



# SELF-EMPLOYMENT IN A CHANGING WORLD OF WORK

DECENT WORK FOR ALL THROUGH BUILDING COLLECTIVE POWER

Final report

Johannes Anttila, Julia Jousilahti, Niko Kinnunen and Johannes Koponen  
May 2020

"This report has been commissioned by UNI Europa and written by Demos Helsinki in the framework of the EU project *"Shaping the future of work in a digitalised services industry through social dialogue"*.



Graphic Design by *Vertigo Creative Studio*

"This project receives support from the European Commission. This publication reflects the views of the authors only and the Commission cannot be held responsible for any use which may be made of the information contained therein."





# TABLE OF CONTENTS

|                   |  |           |
|-------------------|--|-----------|
| <b>CHAPTER 1</b>  | <b>Changing rules in a changing world of work – unions showing the way</b>                       | <b>6</b>  |
| <b>CHAPTER 2</b>  | <b>Self-employment in focus: conditions, challenges and possibilities for collective power..</b> | <b>9</b>  |
|                   | Classifying the Self-Employed  | 10        |
|                   | The self-employed in the European workforce  | 12        |
|                   | The collective power of the self-employed in practice  | 13        |
|                   | Biggest challenges of the self-employed  | 15        |
| <b>CHAPTER 3</b>  | <b>Learning from each other –building collective power to guarantee decent work for all...</b>   | <b>17</b> |
| FIRST.            | Approach the new world of work with open arms  | 20        |
| SECOND.           | Welcome the self-employed into unions  | 21        |
| THIRD.            | Focus on bogus self-employment   | 22        |
| FOURTH.           | Fight for a fairer interpretation of EU Competition law in all Member States                     | 24        |
| FIFTH.            | Build collective power in the short term   | 25        |
| SIXTH.            | Use collective power to make work more decent for all  | 27        |
| <b>Conclusion</b> |  | <b>29</b> |
|                   | What is this project and how was it done?  | 29        |
|                   | About Demos Helsinki   | 30        |
| <b>Sources</b>    |  | <b>31</b> |
| <b>ANNEX 1</b>    | <b>Survey Questions</b>  | <b>32</b> |
| <b>ANNEX 2</b>    | <b>Survey Respondents by Country and Union Affiliation</b>                                       | <b>34</b> |



# CHAPTER 1 CHANGING RULES IN A CHANGING WORLD OF WORK – UNIONS SHOWING THE WAY

*The transformation of work has led to a world where the variety of employment relationships is diversifying and the traditional worker-entrepreneur-employer roles are no longer as clear as before. Yes, self-employment has been around for a long time and yes, those working for various gig-working platforms still account for a small fraction of the total workforce of countries. Despite this, it is high time for to take on the issues of self-employment, from those workers bogusly classified as entrepreneurs to the lack of ability for those genuinely self-employed but in precarious situations unable to participate in collective bargaining due to national interpretations of EU competition law. The rules, practices and institutions of the game are being laid down now and, as they should be, the unions are showing the way across Europe. Responding to the emerging needs and struggles of the self-employed in a digitalizing world of work, it is up to the unions to learn from each other, to share what works and to join together to ensure that work is decent for all – now and in the times to come.*

When the world of work was changing amidst industrialization, trade unions offered many a dream of fair and decent work. This promise required hard fights and sacrifices, but it was through struggles that working conditions, remuneration, opportunities for self-development and social security slowly improved. Even though the balance between the industrialists and workers remained uncertain and at times unsatisfactory, many working people today live lives that are better than what could have even been dreamt a hundred years ago.

Similar determination and vision is needed from trade unions today. Capitalism is a system that encourages innovation that frees people from work, only to make their situation ever more exploitable by market forces. Thus, while technology has improved and work changed, in many cases this has led to a situation where more and more people are working outside the mutually agreed frameworks of steady jobs and careers.

This situation is not an easy one for many of those facing piecemeal and precarious work or those working simply outside the conventions of steady dependable jobs. Some have been bogusly labeled as self-employed in order to cut down costs and even for the many genuinely self-employed, basic rights from collective bargaining to robust social security are missing.

These facts have not gone unnoticed by unions across Europe. Strategies have been developed and practices honed to target this growing group that not only clearly needs the help and strength of unions in itself, but also who's fate reflects upon the whole world of work and the rules it plays by. To ensure social dialogue and collective power to push for decent work for all, unions have, more and more begun the task of cooperating with the self-employed, inviting them in and building legitimacy to represent the collective interest of all those working.

Three big, familiar words lead the change: fairness, decency and solidarity.

Fairness means the realization at the basis of the actions of the unions in Europe leading the change: this is about the big picture, about all workers. There is a real danger of social dumping hidden in the increase and ease of self-employment – a downward spiral for all those working, where working conditions and remuneration decrease as the work shifts away from the rules so carefully shaped by social dialogue. This is not fair, not for those in steady

jobs, for those falsely classified as self-employed or the ones genuinely self-employed but in a poor position for negotiation.

The moral basis for this fairness is basic decency. Technological capitalism requires constant renegotiation of the rules of fairness and distribution of produced value. Decency is the minimal condition of those negotiations and should apply to all workers irrespective of the legal status they work under. All work should be decent work.

The third key word is solidarity – the age-old realization for all unions and existing union members that the collective is stronger than its parts. All employees in capitalism are forced to compete against their peers both for work and within jobs (promotions, salaries and so on). The purpose of the collective is to make sure that the competition, if needed at all, happens on a level playing field, between individuals and between the workers and the employee. The situation is not different in regard to the self-employed. They too, in many cases are a part of that group that is forced to compete against each other and against other workers. Solidarity needs to be built with all working in similar fields and between them, and especially with the self-employed, ensuring that unions remain strong in the changing world of work in the 2020s and as they have, continue to shape the world of work towards a more fair and decent future for all.

These three words can be seen at the core of the various activities and strategies already put forth by UNI Europa affiliates and other unions across Europe. The goal of this report is to showcase these actions and the ideas behind them, inspiring further action from unions and to open a way forward to learn from each other. Much has been done, but also much should be shared.

With this in mind, the report begins by briefly summarizing the changing world of work from the perspective of the self-employed, from their position and scope in the European workforce to their biggest challenges. After, these conditions and the best practices of unions are reflected through a compiled list of six actions, showcasing the work already begun by unions and offering a further way forward for unions to shape the future of work and self-employment. These actions are:

- Approach the new world of work with open arms.
- Increase the scope of people unions represent and thus collective power by welcoming the self-employed into unions
- Focus on fighting bogus self-employment.
- Fight for a fairer interpretation of EU Competition law in all member states.
- Build collective power in the short term.
- Use collective power to make work more decent for all

At the same time future-oriented, these actions are also nothing out of the blue – quite the opposite. Based in fairness, decency and solidarity, they are all things already being done by unions around Europe. Now is simply the time to come together and join in on leading the way to a world of work more decent and fair for all.

## A note on COVID-19

*As this report is being written in the spring of 2020, the world is going through a turbulence caused by the breakout of COVID-19 pandemic. The virus has badly hit economies causing mass layoffs and dismissals in nations*

*across the globe. Trade unions all around the world have come to the fore to offer legal, financial and social support to their members during the crisis. If anything, this has shown, that trade unions' raison d'être is as relevant as ever.*

*At the same time the crisis is clearly a shift in many of the rules of work. On one hand there are different forms of aid offered by governments to the self-employed, from initial thoughts on basic income to bringing in the self-employed under unemployment benefits similar to those in steady jobs. On the other hand, many workers in especially service industries have been classified as "essential workers" and are literally at the front lines of the pandemic, sparking conversations about the appreciation but also working conditions and remuneration of these workers, the self-employed included.*

*At the time of writing, it is still early days in terms of predicting outcomes, but what is sure is that there seems to be a shift in place, many struggles and questions to be attended to and answered to shape "the new normal" of the world of work. Equally clear is the fact that, in the midst of crisis, the unions have again shown their relevance, offering safety, services and a powerful collective will and voice to the workers affected.*

*Undoubtedly busy as the unions are, it is also a time to keep one eye on the future to come: the crisis can be seen as a shifting point, a realization and a wake-up call that has shed light on many of the unfair aspects of the world of work and the institutions around it. In a time where these institutions and rules of work are being called into question, it is up to the unions to keep on track and even double down on the calls and concrete ideas for more decent work for all.*

## CHAPTER 2 SELF-EMPLOYMENT IN FOCUS: CONDITIONS, CHALLENGES AND POSSIBILITIES FOR COLLECTIVE POWER

*This chapter tells the story of how self-employment looks like today. It emphasizes how the modern day self-employed are a heterogeneous group and have different wants and needs, but who however do share a common set of challenges.*

The question of self-employment is one of the most pressing issues facing the services sector and, more broadly, the future of work. Digitalization, servitization and platformisation have swept over the sector and left in their wake a wide array of questions ranging from the legal status workers to the rights to collective bargaining and representation.

