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EUROPEAN REGULATIONS ON THE REGIME OF CASUAL WORKERS

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Abstract: *An extensive growth of casual jobs (temporary jobs, part-time jobs, self-employment) has been observed. Although trade unions have battled against employment itself becoming casual, the new forms of employment and their impact on workers and employment relationships are in the process of being understood. While trade unions are aware of this transformation, they are still seeking appropriate means to combat it. The main aim of the investigation is to study the forms of representation of casual workers in Europe.*

Key words: *casual workers, casual jobs, employment, trade unions.*

1. Introduction

In almost European countries, trade unions appear to be aware of the problems of representation of casual workers. However, much diversity exists with respect to organization and actual activities of representation/unionization.

This diversity seems to be related to various factors: a) different forms of casualization in public utilities and transport as compared with hospitality and agriculture, b) different levels of severity of casualization in the educational sector, c) involvement at different levels, and d) considerable differences with respect to the degree of convergence of features of casual employment of casual workers in different sectors, and in outcomes of unionization efforts. In addition, a global overview of problems, unionization efforts, conditions for success and relevant lessons is provided.

The ideal and very ambitious level of representation sought by trade unions for casual workers is that all of them must be unionized.

This would induce a concerted and powerful fight against casualization and probably also prevent the casualization of workers who are now in stable, permanent contracts. Still, even then, various 'lesser' forms of representation of casual workers would continue to be very relevant and desirable.

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2. Historical Context

Historically, aside from national representations, workers in the attempts to advocate for their rights and working conditions made a number of collective attempts at European level. One of the most meaningful steps was the first PanEuropean "Hired from the street" demonstration along the main roads of Brussels, where the European Commission has its headquarters, which took place on October 23, 2001, during the first European and then global wave 'No Global' demonstrations. A different circumstantial decision made this instance of mobilization very special: casual workers of all kinds would gather together under the generic name of 'precarious workers' (Murgia and Selmi, 2012). Thousands of demonstrations took place in Italy and all over Europe every week. After an encounter between Italian and French groupings of precarious workers, an Italian appeal specifically addressed to all precarious workers residing in any European country was launched, urging them to take part in the upcoming demonstrations in Brussels. The reflection was that without labor no resources could be extracted. The choice was to block entry to the central offices of the EU. Thousands of people rejected their bosses' wishes and boarded buses, trains, and any means of transportation.

In 2002, the London-based 'No Borders' network, a coalition of groups opposed to the EU and UK immigration policy, called for an international day of protests against what they term the 'Fortress Europe' that is gradually being erected against migrants and asylum seekers attempting to enter the EU. They realized the May Day March and were met with, what they claimed was, a brutal police response (Cervino, 2000). This theme caught on in many cities: all over Europe large protests were organized, where Italy joined them with two concurrent demonstrations, one in the north and one in the south, both heading for the major city of the respective regions, Milan and Naples. At both meetings, a Europe of rights was claimed, 'A Europe for everyone and not just the super-rich,' a rallying cry echoed in both critiques of the European Union and demands for migrant and labor rights. In 2004, upon the invitation of the local groupings, several representatives of the most informal precarity struggles arrived in Barcelona to attend the second European meeting of precarious workers. Each group shared their struggles and launched a call for international mobilizations starting May 2005.

2.1. Evolution of Casual Work in Europe

The article is grounded in a theoretical framework inspired by the varieties of capitalism literature. (Célérier et al., 2019) note that labor-on-demand is partly a product of the mainstream economy, and that regulatory regimes shape the degree of platform firms' embedding in the economy: "The incentive structure for a platform firm's executives, its stated policies, and the degree of integration with the realm of traditional economic activity – that is to say, the weight of activity governed by (some) law in the governance of activity – are crucial for obtaining a glimpse of the economic framework in which the firm acts." They specify several dimensions, with the focus on the proportion of the labor force working via platforms, and the political economy

dimension of whether firms are treated as tech companies or as labor market agencies. In light of these criteria, the authors identify three archetypes of platform governance regimes: 'emerging' governance regimes, present in a number of southern EU countries and elsewhere; 'hybrid' regimes, confiscating digitalization to develop welfare and places of support for workers and toil to the activity of platforms and their workers; and 'firm supported' regimes.

