter further clarifies that the provisions apply in all cases where the digital platform determines the work organisation of the service provided and sets the price (Article 1.4.). Therefore, the Charter does seem to have a particular wide scope, covering all types of platform workers. However, in practice, the main focus has been on platform workers active in the delivery sector (for example, the fact that all platforms which are signatories to the Charter are active in this sector). This observation does not come as a surprise. Platforms active in the delivery sector have been the main focus of the debate across Europe, including Italy (for example, Cape V-bis to the Legislative Decree No 81/2015). The strong visibility of this type of platform workers compared with other forms of platform work that are more 'hidden' (such as *online* platform work; platform workers performing tasks in people's homes), as well as their abrupt disruption to traditional economic models in the sector, make them an easier target. Additionally, this group of platform workers are very clear examples of jobs with characteristics that typically fall within the domain of dependent work. The trade unions consulted for this case study stressed repeatedly that considerable efforts must still be made in approaching platform workers who are active outside the delivery sector (for example, household tasks; online platform work<sup>13</sup>). Nonetheless, it must be noted that the Municipality of Bologna is actively encouraging other types of platform workers to get involved as well.<sup>14</sup>

The Charter provides a set of minimum protection standards to digital platform workers with many provisions directly related to occupational safety and health. The overlap with the protection guaranteed in Cape V-bis to the Legislative Decree No 81/2015 is immediately noticeable (see Table 2). This is no coincidence, as the practices of Bologna (including the Charter) have led to increased attention to platform work in the national debate. The Bologna Charter is even mentioned explicitly as a source of inspiration for the Legislative Decree No 101/2019, which granted specific rights for platform workers at national level.

The Charter is particularly ambitious in scope concerning occupational safety and health, which is not surprising given the fact that concerns about health and safety were one of the main demands of Riders Union Bologna when appealing to the City Council to take action. In that regard, Article 6 of the Charter provides an obligation on the part of digital platforms to develop an OSH management system, adopting all appropriate measures to assess, prevent and reduce risks, including but not limited to necessary safety devices. In contrast to other initiatives in the context of digital platform work, the Charter does not limit itself to the sole requirement

<sup>11</sup> See: [http://www.comune.bologna.it/sites/default/files/documenti/CartaDiritti3105\\_web.pdf](http://www.comune.bologna.it/sites/default/files/documenti/CartaDiritti3105_web.pdf)

<sup>12</sup> Other platforms refused to join, arguing that adherence to the local initiative of Bologna would mean that other cities and countries where they are present would want to follow suit.

<sup>13</sup> A good example of these efforts is UIL's *Networkers.it*, which is the first online union platform addressed to professionals and employees in the ICT sector.

<sup>14</sup> For example, the Municipality is currently launching a tender ('Together for the job') which focuses amongst others on digital platforms (other than those active in the delivery sector). Digital platforms who wish to compete can do so under the condition that they sign and apply the Charter ('socially responsible procurement').

of providing personal protective equipment (PPE) to digital platform workers, which is the easiest (but not sufficient) way to manage occupational safety and health risks. Article 4.2. also establishes that in the event of extraordinary weather conditions which may jeopardise the safety and health of platform workers, the latter have the right to refuse tasks without any repercussions.<sup>15</sup> Additionally, digital platforms are obliged to take out insurance against the risks of accidents and occupational diseases (Article 6.2.).

Similarly, Article 47 septies of Legislative Decree No 101/2019 provides that self-employed digital platform workers active in the delivery sector are subject to mandatory coverage against accidents at work and occupational diseases. Importantly, digital platforms are also responsible for the application of Legislative Decree No 81/2008 (OSH Act) to riders (Article 47 septies 3.) This includes the employers' obligation to carry out workplace risk assessments and implement collective technical and organisational measures to minimise the effects of detrimental events on the safety and health of workers, as well as obligations to consult and provide training and information to workers and their representatives (see Article 15 OSH Act). However, although two lower court decisions<sup>16</sup> established that platforms should provide PPE to their riders in the context of the COVID-19 pandemic, there still exists uncertainty among legal commentators on whether all the provisions of Legislative Decree No 81/2008 are to be applied in the context of digital platform work or only those that relate to employer-coordinated workers and the self-employed. It is also not yet clear how the different obligations and rights are to be put in practice, given the distinct features of platform work which hinder the establishment of a sound OSH framework.<sup>17</sup>