UNI Europa's project "Shaping the Future of Work in a Digitalized Services Industry through Social Dialogue", of which this report forms a part, has chosen to emphasize this crucial topic by designating it as one of its three areas of focus. Through a survey of its affiliates, a desktop study of relevant literature and discourse and interviews with key experts in the field, UNI Europa ultimately wishes to identify key questions and tensions and develop a forward looking policy platform on how industrial relations and public policy as well as traditional union action can tackle the challenges arising from self-employment.

The survey results, with answers from 22 European countries, offer a window into the current status of the self-employed on national levels, delineate the biggest problems arising from self-employment and highlight some best practices related to union strategies and concrete actions towards the self-employed. Besides sharing key best practices across Europe, the main findings from the survey, bolstered by talks with experts at a UNI Europa workshop and after it, are as follows:

- Self-employment has slightly risen in certain sectors, but the results and starting levels vary according to sectors and national contexts
- Across national contexts, the legal definitions and classifications, rights to social security and the rights of collective bargaining of the self-employed vary greatly. This creates room for the broadening of best practices, but at the same time points to the difficulty of finding common language and directly importable policy measures.
- The biggest challenges of self-employment as identified by unions are the lack of rights to freedom of association and collective bargaining, insufficient social security and financial insecurity
- Many unions already cooperate with the self-employed, but at the same time unions are struggling to attract them as members and to offer them specialised services
- There is a clear call from unions for EU-level action on self-employment, specifically for creating common rules and interpretations.
- While EU-wide shared direction is important and there are necessary struggles to be won on that level, the key playing field for improving the conditions of the self-employed is collective bargaining

These results are nearly one-to-one echoes of recent in-depth research projects on the same theme, conducted by union affiliated bodies, academia and national and EU-level public institutions: for example, ETUC's union survey based Trade unions protecting self-employed workers (Fulton 2018), the comprehensive The Challenges of Self-Employment in Europe that looks at national contexts and survey data (Semanza & Pichault, eds. 2019) and the European Commission's analytical and consultation work of the social partners around action addressing the challenges of access to social protection for people in all forms of employment in the framework of the European Pillar of Social Rights (SWD(2017) 381 Final).

The authors of this report wish to openly bring these seminal works to the fore, noting that the information they provide on questions of self-employment is nuanced and in-depth. The survey and interviews done within the scope of this project compliment and draw on this previous work. At the same time, the report seek to offer concrete ways forwards for unions, distilling previous learnings and combining them with best practices from unions, both of which are presented in the chapter that follows this overview of the self-employed in the work force and their biggest challenges.

## Classifying the Self-Employed

The status of self-employed is quite a general characterization, given the large variety of different working relationships and occupational styles. Broadly speaking, the self-employed may be defined as one who works for oneself or is the owner of a business. The titles, details, and definitions covered by the term vary depending on the country in question.

The terms "self-employed" and "freelancer" are sometimes used as synonyms, but the difference between these two should be made clear: Self-employment is a legal employment status, whereas freelancing is a way of working. The self-employed are likely to be required to register themselves as a legal entity. In most cases, this includes professional service providers such as lawyers and doctors.

A freelancer is understood as one who is hired to work for different companies on particular assignments. In many cases, freelancers are not required to register themselves as formal legal entities. Freelancers are largely understood to work in different industries than the professional self-employed, and may include freelance assignments in journalism, IT, or performing arts.

Among these two classifications is the more nuanced and controversial status of dependent, self-employed workers. The defining characteristics of the dependent, self-employed category (otherwise known as dependent contractors or dependent worker) varies throughout Europe. However, the International Labor Organization presents a thorough definition for this type of work:

*"Dependent contractors are workers who have contractual arrangements of a commercial nature to provide goods or services for or on behalf of another economic unit, are not employees of that economic unit, but are dependent on that unit for organization and execution of the work or for access to the market."*

*- Hunter & Leslie (ILO 2018)*

These classifications, the dilemma of "who is a worker" and the regulatory landscapes and challenges of labor law have been explored in a recent ETUC report (Countouris & Stefano, 2019.) The report presents an assessment of

the current state of the law in terms of the personal scope of application of employment protection legislation in a number of European and the current state of legislation in the EU. Offering insight into specifics on national levels, the report also concludes that part of the difficulty lies precisely in the fact that definitions of “worker” and “self-employed” have not been fleshed out sufficiently in national and EU-contexts. There is a traditional binary approach in legal systems that posits the self-employed often as a “residual category”, which has left a gray area in the interpretation and a sort of patchwork in many national contexts.

**State-level examples regarding the variety of worker classifications include:**

**Self-Employed Variants:**

- **Norway:** Someone who is running their own business, which requires registration of business as a legal entity. Any other working status must have a fixed or temporary employment.
- **Sweden:** Known as a “Sole Trader” - A single person who is seen as their own firm, registered with tax authorities and other applicable government institutions. The sole trader is seen as a private individual in legal cases and the system has no clear dividing line between the sole trader personally and their business with regard to finances.

**Freelancer Variants:**

- **France:** Known as a “Intermittents du spectacle” - One who provides freelance services within short term contracts.

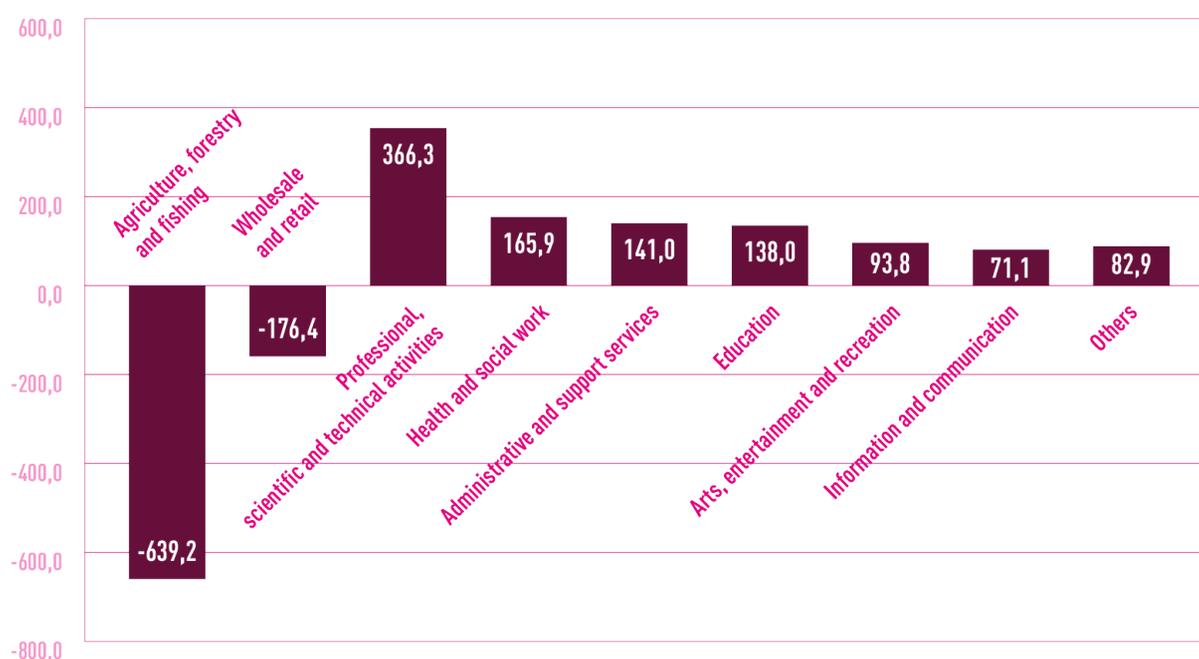
**Dependent Contractor Variants:**

- **Spain:** Known as a “Economically Dependent Self Employed Worker” - A self-employed worker devoting over 75% of their activity to a single employer.
- **Germany:** Known as a “Arbeitnehmerähnliche Personen or Employee-like workers” - One who predominantly works for one person or on average, more than half of the total remuneration they are entitled to for the performance of work is paid by one person/company.
- **Denmark:** A self-employed worker who is working in a company more than 1-month or has more than 8 working hours per week.
- **Dependent self-employed with more than one employer:** In many cases, despite not being tied to a single employer, the question of subordination can still render a contractor dependent. Most prominently such an instance has been covered in the case of FNV Kunsten Informatie en Media, about Dutch substitute orchestra players in relation to the European Court of Justice’s ruling On Application Of Article 101. For further information see chapter 3.