To synthesize a micro-perspective on the role of platforms in casualization, a theoretical lens on possible representations of platform workers is proposed. Five forms of representation are characterized. The disavowal of platforms by trade unions as employers and a call for tech provider regulation is the most common strategy. This position, formalizing the trade unions' historical fear of non-standard and non-official forms of employment, is associated with a dominant emphasis on the economic governance of platforms in the identified exploratory studies. The reader is confronted with political economy theoretical considerations challenging trade union discourse. However, it is concluded that the missing micro-foundational analysis lacks complementary insights as to workers' organizational responses to casual work. Alternatively to the first strategy, a number of second types of representations are distinguished within which workers or prospective workers themselves organize around the platforms for job visibility, requests or complaints, and to enhance a feeling of still belonging to the labor market.

2.2. Legislative Milestones

With regard to casual worker representation in Europe, an important milestone was the Convention of the International Labour Organization No 177 on Home Work, which was ratified in 1996. The Convention focuses on rights and standards for workers in the informal economy. No European Union regulation or directive has been created at the EU level that deals specifically with casual or platform workers. This legislation could help ensure minimum standards across EU countries and monitor compliance with them. Nevertheless, some EU member states have created national legislation to regulate labour relations in this sector. The law of the Netherlands, for example, requires companies and online platforms to keep records of their workers for tax and social security regulation. Spain's Digital Services Act obliges platforms to disclose data to ensure fair competition. Acts such as these highlight the need to regulate this sector of work.

Apart from the now very much debated gig economy, some forms of casual work do exist with a long tradition, notably, the agency work of temporary work agencies and homeworkers. This paper will look into their respective representations in five European countries: the Netherlands, Germany, Austria, France, and the UK. In these five countries, casual workers are represented in relation to agency work and home working, as well as in general by the European Trade Union Confederation and the local central trade union confederations, which try to act upon the standard-setting policies of the OECD and subsequently the European Union.

The representation of agency workers is more extensive than that of home workers. The agency work sector is already more adequately regulated, and in many EU countries there are collective agreements and dossiers in the bargaining process, while this is mostly lacking for homeworkers. In a more historical prospective, the representation of home workers emerged ten years earlier in 1986 than that of agency workers, which started in 1996. The representation of agency workers took on different forms compared to that of home workers. In the early years, the representation of agency workers focused on lobbying to ensure new legislation and supporting national trade union confederations and their affiliates. In the agency work sector, some initiatives were launched to set up European level collective bargaining. In contrast, the representation of homeworkers is very fragmented and lacks proper coordination.

3. Current Landscape of Casual Work

For some time now, it has been evident that the world of work is increasingly shifting from stable, full-time employment secured through calls for state intervention, union organization, and regulatory mechanisms, to temporary, casual, insecure, and often undocumented work, which is also generally informal. Many of those who would previously have worked in stable jobs are now 'crowdworking' for pay using telecommunications and multimedia technologies, algorithmic management platforms, and applications.

Against this backdrop of significant transformation, casual work is on the rise, and will soon appear as the dominant form of employment for some bordering on 70 percent of the world population. These casual workers may include migrant labour on non-registered farms, domestic workers paid in cash without contracts, students or pensioners supplementing permanent employment by means of a few hours' sporadic work on a task-organizing platform, or laboratory technicians paid for the hour by an agency after their permanent position was legally terminated.

Casual work is typically defined as work carried out on the benefits of the production process within a continuously defined time as measured with various devices. In economic terms, it would refer to the engagement of workers with short-term contracts giving rise to little job security and minimal real wage - that is, wages not adjusted for price-level changes - and social benefits. Various synonyms of it, such as fleeting, atypical, informal, and irregular, properly capture the different aspects of this extensive and inherently ambiguous phenomenon.

3.1. Statistics on Casual Workers

The widespread use of a public employment and wage platform (EPWP) by the national unions of workers aims to create a collective database of wages for the most common work contracts in various occupations. The adopted methodology for EPWP's development has been deeply influenced by an analysis of forms of employment, labor contracts, and workers' rights in Europe. The aim of this analysis is to illustrate how the conclusion of this analysis influenced EPWP's development and the representation of

the working contracts in the EPWP. Generally, most of the discussions on this analysis focused on how to classify the different forms of employment in general (Célérier et al., 2019).