The first monitoring meeting between the signatories confirmed that health and safety improved considerably after the Charter was adopted.<sup>18</sup> Specifically, the coverage against accidents at work and occupational diseases (Article 6) and the suspension of work in the event of extraordinary weather (Article 4.2.) were mentioned as significant improvements. As for the latter, a uniform system was set up, alerting platform workers when services would be suspended. The Municipality of Bologna also agreed to communicate possible suspensions through their official channels.

Another concrete example of the Charter's positive impact on the occupational safety and health of platform workers came in November 2020, when the Municipality of Bologna launched a campaign known as 'Safety Delivery Initiative'.<sup>19</sup> The initiative is directly in line with Article 6 and 11<sup>20</sup> of the Bologna Charter, and has actively been promoted by the Municipality, with the support from trade unions including the CGIL, CISL and UIL. Next to measures aiming at contactless delivery<sup>21</sup>, free and voluntary COVID-19 testing by the Local Health Authority of Bologna (Azienda Sanitaria Locale, ASL) was made available to all the food-delivery workers operating in Bologna (even those making deliveries for platforms that did not sign the Charter). Bologna became the first city in Italy to provide (free) testing to all riders.<sup>22</sup> Uber Eats introduced a similar initiative with a protocol to protect the health and safety of its food-delivery riders in Italy by providing free helmets and other safety devices, supplying anti-COVID protective equipment and offering free training courses.<sup>23</sup>

Other provisions in the Charter respond to those characteristics of digital platform work that are important underlying causes of or main aggravating factors for occupational safety and health risks and challenges. To no surprise, several of the rights established in the Cape V-bis to the Legislative Decree No 81/2015 (for self-employed platform workers active in the delivery sector) largely resemble the minimum protection guaranteed by the Charter (see Table 2).

**Table 2: Rights of platform workers in the Bologna Charter and Cape V-bis to the Legislative Decree No 81/2015**

<sup>15</sup> This was one of the main demands that Riders Union Bologna had, when it initially appealed to the city to take action.

<sup>16</sup> Tribunale Florence No 886, on 1 April 2020; Tribunale Bologna No 745, on 14 April 2020.

<sup>17</sup> See EU-OSHA (2021), 'Digital platform work and occupational safety and health: a review'. Available at:

<sup>18</sup> See: <http://www.uilemiliaromagna.net/2018/12/15/uil-er-carta-di-bologna-sui-riders-riunito-tavolo-di-monitoraggio/>

<sup>19</sup> See: [https://bologna.repubblica.it/cronaca/2020/11/03/news/screening\\_riders-272925627/](https://bologna.repubblica.it/cronaca/2020/11/03/news/screening_riders-272925627/)

<sup>20</sup> Article 11 establishes that the Municipality of Bologna will provide concrete support to the protection of digital platform workers.

<sup>21</sup> See: <https://www.dire.it/07-12-2020/214937-test-anti-covid-per-i-500-riders-di-bologna/>

<sup>22</sup> See: <https://www.bolognatoday.it/cronaca/tampone-rapido-covid-riders-autostazione-bologna.html?fbclid=IwAR3lphsXhvcceBWGayrn0kemZEp9Y9EtCRVJUPIYd1wzZuPU3gNa1niDdOc>

<sup>23</sup> For more information: <https://www.eurofound.europa.eu/data/platform-economy/initiatives/uber-eats-health-and-safety-protocol-for-riders-in-italy>

## Bologna Charter

## Cape V-bis to the Legislative Decree No 81/2015

Right to prior and complete information on the contractual terms and conditions (Article 2), including the possibility of digital monitoring by the digital platform (Article 2.2. (l))

Right to a formal contract in writing for evidence purposes as well as any information which is needed to protect the workers' interests, rights and safety (Article 47 ter)

The obligation of digital platform to inform digital platform workers on the existence and effect of reputational rating mechanisms<sup>24</sup>, including an impartial procedure to challenge said rating (Article 3). Additionally, the lack of availability of the worker cannot be considered in order to provide less work opportunities on the platform (Article 5).