## The self-employed in the European workforce

The EU average percentage of reported self-employed (not accounting for whether the self-employed had employees) was 13.6% for 2018. This is a drop from the peak level reported in 2010 at 14.7% (Eurostat 2019). However, survey respondents from certain sectors report much higher percentages (upwards of 60%), particularly in Beauty & Cosmetics, and Arts & Culture. In 2017, 18% of self-employed workers reported only having one client or one dominant client. Also in 2017, one third of dependent economically dependent self-employed wished to work as an employee (Eurostat 2018). These statistics contextualize the self-employed working environment: it is one in which the self-employed make-up a minority of the workforce, and in certain cases rely on a single client for economic security, or even wish to be a formal employee of their would-be employer.

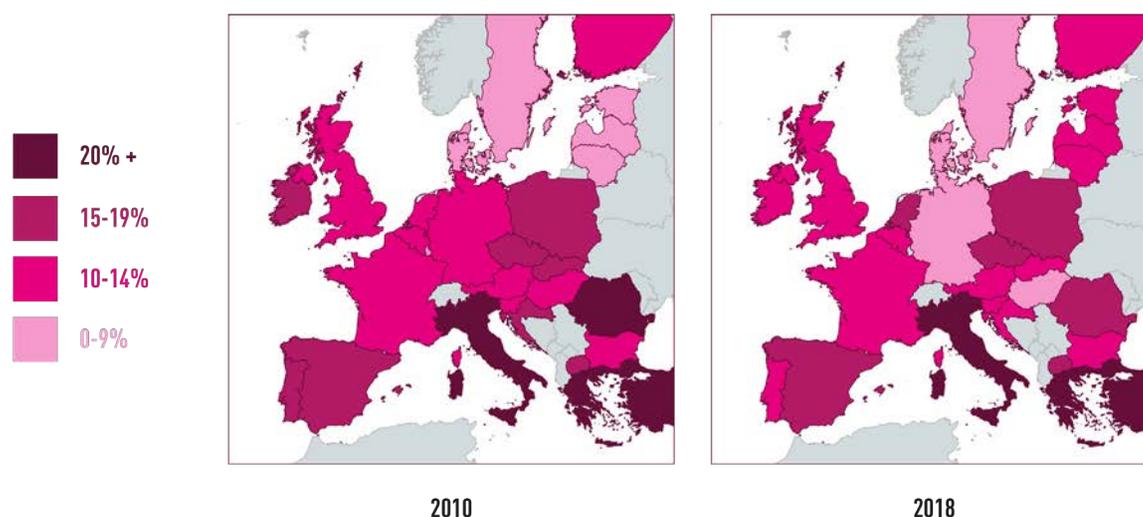
**Figure 2. The graph illustrates changes in the number of own-account self-employed, by industry in EU 28 between 2011 and 2016 (Fulton, 2018, 21)**



Source: Eurostat (figures for those aged 20 to 64)

Within Europe, there is large variation among states, regarding the percentage of self-employed within national workforces. These differences are due to cultural attitudes towards self-employment, as well as political and economic structures that allow or hinder self-employment. For example, in Southern Europe and the Mediterranean region, self-employment percentages have historically been much higher as the result of cultural, political, and economic influences. These heat maps represent the percentage (%) of reported self-employed persons within EU member states:

**Figure 3. The change in the amount of reported self-employed in Europe (Eurostat, 2018)**



### The collective power of the self-employed in practice

The collective power of the self-employed is not fully fulfilled and has many different forms around Europe. **The collective power can be divided into three separate areas: (1) the collective bargaining, (2) freedom of association and (3) collective representation.**

According to the survey results, in most national contexts the self-employed are provided the rights to freedom of association and collective representation under their national human rights protections. However, the self-employed are largely prohibited from collective bargaining as it is interpreted as cartel behavior within many national competition law frameworks, stemming from the national implementation of Article 101 of the Treaty on the Functioning of the European Union (TFEU Art 101). Collective bargaining for the self-employed is allowed under strict limitations in 12 European countries: Austria, Belgium, Denmark, France, Germany, Italy, Netherlands, Serbia, Spain, Sweden, the UK, and Ireland.

Within these countries, there are two main approaches for the self-employed: it can be limited to specified occupations or it can be limited to those who are defined as “economically dependent”. In Austria and Serbia, collective bargaining is limited to specific occupations/sectors. In Belgium, Denmark, Germany, Italy, the Netherlands, Spain, Sweden and the UK, it is limited to the economically dependent. In France and Ireland, it is applied to both. In practice, most permit freelance journalists, performers and those working in the area of culture and entertainment to collectively bargain but fail to extend that right to other self-employed occupations. Some key exceptions include Germany, Ireland, Italy, and the Netherlands which offer greater flexibility in collective bargaining or explicitly define dependent workers and their right to collective bargaining. In France, Italy, the Netherlands and Spain collective bargaining is extended most widely (Fulton 2018, 42-58.)

That said, many states continue to operate on outdated definitions of self-employment which should be revised to accommodate recent innovations among platform firms and other digitizing service businesses. As the OECD (2019) notes in their report *Negotiating our way up*, a significant number of workers fall into a “gray zone” between the

usual definitions of employees and self-employed. For those workers who share vulnerabilities with salaried employees and who are self-employed, but in unbalanced power relationships, it may be necessary to adapt some labor laws or to create explicit exemptions to laws prohibiting cartels in order to extend collective bargaining rights.

**Freedom of Association:** *The right to organize and form employers' and workers' organizations. - [ILO](#)*

Self-employed workers are allowed to create worker associations to network, share best practices, and provide social security benefits like unemployment funds. In some cases, depending on the type of work and country, self-employed workers can join existing unions but with limited access to union benefits. Within unions, self-employed workers are allowed to utilize services such as IT assistance, or consulting, but in most cases barred from collective bargaining agreements due interpretations of competition law on national levels.

**Relevant ILO documents & instruments:**

*ILO Constitution (1919)*

*ILO Declaration of Philadelphia (1944)*

*ILO Declaration on Fundamental Principles and Rights at Work (1998)*

*Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)*

*Right to Organise and Collective Bargaining Convention, 1949 (No. 98)*

*Workers' Representatives Convention, 1971 (No. 135)*

*The freedom of association is also a right proclaimed in the Universal Declaration of Human Rights (1948)*

**Collective Representation:** *The practice of unions appointing representatives for workplace negotiations, legal dealings, and activist activities.*

This concept is strongly tied to unions and particularly collective bargaining negotiations, but it is not bound exclusively to unions as collective representation can occur in traditional worker associations or networks. Most European countries allow self-employed workers to appoint collective representatives, whether through unions or other worker associations. Collective representation is highly relevant for self-employed workers as negotiations for better working conditions or settling legal disputes requires leverage that is unattainable for individual self-employed workers.

**Relevant ILO documents & instruments:**

*ILO Constitution (1919)*

*Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)*

**Collective Bargaining:** *The practice of workers and employers negotiating work relations.* - [ILO](#)

The self-employed are largely prohibited from collective bargaining throughout Europe under existing interpretations of competition laws, particularly the European Court of Justice's decision to uphold TFEU 101. Naturally, this has had a chill effect on collective bargaining agreements for the self-employed. However, this interpretation has come under pressure especially by the rise of bogus self-employment, where workers are treated as self-employed contractors when, in actuality, they are economically dependent on one employer or work in employee-like conditions.

This problem has become increasingly pronounced among platform firm workers, and in some cases has led to employee-like groups organizing into worker associations, and demanding collective bargaining agreements with their would-be employers. However, the organization of self-employed workers into unions or associations is inherently difficult, particularly for those working for digital platform firms as they work separately from one another, more and more in cross-border environments, and rarely interact. Bridging this gap is instrumental in realizing collective bargaining for the self-employed.