Statistical sources on casual workers in Europe were compiled and clustered on the basis of the above considerations to sketch the representation of employees, self-employed contractors, and other non-standard forms of employment in the EPWP. The analysis outlined the bases for the construction of formalized and substantial indicatives of mapping and monitoring the situations of informal employment on both European and national scales. Based on this analysis, the national unions participating in EPWP needed to decide how to represent non-standard forms of employment and working and how much attention to casual work across Europe they wanted to pay. This decision on representation was made significant part. Eastern European countries with high casual employment were included among the eight countries participating in EPWP, while Southern European countries were excluded, most notably Greece and Portugal, despite their high casual employment. It was argued that it would be too hard to incorporate a variety of labor markets.

The topics of analysis of non-standard forms of working agree with the themes taken into consideration in relation to EPWP's representation of non-standard and casual workers on the level of forms of employment, working contracts, and economic sectors. Data were available on both formalized and substantial aspects of on-demand labor and labor platforms proposed both by classified and specialized sources. Sources on informal employment at a classification level almost completely matching with those built in EPWP were made available and tested.

The preliminary analytical work resulted in databased nations in the represented countries on both formalized and substantial aspects of casual work. The representation to EPWP on the situation of casual workers and working in general approach casual work on the level of employment/contract kind, sectors of employment/contract, and platform types on the basis published at a level of aggregation most comparable to other forms of non-standard employment.

3.2. Sectors with High Casual Employment

With some exceptions, the overall percentage of casual workers working more than 20 hours a week in the EU member states is relatively stable, with values ranging from 55% to 65%. Four countries deviate from this pattern: the most extreme case is Germany, where a high proportion of casual workers (70.7%) work less than 20 hours; Ireland is also in the lower region (39.3%); Italy is intermediate (48.7%); at the upper end is Sweden (73.2%) (Standing, 2018). The level of casualisation among women varies across countries. Except for Luxembourg and Germany, every other country shows higher levels of casualisation among women than men. The most extreme cases are Spain and Ireland, where female casual workers exceed their male counterparts by around 15%. Even in the UK, where the numbers of casual workers are not significantly different across gender, there is still a slight female majority.

The gender difference is only slight in six countries, including Germany, Finland, Latvia, Hungary, and Lithuania. The case of Germany is particularly interesting because the percentage of casual workers among the total employees is considerably lower than both in the EU-27 and EU-15, despite being the largest economy in the EU. In Ireland, the second lowest percentage of casual workers, almost half of casual workers work less than 20 hours.

Countries experiencing rapid economic growth have diverse outcomes. Casual workers are lower in quantity than in Italy, and the percentage of casual workers is also considerably lower than in mainland nations like Spain and France, although it is higher than in the Nordic region. This result partly reflects the less market-oriented approach towards labour forces in these countries. The level of casualisation in new member states is mixed: Poland has a very low percentage of casual workers and displays a lower level of casualisation across gender than in Slovakia or in the Baltic countries. Rentier economies like Estonia or Sweden have relatively high percentages of casual workers. Casual employment is relatively more common in the education and health sector than in manufacturing, construction, and public administration.

In Hungary, however, a large proportion of casual workers is concentrated in education and health. The overall distribution of casual employment across the three sectors is changing among the EU member states over time. Casual employment in manufacturing has declined significantly, while it has rapidly grown in accommodation and food services and education. In the last three decades, growth in casual employment in information and communication, construction, and public administration has been stagnant across countries. A negative fall in casual employment is noticed in mining and quarrying.

4. Forms of Representation

This chapter focuses on those forms of representation found in Europe that have garnered sufficient attention, need further scrutiny, and contain the most knowledge and experience. The discussion on European forms of representation is not exhaustive and further comparative research is warranted, but it offers a glimpse into the various approaches across diverse national contexts and in different sectors.

The most well-known and widely used form of representing casual workers in Europe is trade unions. The majority of the academic discourse and lobbying targeted at policymakers zeroes in on this form of representation. However, research focusing on trade unions alone is problematic and has been criticized. The established academic and political beliefs about trade unions bias perceptions about representations, shutting out alternatives.