Exclusion from the platform and reductions in work opportunities based on a refusal of tasks are prohibited (Article 47 quinquies)

The right of digital platform workers to a fair and fixed hourly income, which may not be lower than the minimum rates set out in the collective agreements for the sector signed by the most representative trade unions for equivalent or comparable services (Article 4).

The right to a fixed hourly income based on national collective agreements in similar or equivalent sectors unless a collective agreement stipulated between trade unions and employer's organisations comparatively more representative in the sector is signed on the matter. (Article 47 quater)<sup>25</sup>

The right to data protection, including a right to oppose the processing of personal data for control and monitoring mechanisms (Article 7)<sup>26</sup>

The protection of privacy in accordance with the provisions of EU Regulation 2016/679 and Legislative Decree No 196/2003 (*Privacy Code*) (Article 47 sexies)

The right to disconnect (Article 8)

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The right of digital platform workers to form and join trade unions (Article 9) and collective action (Article 10)

First, both the Charter and Cape V-bis to the Legislative Decree No 81/2015 have established limits on the use of algorithmic management in the platform economy, for which certain features have shown to negatively impact platform workers' (physical and psychosocial) health and safety (see Lee et al., 2015; Möhlmann and Zalmanson, 2017; Bérastégui, 2021). Algorithmic management is defined in the literature as oversight, governance and control practices conducted by software algorithms over many remote workers (Möhlmann and Zalmanson, 2017, p. 4). It is characterised by the continuous monitoring and evaluation of workers' behaviour and performance through digital technologies (such as digital surveillance). Based on this data, platforms are able to rank platform workers and issue rewards or penalties (Möhlmann and Zalmanson, 2017). Platforms are able to give preference to high-ranking platform workers when allocating tasks or can be set up so clients can see the profiles of workers with the highest ratings only (Möhlmann and Zalmanson, 2017). Additionally, as these decisions are usually implemented with minimal human intervention, platform workers interact with a 'system' rather than humans, which reduces transparency and causes asymmetries in information and power between the parties involved. Platform workers often have no insight into the rules

<sup>24</sup> With rating systems, clients can evaluate workers' performance by giving a score (for example, one to five stars) based on the speed or accuracy of the work performed. By implementing rating systems, platforms delegate managerial tasks to clients (Bérastégui, 2021).

<sup>25</sup> See in this regard the collective agreement between UGL and Assodelivery referenced to above.

<sup>26</sup> Important to note is that Article 4 of the Workers' Statute at national level forbids the remote monitoring of workers' activities to control their performance, except for organisational, productive, safety-related or security purposes and only after the stipulation of a collective agreement or, in the absence of an agreement, after an administrative authorization is issued. Moreover, the information gathered can only be used in line with the data protection regulations in place.

governing the algorithm, with few opportunities for recourse or conflict resolution to challenge decisions (Möhlmann and Zalmanson, 2017).

The Charter provides information/transparency rights for platform workers regarding the possibilities of digital monitoring as well as reputational rating mechanisms (Article 2 and 3). Platform workers are also guaranteed an impartial procedure to challenge said ratings (Article 3 b). The stakeholders consulted in this case study reported that platforms who signed the Charter adhere to the possibility of challenging these ratings. A representative of the City of Bologna even mentioned that in some cases they have acted as a mediator in conflicts between the platform worker and the platform.

Article 5.2) also establishes that the lack of availability (a known factor in the ranking of platform workers) cannot be considered to determine work opportunities on the platform.<sup>27</sup> This is also reflected in Article 47 quinquies of Cape V-Bis where exclusion from the platform and reductions in work opportunities based on a refusal of tasks are prohibited. In part, this responds to concerns related to *occupational overload*<sup>28</sup> of platform work, which may cause exhaustion and stress, as well as physiological responses such as back pain and headaches, and cardiovascular diseases (Bérestégui, 2021).