Where there has been success in collective bargaining for the self-employed is through existing unions. For example in Sweden, Unionen has been instrumental in getting collective bargaining agreements signed in platform firms.

**Relevant ILO documents and instruments:**

*Right to Organise and Collective Bargaining convention, 1949 (No. 98)*

*Labour Relations (Public Service) Convention, 1978 (No. 151)*

*Collective Bargaining Convention, 1981 (No. 154)*

## Biggest challenges of the self-employed

In the survey conducted to UNI Europa affiliate unions, the respondents were asked what they considered as the biggest challenges regarding the self-employed in their country. They could freely describe as many challenges as they wished in the open-ended question. The survey received 39 responses. The results reveal some clear lines in challenges different countries are facing.

According to the survey respondents, the biggest challenges the self-employed face in Europe are related to the lack of right for collective bargaining and access to statutory legal protections (mentioned by 41% of respondents), insufficient social security (26%), financial insecurity (13%) and imbalance between payments and benefits (10%). Other challenges mentioned by individual respondents were linked to the insufficient resources of the self-employed to get training and to develop their business and unions' inability to attract the self-employed as their members and to offer them services that respond to their special needs.

The lack of collective bargaining and access to statutory legal protections was perceived as the number one challenge of the self-employed (41%). Collective bargaining for the self-employed is interpreted in various EU

Member States as being against the EU competition laws and as cartel action. This interpretation has, naturally, had a devastating effect on collective bargaining agreements for the self-employed. There are exceptions to these interpretations within EU Member States, as mentioned in the previous section.

The survey shows that exclusion from proper social security of the self-employed was perceived as a serious problem in the unions (26%). Current social security systems in Europe have mostly been developed for persons working full-time for one employer and do not take the self-employed into consideration well enough.

Statutory social protection systems in Europe can be divided into social health insurance systems and national health service systems funded through general taxation and thus not linked to employment status. According to a study commissioned by the European Commission, the majority of the social security systems of the 35 countries studied are insurance-based, although many of them incorporate elements from both systems. NHS-systems are most common in the Nordic countries and in some Southern states, like Italy and Portugal (Spasova & al 2017, 22). The study mapped different benefits (covering e.g. healthcare and sickness, maternity and paternity leave, pensions, unemployment and invalidity and accidents) and discovered that healthcare is the most accessible benefit for the self-employed and unemployment benefits the least. Benefits linked to accidents at work and maternity/paternity leave were also among the least available for the self-employed (Fulton 2018, 12).

Insecure and low compensation was mentioned as the main challenge by 13% of respondents. Respondents (10%) also pointed to the imbalance between taxes and other payments and the benefits the self-employed receive in return. These results are in line with another survey comparing the perceived problems of the self-employed “independent professionals” in eight European countries: Low compensation, unfair competition, tax burden and shortage of assignments were most often reported as the biggest challenges (Soru & al. 2019.) Late payments from clients was mentioned as a problem as well as the issue of the social security systems’ inflexibility causing problems with income: When a person works partly as an employee and is partly self-employed, this can cause considerable time gaps in social security payments.

Other challenges mentioned by individual respondents pointed to the lack of resources of the self-employed to develop their skills and their business and to trade unions’ challenges to attract the self-employed to become their members. In most European countries trade unions are legally allowed to recruit and organize self-employed workers. In some cases, however, union rules and attitudes can make it harder/impossible for the self-employed to join unions (Fulton 2018, 30–33.) According to this survey, 22 unions out of 39 have in one way or another collaborated with the self-employed, e.g. by providing legal advice. It is however worth noting, that there is a big variation in the prevalence of self-employment in different countries – from 4,6% of workers being own-account self-employed in Denmark to 22,3% in Greece (EU28 average being 10,1%) (Fulton 2018, 9.)

## CHAPTER 3 LEARNING FROM EACH OTHER – BUILDING COLLECTIVE POWER TO GUARANTEE DECENT WORK FOR ALL

*This chapter reflects the forward thinking actions and strategies of unions regarding the self-employed by summarizing them into six actions to enable the positive feedback loop of building collective power to enable collective bargaining for decent work for all.*

Two scenarios can be drawn for trade unions in the 2020s.

In the first scenario, trade unions fail to systematically extend their support and services to the workers in non-traditional employment relationships. They sometimes take the self-employed as members of their unions, but don't provide them with a broad range of services they might need. While work, slowly but surely, gravitates towards more self-employed and fragmented forms, the unionization rates fall and with it, the power of unions and their ability to lead the way towards a more fair world of work.

In the second scenario, trade unions continue and double down on their path to take assertive action: by bringing in the self-employed in increasing numbers, the collective power of the self-employed and salaried workers increases, and with it the ability to collectively bargain for more decent work for all – to prevent the possibility of social dumping and unfair working conditions throughout.

The second scenario is already becoming a reality, with many unions leading the way in formulating strategy and concrete practices to help the self-employed. This, in turn, begins a positive feedback loop: increasing collective power by actions and strategies targeted at the self-employed creates the conditions for ensuring decent work for all through collective bargaining (and pushing for legislative changes). Equally, focusing on fighting for the rights of the self-employed for decent remuneration, working conditions, access to reskilling and upskilling and different aspects of social security increases the legitimacy of the unions in the eyes of the self-employed. This increases the desire of different kinds of workers to become members of the union, further increasing their power to negotiate.

This model, as shown below, is not one unfamiliar to unions: organize, bargain collectively and through this grow collective power and legitimacy to further organize and bargain collectively. This old and tried way works at an enterprise level as well as a sectoral level – and is indeed already being used also in regards to the self-employed in different unions around Europe.



*Focusing on building collective power by actively organizing the self-employed and fighting bogus self-employment improves opportunities for collective bargaining for decent work; and this in turn creates legitimacy for further organizing and building collective power.*

So what could the trade unions do in order to ensure speed down this path and ensure that they set off on the direction described in the second scenario?

**FIRST. Approach the new world of work with open arms.**

Work has become more multifaceted and in many ways, the dominant logic of employee-employer relationships in the work market has been questioned – not for the majority, but for many. While it is vital to fight for cases of bogus self-employment, it is also crucial to realize that for some, self-employment is a genuine wish. For both of these categories, the goal should be to build solidarity among people in such a life situation. There are many motivations for people to self-employ. For example, platform work can function as an entry-level job and a stepping stone towards jobs that are more protected. There’s a grave need for such work, but currently in many cases they aren’t decent work that ensures proper remuneration or a path to better jobs. The issue is thus not to ban platform work or other types of self-employment, but to make sure that it is done according to fair rules.

**SECOND. Welcome the self-employed into unions.**

This is a practical and moral position to take: increasing collective power has the possibility to ensure more decent working conditions for those self-employed and fight bogus self-employment, all the while helping set fair rules for the world of work in general and preventing the large scale negative effects of social dumping through the self-employed. Indeed, many unions are already doing this, where possible: inviting the self-employed in, offering tailored services and finding directions forwards in collective bargaining.

**THIRD. Focus on bogus self-employment.**

Masking tasks that are actually done in traditional job settings as self-employed is a typical way of circumventing mutually agreed rules. It’s harmful to companies, to employed people and to other people who are actually self-employed from their own desire.

**FOURTH. Fight for a fairer interpretation of EU Competition law in all Member States.**

The interpretation of multiple EU Member States that EU Competition law prohibits collective bargaining for the self-employed is a key obstacle for pushing for decent work for the self-employed.

**FIFTH. Build collective power in the short term.**

Other important goals such as ability to negotiate better social security, compensation, working conditions or opportunities for self-development will follow, but they only make sense if the union has a strong mandate across the old and new forms of work. In a time where the COVID-19 pandemic has shown the enduring strength and security offered by unions in many ways for workers of all stripes, the unions should seek to use the momentum to organize.

**SIXTH. Use collective power to make work more decent for all.**

Other important goals such as ability to negotiate better social security, remuneration, working conditions or opportunities for self-development will follow, but they only make sense if the union has a strong mandate across the old and new forms of work. The COVID-19 pandemic, proves a truly regrettable, but pertinent backdrop. On one hand, many forms of aid to the self-employed are being reconsidered at least temporarily. On the other, many of those employed in the services sectors, self-employed included, are classified as “essential workers” and face the pandemic in a very concrete way every day – unmasking not only dangerous working conditions, but also sparking a conversation on the necessary nature, but low compensation of many of these jobs.

**The EU Pillar of Social Rights – upward convergence of social rights in Europe**

European trade unions need to fight for decent work primarily through collective bargaining, but they also need to aim to influence policy at the national and EU levels. The EU Pillar of Social Rights offers the framework for that work on the EU-level.

Proclaimed in 2017, the set of 20 principles and rights was developed to support fair and well-functioning labor markets and welfare systems in the EU. It is divided into three categories: equal opportunities and access to the labor market, fair working conditions and social protection and inclusion. Designed with the intention of being a “compass for a renewed process of upward convergence towards the future of social Europe”, the Pillar has driven action forwards on the EU level, despite not being hard law and not enforceable vis-a-vis the Member States.

On January 14<sup>th</sup> 2020, Ursula von der Leyen's commission published a Communication A Strong Social Europe for Just Transitions where the Commission outlined its plans for further implementation of the Social Pillar. This Communication includes ideas about the working conditions of platform workers, a new Digital Services Act and a Platform Work Summit, to be organized by the Commission in 2020. The goal of the summit is to discuss priority issues and possible solutions, including for example employment status, working conditions and access to social protection of platform workers, access to collective representation and bargaining, as well as cross-border aspects of platform work.

A part of the implementation of the European Social Pillar of Rights is the Commission's Recommendation on access to social protection for workers and the self-employed. The Recommendation is built on social partner dialogue and aims to encourage EU countries to increase access, transparency and transferability of social security for those in atypical work. Despite the political weight of the recommendation and the other actions inspired by the Social Pillar, in terms of actual legislation, the wait is still ongoing.

### Other recent EU-level initiatives on legislative changes

#### *Access to Social Protection Initiative*

The most thorough attempt to date to promote European wide social protection for workers in non-traditional statuses. In December 2018, the EU ministers of employment and social affairs unanimously agreed to a recommendation to provide social protection for all workers (self-employed included), regarding unemployment, healthcare, social security, and more. This initiative is explicitly founded on the European Pillar of Social Rights. (European Commission)

#### *Ensuring more transparent and predictable working conditions*

In April of 2019, the European Parliament passed a law which guarantees a basic level of rights for all workers, as long as they pass the threshold of working 3 hours per week and 12 hours per 4 weeks on average. This would include a wide scope of non-traditional employment, particularly platform workers, short-term workers, and intermittent workers. The basic level of rights includes a guarantee to a predictable work schedule and greater transparency in employment contracts regarding remuneration, duration, and description of duties. (European Parliament)

## FIRST. Approach the new world of work with open arms

**Work is not changing – it has already changed.** There are many aspects of jobs and job protection that have changed shape. For example, more multifaceted work challenges traditional collective bargaining agreements. Further, the reduction of middle income jobs and increases of high and low income jobs challenges how wealth is shared between owners and workers. In addition, globalization, privatization and outsourcing challenge the previously agreed terms of work. And lastly, the political environment in many European countries causes problems to the legitimacy of current employee benefits. All these and other changes impact the way trade unions should operate.

The platform economy refers to economic activity facilitated by digital platforms that enable direct interactions between two (or more) distinct actors and match supply and demand of tasks. It challenges traditional employment relationships and responsibilities as it is not always clear who is the employer on a platform – the platform company or the person ordering the service via the platform?

A study done under Digital Footprint project by Foundation for European Progressive Studies, UNI Europa and University of Hertfordshire (2017) compared seven European countries and found out that 9% of the population in these countries had done some work on platforms, but it was most often only an occasional supplement to other income. The number of people earning more than half of their income on platforms was small, varying from 1,6% of the adult population in the Netherlands to 5,1% in Italy.

Although the number of self-employed people or workers in the platform economy is small, the fragmentation of single career jobs to increased uncertainty and responsibility has already happened. Trade unions, of course, have been changing too to tackle these issues. The unions need to stay on this path, learning from each other, in order to keep on pushing for fair and decent work. The fights regarding recognition, remuneration, free time and other important topics have to be fought again on new fronts.

Self-employment simultaneously is and is not one of these new fronts. Such work has existed in the past and will continue to do so. However, just like with the surge of agency work in the service sector previously, the rise in self-employment and the technologies and companies that enable it presents unions with new challenges.

Certainly, there are cases in this new landscape that are obviously attempts to use the lesser protections offered to those in self-employment to increase the profit margins of companies. This should be fought against. Nevertheless, there are also cases where self-employment is a genuinely wanted situation. Still this is work and the goal of unions should not be to ban the possibility of it, but instead to build solidarity, ensuring that the work is also decent work and done on fair rules that prevent social dumping and the detriment of the rules fair rules of work in general.

## **SECOND. Welcome the self-employed into unions**

Unions should represent those who are performing the act of working – whatever their legal status. This is a practical and moral position to take: increasing collective power has the possibility to ensure more decent working conditions for those self-employed and fight bogus self-employment, all the while helping set fair rules for the world of work in general and preventing the large scale negative effects of social dumping through the self-employed. Indeed, many unions are already doing this, where possible: inviting the self-employed in, offering tailored services and finding directions forwards in collective bargaining.

Roughly half of the unions that replied to the survey questionnaire for this report were planning or already working with the self-employed. These replies included self-employed workers in general and platform workers. The answers illustrate that while many are indeed working towards making work more decent for the self-employed as well (and some have been doing it for already quite a while), the issue could be even more determinedly addressed by more unions, and the good practices could be more widely spread.

How do the unions that work with the self-employed help them? The practices are diverse. Some unions allow for the self-employed to join and use some of their services while at the same time not being able to aid in collective bargaining due to national interpretations of EU competition law. As examples of practices provided by unions to the self-employed, in Switzerland the union syndicom provides a pension fund for the self-employed. In Germany, ver.di offers them consulting services and allows a membership in the union. And in Luxemburg, ALEBA helps the self-employed in marketing and IT needs.

When in particular asked on organizing activities targeting platform work, a few interesting examples came out. Unionen in Sweden has successfully signed collective bargaining agreements with local platform companies. In neighboring Norway, Fellesforbundet has used consumer pressure as a tool by organizing a strike against Foodora to get a collective bargaining agreement.

Besides organizing activities, the policies and strategies of unions towards the self-employed also differ in the countries represented in the survey. For example, Unionen in Sweden is focusing on increasing the social security of what they call “sole traders” (meaning self-employed). In Spain, Federación de Servicios CCOO is putting effort into reporting bogus self-employed workers. The end goal is to force the employers of these bogus self-employed people to formally hire them, which has been the case where following the actions of the union, a subcontractor firm of one of the biggest Spanish insurance companies was forced to hire workers as employees. In Denmark,

Forsikringsforbundet is at the same time pushing companies to hire organized labor and also attempting to make their collective agreements more flexible to accommodate the self-employed – not seeing them as a threat per se, but working hard with employers as well to make sure that the collective bargaining agreement based labor market stays strong. Further, some unions, like Unionen in Sweden find that despite the unlikelihood of finding a Europe-wide common solution to the varied challenges and contexts of the self-employed, unions should try to find common guiding principles, that could then be use to guide action on the national, sectoral and levels, adapting to specific challenges.

### **Concrete actions to welcome the self-employed into unions**

#### *Offering tailored services*

A great many unions already offer services specifically catered for the needs of the self-employed. Despite not being able to participate in collective bargaining due to interpretations of competition law in some countries, unions help the self-employed for example by providing pension funds, offering consulting services, helping in marketing, legal affairs and IT needs.

#### *Public support for campaigns*

In Finland, for example, the Service Union United PAM has not only collaborated with the food couriers' movement Justice4Couriers in giving legal advice and training, but has also publicly supported the campaign. The support has at the same time increased the visibility of the struggle and also can be possibly seen also as an indicative gesture to the couriers that their concerns are very much shared by the union.

#### *Social networks as tools to spread the message*

Several unions have been using social media to get into contact with the self-employed working especially on platforms. For example, in France, the group VTC 75 (Official) is the oldest group in which Uber drivers share problems and discuss. Groups such as this can be used by the unions to get into touch with those possibly falsely labeled as self-employed, but also to in general help get in touch with the self-employed.

## **THIRD. Focus on bogus self-employment**

While unions should incorporate self-employed people within their ranks, this does not mean that work that is masked as self-employment should not be called out and fought against.