The right to disconnect (Article 8) can be understood along those same lines. According to a representative of Riders Union Bologna consulted for this case study, before the Charter was adopted, the platforms were free to contact the rider 24 hours a day, which threatened their work-life balance. This no longer seems to be the case after the signing of the Charter. In general, a poor work-life balance is usually associated with a range of health and safety issues such as sleep problems, exhaustion, difficulties in recuperating from work, stress, depression, burnout and an overall dissatisfaction with work and personal life (Bérestégui, 2021).

Finally, both the Charter (Article 7) and Cape V-bis (Article 47 sexies) establish that data protection law<sup>29</sup> applies to the relationship between the platform and the platform worker. A monitoring meeting with the signatories affirmed that the platforms had improved their practices regarding the processing of personal data after the Charter was adopted.<sup>30</sup>

Second, both the Charter and Cape V-bis to the Legislative Decree No 81/2015 provide the right to a minimum fixed hourly income as opposed to piece-rate compensation schemes where platform workers are paid by the number of deliveries made.<sup>31</sup> Combined with the highly competitive environment of platform work, this may lead to situations where platform workers take on as many tasks as possible within tight deadlines, which in turn increases the risk of injuries (Drahokoupil and Piasna, 2017; European Commission, 2020). Speed pressure also increases the probability of psychosocial issues such as stress, anxiety and sleeping problems (EU-OSHA, 2017; European Commission, 2020). Platform workers earning a (higher) hourly wage are less likely to accept a disproportional number of tasks in a limited time, compared with platform workers who are paid per task (Lehdonvirta, 2018; European Commission, 2020). Although specific data is still sparse (and not specifically focused on the platform economy), the existing literature suggest piece-rate compensation schemes affect health and safety of workers in a negative manner (see Johansson et al., 2010; Davis, 2016). For instance, Wright and Quinlan (2008) have investigated the links between driver payment methods and health outcomes in the road freight industry, which indicated that there is a strong correlation between payment systems and crashes, speeding, fatigue and use of drugs.

Overall, the income of platform workers is reported to have improved after the Charter was adopted. One interviewed stakeholder revealed that after requests made by the riders, Domino's Pizza started applying the Charter correctly. Nonetheless, documents from the monitoring meeting between the signatories of the Charter did reveal that the level of pay is not yet fully in line with the minimum standards established in the Charter.<sup>32</sup>

Finally, the right of platform workers to form and join trade unions and collective action recognised by the Charter are key to strengthening worker participation, which is an essential component of the Italian OSH management system (see Article 15 r) and s) OSH Act<sup>33</sup>). Several studies have demonstrated that safety representatives are highly effective at improving OSH results (Walters and Nichols, 2007; Cox and Fletcher,

<sup>27</sup> In this regard, the Tribunal of Bologna (Decision No 2949/2020, on 31 December 2020) established that the ranking by the algorithm based on their availability amounted to *indirect discrimination*.

<sup>28</sup> Quantitative overload means that worker performs a large amount of work in a given timeframe (Bérestégui, 2021).

<sup>29</sup> That is, EU Regulation 2016/679 (General Data Protection Regulation) and Legislative Decree No 196/2003.

<sup>30</sup> See: <http://www.uilemiliaromagna.net/2018/12/15/uil-er-carta-di-bologna-sui-riders-riunito-tavolo-di-monitoraggio/>

<sup>31</sup> As referenced to in Section 1 of this case study, the collective agreement between UGL and Assodelivery was also contested on the grounds that it re-introduced the piece-work method of payment, which was deemed incompatible with Article 47 quater of Legislative Decree No 101/2019.

<sup>32</sup> See: <http://www.uilemiliaromagna.net/2018/12/15/uil-er-carta-di-bologna-sui-riders-riunito-tavolo-di-monitoraggio/>

<sup>33</sup> Legislative Decree No 81/2008

2014; EU-OSHA, 2018). Along those lines, the Municipality of Bologna is making suitable premises available to platform workers as well as ensuring the availability of trade union notice boards in a place accessible to all platform workers. Riders Union Bologna also reported an improved relationship with the platforms who had signed the Charter, as the platforms were open to dialogue and consultation with them at any time and about any issue (for example, riders are now confident to communicate with the platform when the weather does not allow a safe delivery, without any fear of implications). Another example involved Domino's Pizza, which initially did not pay a minimum income to its riders. After making use of their right to paid assembly (granted by Article 9.2 of the Charter), Domino's Pizza conceded to the requests of the riders and began applying the Charter correctly (Article 4).