Bogus self-employment – masking tasks that are actually done in traditional job settings as self-employed – is a typical way of circumventing mutually agreed rules. It's harmful to companies, to employed people and to other people who are actually self-employed from their own desire.

By providing broad services to self-employed people, finding out what tasks are actually traditional jobs in new clothes and what tasks are truly new ways of organizing and doing work is much easier. Further, when the boundaries between different kinds of work structures start merging, circumventing common rules by avoiding traditional categorizations becomes more difficult.

Trade unions should fight the miscategorization of work. In this task, they should collaborate with governments and tax authorities. Further, companies should also be interested in calling out unfairly competing competitors.

## Protecting against bogus self-employment and clarifying worker statuses

### *France*

France has maintained a two classification model: People are either employees or self-employed. Rather than adopting a third classification, French labor laws attempted to situate dependent self-employed workers into the two classification model by elaborating what it means to be an employee. French labor laws have settled on the notion of subordination in defining an employee. Therefore, if a dependent self-employed worker can prove that they work in a subordinate role to their would-be employer, they will be treated as an employee. (Bureau et al., in Semanza, R. and Pichault, F, eds, 2019) This principle is showcased by the French Supreme Court's decision in March 2020 to consider Uber drivers as employees.

This is an approach used in many European states attempting to root out bogus self-employment.

### *Italy*

Revisions to Italian labor laws have solved certain issues of bogus self-employment among workers who were contracted to specific projects by implementing new standards of what project work entails. These revisions codified the notion that a truly self-employed project contractor must be able to autonomously manage their own objectives, and that the project contract cannot exclusively require the execution of set tasks. (Mori, in Semanza, R. and Pichault, F, eds, 2019)

### *California*

In California in the United States, in September 2019 the state signed into law the California Assembly Bill 5 (AB5), also known as the “gig worker bill.” The bill requires companies that employ independent contractors to classify them as employees unless they can prove with a three-pronged test that the person is question actually is an independent contractor. The test implies the company must prove that

*“The worker is free to perform services without the control or direction of the company.*

*The worker is performing work tasks that are outside the usual course of the company's business activities.*

*The worker is customarily engaged in an independently established trade, occupation, or business of the same nature as that involved in the work performed.”*

*AB5 came into effect in the beginning of January 2020. (California State Assembly Bill No. 5, Chapter 296)*

### *Spain*

Two of the largest unions in Spain, including CCOO / UGT, have been pursuing legal action to get food couriers, who work for platform firms, to be recognized as employees. Court rulings have favored the unions and food couriers are now considered employees, therefore allowing collective bargaining agreements between food couriers and their employers. (Survey data)

### *Switzerland*

The trade union Unia in Switzerland has been especially focused on combating bogus self-employment. While Swiss law does offer some preliminary tools (for example self-employed service providers must prove their independence on request), the union is also calling for a presumption in favor of dependence in a working relationship – shifting the burden of proof on the one providing the work that the relationship is not one of employment. At the same time from the other point of view, the union is calling for an easing of burden of proof on the existence of an employment relationship.

## **FOURTH. Fight for a fairer interpretation of EU Competition law in all Member States**

The Treaty on the Functioning of the European Union sets rules on competition on the internal market aiming to prohibit anti-competitive agreements between undertakings (articles 101 and 109.) In several EU member states the EU competition laws have been narrowly interpreted on the national level in a way that sets barriers to collective bargaining for the self-employed. In these countries collective bargaining of the self-employed is viewed as cartel action. The self-employed are either forbidden by law to join trade unions (the case in e.g. Bulgaria and Hungary), are not able to collectively bargain their rights and their pay (e.g. Germany, Spain, Sweden) or do not have access to unemployment benefits (e.g. Belgium, France, Italy.) When collective bargaining is allowed, the right often applies to workers in sectors such as journalism, performance or and workers in culture and entertainment. Nevertheless there are large numbers of self-employed working in other fields, such as agriculture, construction and wholesale (Fulton 2018.)

Trade unions need to join forces to remove all barriers to collective bargaining: to push national governments to modify their legislation and to build a common legal framework that would end the unequal treatment of the self-employed in different European countries.

### **ECJ Ruling On Application Of Article 101(1) Of TFEU To Collective Labour Agreements For Self-Employed Service Providers**

On 4 December 2014, the Court of Justice of the EU handed down a judgement on the Article 101 of the TFEU to collective labor agreements for self-employed service providers (Case C-413/13, FNV Kunsten Informatie en Media). The case's pivotal matter was whether self-employed substitutes within a Dutch orchestra, for whom fixed fees had been agreed upon in a collective labor agreement, are to be considered employees or undertakings (entrepreneurs).

Significant for its dwelling into the category of “false” or “bogus” self-employment, the Court decided that competition law does not apply to arrangements among the substitute orchestra musicians – if they are in an employee-like situation can thus be categorized as “workers”. In the Court's reasoning, key to determining this is the relation of subordination, possibility to conduct oneself freely on the market and whether or not financial risk is born independently. In its decision, the Court highlighted that if those working are classified as bogusly self-employed, then any collective labor agreement that contributes to the “improvement of the employment and working conditions of the substitutes” could be excluded from the EU competition rules.

The Court's decision is a welcome step into acknowledging the need to fight social dumping and tackle the issue of bogus self-employment, all the while underlining the benefits of a collective bargaining approach of sorts for the self-employed as well. Nevertheless, with the decision to leave determination of bogus self-employment onto a case-by-case basis, rooting out instances of bogus self-employment is still time-consuming and individuals can still easily be classified as “undertakings” in many cases.

SOURCE: <http://curia.europa.eu/juris/document/document.jsf?docid=160305&doclang=en>

## **FIFTH. Build collective power in the short term**

Trade unions should kickstart the positive feedback loop of collective power and decent work by focusing on building collective power in the short term. Other important goals such as the ability to negotiate better social security, compensation, working conditions or opportunities for self-development will follow, but they only make sense if the union has a strong mandate across the old and new forms of work.

The survey results show that collective bargaining for the self-employed has seen the most success in situations where existing unions have actively included the self-employed in their collective bargaining efforts. In this way, the knowhow in bargaining and collective action within the unions can be used for the benefit of the self-employed as well. Collective bargaining for platform workers remains a hotly contested issue with legal disputes and protests prevalent throughout Europe. Comparatively, collective bargaining between freelance journalists and broadcasting companies has a much longer history of success. This distinction demonstrates that collective bargaining best practices for the self-employed varies not only according to country or job description, but according to sector as well. Unions and the organized self-employed have successfully secured collective bargaining agreements through various means. Below are some of these approaches in action.

### *The Naming and Shaming Approach*

#### **Riders Union Bologna:**

In May, 2018 in Bologna, Italy a charter was signed between the Riders Union Bologna, the three main trade union confederations, the centre-left city council and the local food delivery platform Sgnam e MyMenu. The charter, labelled Carta dei diritti fondamentali del lavoro digitale nel contesto urbano (Charter of fundamental rights of digital work in an urban context), sets, on a voluntary basis, a framework of minimum standards covering remuneration, working time and insurance cover to be respected by the signatory platforms. As platforms like Deliveroo, Foodora and JustEat have not signed the charter, the mayor of Bologna has called on customers to boycott them. In a 'naming and shaming' move, both signatory and non-signatory platforms will be listed on the city's website. Other Italian cities, like Milan, are likely to follow Bologna's example. (Vandaele et al, 2019).

#### **Targeted media campaigns**

Several unions reported having planned and conducted planned media campaigns to target especially platform companies operating with unfair rules and in some cases clearly using bogus self-employed workers. Unia from Switzerland for example has targeted especially current and future customers of the platforms with the information actions, hoping to spark support.

### *The Single Firm Negotiation Approach*

#### **Unionen:**

The largest white collar trade union in Sweden, has successfully negotiated with platform firms to internally consider all workers within their respective platform firms as employees, unless otherwise clearly defined as a "sole trader". As a result, these newly coined employees were allowed to sign collective bargaining agreements. Unionen held substantial leverage in these negotiations as they allow sole traders to join their union. Unionen also offers insurance and pension schemes, as well as legal advice and business coaching. (Survey data)

#### **Ver.di:**

The second largest German trade union which concluded collective agreements on behalf of employee-like workers in the public service broadcasting industry. This consisted largely of freelance journalists in Germany. Ver.di also provides its self-employed members access to legal advice, legal representation, social security contributions, and seminars (Dietl & Birner, 2019)

#### **syndicom**

In Switzerland, the syndicom concluded a CBA where, since May 2019, approximately 600 couriers are covered by the agreement that entitles couriers to minimum wage and better pay for night and Sunday deliveries. In addition, there is for example better protection in the event of illness.

### *The Associational Approach*

The examples below are similar to a long line of action on the parts of the self-employed: creating dedicated associations to share knowledge and assistance. The associations do not have the right to collective bargaining. Like with these newer associations, many unions have and continue to cooperate with them, even in cases where they are not formally under the umbrella of a certain union.

#### **CLAP (Chambers of Self-employed and precarious labor):**

Established in Rome in 2013, CLAP is a federation of independent and self-managed associations that offer services and information and help self-organize self-employed and precarious workers. While not itself aiming to be a part of collective bargaining processes, through the services it offers it aims to improve the positions of the self-employed.

#### **Justice4Couriers**

A campaign self-organized by food couriers in Finland, Justice4Couriers aims to pressure Foodora and Wolt, two food delivery platform companies, to improve working conditions. Started in 2018 after significant pay cuts for those working with Foodora, the campaign has continued to ask the companies for negotiations to provide for example sick pay and insurances and to recognize couriers and drivers as employees. The Service Union United PAM has cooperated with the campaign.

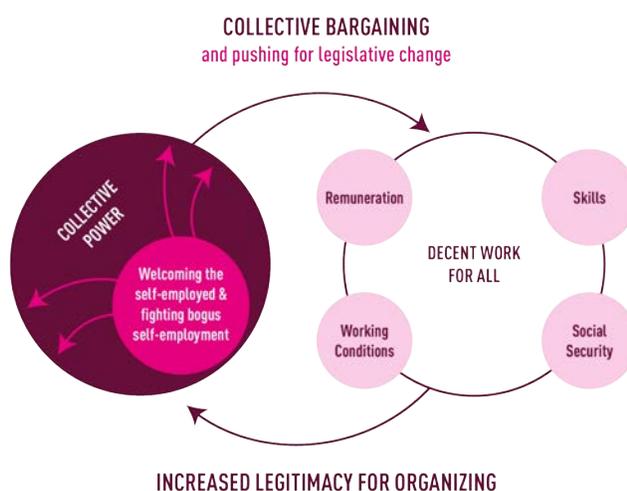
## **SIXTH. Use collective power to make work more decent for all**

Using collective power is the way to make work more decent also for the self-employed. It is morally the right thing to do and also helps trade unions to gain more collective power.

The moral basis and the legitimacy of the trade unions rely on their ability to make work both decent and fair. Fairness presupposes inclusiveness: it shouldn't matter what the legal affiliation of the person working is. Inclusiveness, however, is difficult. It requires solidarity towards people who come from different backgrounds, with different values and goals. Work should be decent for all.

In addition to the moral basis of decency, it also makes rational sense for the trade unions to use their collective power to maximize decency. Aiming and succeeding in making work decent for all not only ensures a level playing field and prevents social dumping, but creates legitimacy for unions in the eyes of all workers, the self-employed included. This further improves the collective power of the trade union.

Such solidarity does not emerge. It needs to be built. This is the role and virtuous cycle of the trade union in the 2020s: to build solidarity for collective power via increasing the decency of work – and increasing the decency of all work through building collective power.



*The virtuous cycle is a familiar one for unions and works for the self-employed as well: broadening the base of collective power through organizing, using that collective power to guarantee decent work by collective negotiation and in this way build increased legitimacy for organizing.*

What are the necessary conditions for decent work? While there are many helpful approaches to decent work (see e.g. [ILO Decent Work](#)), according to work conducted for this publication, four aspects should be highlighted to guarantee decent work in the changing world of work: compensation, working conditions, social security and skills development. When these aspects of decent work are protected for the self-employed, trade unions simultaneously protect the compensations, working conditions, securities and skills in the more traditional forms of work by raising the floor of decency in all work.

Other important aspects to consider are the role of self-employed jobs as entry-level jobs and stepping stones to better work. Currently there are too few entry jobs in many job markets, and when there are such jobs, they don't offer any increase in positive career anticipations. Thus, emphasizing not only remuneration but also opportunities for developing new skills is a necessary aspect of decency in the new world of work.

These long term goals, of course, are not separate from the actions in the now where unions all over Europe have shown the way. Collective bargaining agreements to embetter working conditions, policy aims on the legislative level nationally and in the EU, different services that concretely help the self-employed in the everyday, fighting bogus self-employment and inviting them in through different organization strategies are all steps on a long journey. The path to decent work for all is certainly not an easy one, but as the examples from unions show, it is possible and it is already happening. Learning from each other and coming together to galvanize each other on a shared direction is not a one-off exercise towards this shared goal, but a continuous, necessary process.

## CONCLUSION

The variety of employment relationships is diversifying and there are already 30,5 million self-employed people in Europe (out of which 21,8 million are “own-account” self-employed without employees.) Self-employment is not an inherently negative phenomenon and there are many motivations for a person to be self-employed. However, currently the self-employed are often not in an equal position with employees. They face several challenges, such as the lack of right for collective bargaining and access to statutory legal protections, insufficient social security and financial insecurity. Equally pertinent to these challenges is the question of “bogus self-employment” – cases where a worker is de-facto in an employee-like work relationship but is forced to perform services as self-employed. In these cases, the clear path forward should be rooting out these cases and clearly defining guidelines for what kind of working relationship is genuinely one of self-employment.

In face of these challenges and the changing world of work, trade unions have not remained idle in supporting “atypical workers.” The answers offered by UNI Europa affiliates in the survey conducted for this report show that many are on a good track forwards in facing these issues and there is lots to be learned from each other. Already now, the unions offer e.g. guidance, legal advice and education for the self-employed. Further, many are (and some have been for a long time) actively cooperating and recruiting the self-employed into the unions. This creates legitimacy for the unions in the changing world of work and in the eyes of the self-employed, strengthening collective power and thus the capabilities for pushing for decent work for all. The most powerful tool for ensuring this and the rights of the self-employed in general is collective bargaining.

Even though there are grand obstacles ahead, for example the interpretations of EU competition law in some member states, there are promising, inspiring ways forwards: unions inviting the self-employed in, fighting bogus self-employment, providing services, bargaining and advocating. These examples matter and should be shared and learned from. At the end of the day, even though some of them might be new, they all share a core thought, as old as unions themselves: decent work should be the right of all.

### What is this project and how was it done?

UNI Europa’s project “Shaping the Future of Work in a Digitalised Services Industry through Social Dialogue” has chosen to emphasize self-employment as a crucial topic by designating it as one of its three areas of focus. Through a survey of its affiliates, a desktop study of relevant literature and discourse and interviews with key experts in the field, UNI Europa ultimately wishes to identify key questions and tensions and develop a forward looking policy platform on how industrial relations and public policy as well as traditional union action can tackle the challenges arising from self-employment.

The aim of the survey that acted as one element of this study was to provide a joint understanding amongst UNI Europa members of the perceived status quo of the self-employed in different European countries. The survey also aimed to collect best practices and interesting policies from different states to inspire UNI Europa in further development of forward-looking, cutting-edge policy and recommendations. The survey results and an initial literature review was presented to UNI Europa affiliates in a thematic workshop in Rome in October 2019, during which and after the project team from Demos Helsinki discussed the findings with various experts in the field. These insights from the discussions and the survey results were further developed into this final report.

### Survey Methods

The survey was created with a series of open ended questions for respondents to answer (see Annex 1 for survey questions). The survey was sent out to 238 Uni-Europa affiliates in July, 2019, and was closed in the beginning of September, 2019. Upon closure of the survey, a total of 42 responses were received, of which 40 remained usable for analysis. The survey responses came from several European countries, with most major European states represented. We received the most survey responses from Sweden, 6 in total, with many other states being represented with 1 to 3 survey responses. However, the states unrepresented in our survey respondents include Lithuania, the United Kingdom, Austria, Czechia, Estonia, Poland, and Slovenia. See below in Annex 2 for a chart of the respondents:

### About Demos Helsinki

Demos Helsinki is an independent think tank that works towards building more fair and sustainable societies. With roots in the Nordics, but actions on a global level, we work together with governments, companies, trade unions, NGOs, researchers and activists to tackle some of the most wicked challenges of our time, from questions on the future of work to bringing people together to fight the climate crisis. A group of around 50 experts from various fields, we use foresight, co-creation, research and strategy work together with our partners and society to imagine the futures we would like to see and design the building blocks to reach them.