## Conclusions

The Bologna Charter presents an innovative approach to the challenges identified in the platform economy and may be able to serve as an inspiration to other local policy-makers struggling with similar problems related to the platform workforce operating in their cities or regions. The specific urban dimension of the policy instrument constituted the first agreement of its kind in Europe. The reasoning of the Bologna City Council was simple: since the riders' workplace is the streets of the city, the City Council felt that it had the responsibility to take care of the situation.<sup>34</sup> Although the local level generally lacks competence to regulate and enforce the main issues in this area (such as the employment status), the Charter was an important factor in raising awareness of the situation of platform workers in Italy. This is reflected both at national level, through adopting Legislative Decree No 101/2019, and at regional/local level where public administrations have implemented similar agreements (for example Piedmont Region, Lazio Region, Milan<sup>35</sup>, Modena<sup>36</sup>). The role of Riders Union Bologna in this process cannot be underestimated. Their actions were specifically aimed at mobilizing local citizens and the formal institutions of the city, in particular the City Council. Their success shows how informal unionism at local level is able to challenge poor and unsafe working conditions (including OSH) in digital platform work. Indeed, the Charter itself has had a direct positive impact on the working conditions of platform workers operating in the city of Bologna.

Unlike hard legislative action, 'softer' tools in the form of voluntary (and non-binding) charters are more easily achievable and can produce direct concrete improvements in the working conditions of digital platform workers, including occupational safety and health. All the stakeholders consulted in this case study firmly acknowledged the positive difference in working conditions among the digital platforms who signed the Charter compared with the ones that didn't.

However, the Charter does show several deficiencies. The non-binding and voluntary character of the Charter makes hard enforcement of the minimum standards set out in the Charter nearly impossible. In addition, the local level generally lacks the competence to regulate working conditions (including employment status) through binding measures. In sum, the value of the Charter depends mostly on the goodwill of the platforms concerned, although the municipality can create incentives which foster cooperation (for example, through socially responsible procurement).

The lack of competence is also one of the reasons why the Charter circumvents the core issue on the employment status of platform workers, which would bring platform workers into the scope of (national) labour law, which already grants most of the rights established in the Charter. While the scope of the Charter extends to all types of platform workers, the main focus still lies on (food-) delivery platform workers. However, the literature clearly demonstrates that many other types of platform workers face similar problems regarding their working conditions. This is illustrated by the fact that all platforms which are signatories to the Charter are active in the delivery sector. However, during the monitoring meeting, the signatories reiterated their commitment to extend the application to other types of platforms as well. Of course, this observation is not limited to the case of Bologna, as policy-makers across Europe seem predominantly disposed with this subset of the platform economy as well. For instance, at national level, the additional rights granted through Cape V-bis to the Legislative Decree No 81/2015 are only applicable to delivery riders.

<sup>34</sup> M. Marrone and V. Finotto (2019), 'Challenging Goliath: Informal Unionism and Digital Platforms in the Food Delivery Sector. The case of riders union Bologna'. The Open Journal of Sociopolitical Studies.

<sup>35</sup> On 18 July 2018, the municipal administration of Milan inaugurated the first office in Italy dedicated to 'listening, information and advice' for workers of food delivery platforms. The office will also offer free training courses on road safety, safety at work and basic sanitary rules for food transport. See: <https://www.eurofound.europa.eu/data/platform-economy/initiatives/riders-municipal-information-counter>

<sup>36</sup> See: [https://olympus.uniurb.it/index.php?option=com\\_content&view=article&id=24915:modena-riders-24022021&catid=81&Itemid=142](https://olympus.uniurb.it/index.php?option=com_content&view=article&id=24915:modena-riders-24022021&catid=81&Itemid=142)

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