## SOURCES

Beuker, L., Borghi, P., Bureau, M., Corsani, A., Gazier, B., Godino, A., Koene, B., Martin-Artiles, A., Molina, O., Mori, A., Naedenoen, F., Norbäck, M., Siroc, K., Stanic, M. and Walter, L. (2019). The place of self-employment in the European context. Evidence from nine country case studies: Belgium, France, Germany, Italy, the Netherlands, Slovenia, Spain, Sweden and the United Kingdom. In: R. Semenza and F. Pichault, ed., *The Challenges of Self-Employment in Europe*, 1st ed. Cheltenham: Edward Elgar Publishing Limited, p.74-144.

California State Assembly Bill No. 5, Chapter 296.

[https://leginfo.ca.gov/faces/billTextClient.xhtml?bill\\_id=201920200AB5](https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB5)

Countouris, N., De Stefano, V. (2019). *New trade union strategies for new forms of employment*. ETUC. Brussels

Dietl S. & Birner K. (2019). *The Missing Link? – Gig/Crowd Workers And German Unions*.

<https://stefandietl.net/2019/03/31/the-missing-link-gigcrowd-workers-and-german-unions/>

ECJ C-413/13 - FNV Kunsten Informatie en Media v Staat der Nederlanden (2014).

<http://curia.europa.eu/juris/liste.jsf?num=C-413/13>

European Union, Treaty on European Union (Consolidated Version), Treaty of Maastricht , 7 February 1992, Official Journal of the European Communities C 326/47; 26 October 2012.

<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12012E/TXT&from=EN>

Eurostat (2019). *Percentage of self-employed by sex, age groups and household composition*.

[http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=lfst\\_hhsety&lang=en](http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=lfst_hhsety&lang=en)

Eurostat (2018). *Self Employment Statistics*. Statistics Explained.

[https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Self-employment\\_statistics](https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Self-employment_statistics)

Foundation for European Progressive Studies & al. (2017). *Work in the European Gig Economy*. Research Results from the UK, Sweden, Germany, Austria, The Netherlands, Switzerland and Italy. Brussels: Foundation for European Progressive Studies.

Fulton L. (2018). *Trade unions protecting self-employed workers*. ETUC. Brussels.

Hunter D. & Leslie K. (2018). [Statistical definition and measurement of dependent "self-employed" workers](#). International Labor Organization. Geneva, Switzerland.

OECD (2019), *Negotiating Our Way Up: Collective Bargaining in a Changing World of Work*, OECD Publishing, Paris,

<https://doi.org/10.1787/1fd2da34-en>

Moazed A. & Johnson N. (2016). *Modern Monopolies: What It Takes to Dominate the 21<sup>st</sup> Century Economy*

Parker, G., Van Alstyne M., Choudary SP (2016). *Platform Revolution: How Networked Markets Are Transforming the Economy - and How to Make Them Work for You* Hardcover

Spasova S., Bouget D., Ghailani, D. and Vanhercke B. (2017). *Access to social protection for people working on non-standard contracts and as self-employed in Europe*. A study of national policies. European Social Policy Network (ESPN), Brussels: European Commission.

Soru, A., Sinibaldi E., Zanni, C. (2019). *Working conditions and needs: results of a European survey* in *The Challenges of Self-Employment in Europe*, eds. Semanza, R. and Pichault, F. Edward Elgar Publishing, Cheltenham.

Suomen virallinen tilasto (SVT): Työvoimatutkimus [Online publication]. ISSN=1798-7830.

Vandaele, K., Piasna, A. & Drahoukoupil, J. (2019). 'Algorithm breakers' are not a different 'species': attitudes towards trade unions of Deliveroo riders in Belgium. ETUI Working Paper 2019.06.

<https://www.etui.org/content/download/36345/364997/file/WP-2019-06-web.pdf>

Van Dijck J., Poell T., and De Waal M. (2018). *The Platform Society: Public Values in a Connective World*.

# ANNEX I SURVEY QUESTIONS

## Background information:

- Name of Union: .....
- Sector(s): .....
- Country: .....

## Contact details for further information:

- Name: .....
- Position: .....
- Email: .....
- Phone: .....

## The self-employed in your sector(s) and country:

1. What percentage of the workforce in your country and/or your sector(s) is listed as self-employed?
2. What are the different legal statuses of the self-employed in your country? (e.g. self-employed, dependent contractor with partial employee rights, freelancer)
3. How are the rights of freedom of association, collective bargaining and representation currently realized in your country for the self-employed?
  - Freedom of association: .....
  - Collective bargaining: .....
  - Collective representation: .....
4. According to your opinion, have online platforms increased the numbers of those actively self-employed and the incidence of self-employment?
5. What do you consider as the biggest challenges regarding the self-employed in your country?
  - Union initiatives, strategies and policies: .....

6. YES/NO: Has your union co-operated or are you planning to cooperate with the self-employed? (e.g. with freelancers or those working through platforms)

YES / NO

- 6. a If yes, how? Please describe and also feel free to share links to possible documents and links to possible declarations (if possible, in English)
- 6. b Have there been trade union attempts to organize the self-employed via platforms? If yes, please describe these attempts and their possible successes and short-comings.

7. What is your union's policy and strategy regarding the self-employed?

- Ways forward: .....

8. With what kind of policy measures could the status of the self-employed best be improved in your country / in Europe?

9. How could unions best support the improvement of the status of the self-employed?

10. Are you aware of any cutting-edge practice and/or thinking in terms of collective bargaining in relation to self-employed workers? Please elaborate and share links and materials, if possible.

## ANNEX 2 SURVEY RESPONDENTS BY COUNTRY AND UNION AFFILIATION

|                    |  |                    |  |
|--------------------|--|--------------------|--|
| <b>Belgium</b>     | VSOA-SLFP Post<br>Centrale Générale FGTB<br>ACV Puls   | <b>France</b>      | SNRT-CGT Audiovisuel<br>FO COM   |
| <b>Bulgaria</b>    | Trade Union Federation of communications   | <b>Germany</b>     | Vereinte<br>Dienstleistungsgewerkschaft ver.di   |
| <b>Croatia</b>     | Croatian Union of Small Business   | <b>Greece</b>      | GREEK FEDERATION OF PRIVATE EMPLOYEES (OIYE)   |
| <b>Cyprus</b>      | EPOET  | <b>Hungary</b>     | TAVSZAK  |
| <b>Denmark</b>     | Financial Services Union Denmark<br>Forsikringsforbundet   | <b>Ireland</b>     | CWU Ireland  |
| <b>Finland</b>     | TEME, Trade Union for Theatre and Media Finland<br>Trade Union Pro<br>PAM / Service Union United | <b>Italy</b>       | Snfia<br>FEDERAZIONE AUTONOMA BANCARI ITALIANI<br>Fisac Cgil   |
| <b>Luxemburg</b>   | ALEBA  | <b>Latvia</b>      | Trade Union of Culture Sector of Latvia (LKDAF)<br>Trade Union of Culture Sector of Latvia (LKDAF)                     |
| <b>Netherlands</b> | CNV Vakmensen  | <b>Sweden</b>      | Fastighets<br>Unionen<br>Swedish Transport Workers Union<br>Fastighets<br>Handelsanställdas förbund<br>Finansförbundet |
| <b>Norway</b>      | Fellesforbundet<br>Fagforbundet Frisørenes fagforening<br>HK in Norway                           | <b>Switzerland</b> | syndicom<br>Unia   |
| <b>Portugal</b>    | SINTTAV  |                    |  |
| <b>Romania</b>     | ANTIC  |                    |  |
| <b>Slovenia</b>    | Odborový zväz pracovníkov peňažníctva a poisťovníctva  |                    |  |
| <b>Spain</b>       | Federación de Servicios CCOO<br>CCOO Construcción y Servicios                                    |                    |  |

\* In addition to responses from Europe, one survey response also came from the PPSWU in Palestine.





"This project receives support from the European Commission. This publication reflects the views of the authors only and the Commission cannot be held responsible for any use which may be made of the information contained therein."