Trade unions are regarded as quasi-monopolistic federally governed labor organizations existing within a predictable framework of autonomy, consistency, and regulation, which are mobilized by the working class to pursue collective interests. Such ideas frame the emotional practices of workers outside this conceptual representation as trivial. In contrast to this notion, unions are conceived as fragmented actors continuously mobilizing, counter-mobilizing, and conflicting. Such fragmentation reveals

possibilities for alternativity, conduction on micro- and nano-levels, with small units acting as global agencements. With regards to the topic, interests and trust must be contrasted with gain and loss, group boundaries and identities with a general basin, and casualization with self-employment.

Worker cooperatives are a form of economically integrating and representing casual workers that, for now, have garnered little academic analysis or activist attention. They exist, operate, and flourish under different national contexts and legal frameworks wherever single-person businesses are legally chargeable to VAT. In Europe, this organizing model is legally recognized and supported in various countries. These worker cooperative platforms generally integrate underscoring collectivities composed of independent self-employed workers, freelancers, and platform workers.

By remaining collective, these cooperatives advance the growth of a diversified set of economic alternatives, the construction of a collective identity, solidarity, and the capacity to take political action. Their multiplicity invites future research on comparing them beyond certain countries and generating trans-national exchanges and collaborations among activists. Despite quite diverse forms of cooperation and organizational models, informal coordination and support among casual workers across sectors and locations have become prevalent.

Unbeknown to authorities and experts alike, such networked modes of representation are largely present across Europe, taking multiple and diverse yet similarly fluid forms. The chapter concludes by stressing that this mosaic of forms of representation is highly dynamic and likely to further diversify and gain in importance. However, in the context of a new upward spiral of casualization, better regulating conditions of work are urgently needed.

4.1. Trade Unions

The rise of new forms of employment in Europe has affected the organisation and collective representation of workers. A large number of studies have analysed the impact of these changes on trade unions and workers' representation in Europe. The analysis has centered on atypical employment or non-standard employment, which refers to jobs with non-standard contractual arrangements (Cervino, 2000). There are many ways in which jobs can be non-standard.

The core non-standard jobs can be workers on fixed-term contracts, part-time workers, on-call or casual workers, freelancers, and self-employed. Precarious work is another label that is widely used in the literature to refer to uncertain, atypical, and cheap forms of jobs. These forms often concern work that is not recognized by the State or goes unrecorded. However, it is important to distinguish precarious work from atypical work. The rise of atypical work is a more general phenomenon amongst the countries of the European Union and there is a notable degree of similarities while the rise in precarious forms of work is more country-specific and distinguished by various variations in degree.

In order to understand the more general issue of the impact of new forms of employment on the representation of workers' interest, it is necessary to discuss first

how the new forms of employment are defined in the literature and how the forms of representation are conceptualized. It is first necessary to examine the evolution of atypical jobs in various European countries and how they affect the interests of workers in terms of their ability to collectively voice their interest in relation to wages and working conditions. There are many ways of analyzing the emergence of atypical jobs and their impact on the working conditions. However, it is not sufficient to assess how new forms of employment mean new forms of discontent amongst workers alone. It is also crucial to examine how they also affect the ability to process those discontents on behalf of workers and render them into a message of organised interest representation. In the third section, the focus would be on how trade unions' capacity of representation has changed and new ideas of representation are being put forward in response to the emergence of new forms of employment in Europe.

Finally, the last section would deal with case studies of two European countries, Italy and Malaysia, focusing on trade unions' capacity of representation and innovations of the latter in addressing precarity in their respective countries.

4.2. Worker Cooperatives

Worker cooperatives are formed by groups of individuals to produce goods or services collectively. These firms aim to maximize members' investment over the long-term, with worker control of financial and human capital producing lower wages, poorer conditions, and the hollowing out of productive capacity. Between the 19th and the early 20th centuries, worker cooperatives were prominent forms of association amongst manual, skilled, female and white collar workers in the UK, USA, Australia, parts of Europe and Latin America, although rarely in developing Asia and Africa.

By the 1960s the cooperative movement had become part of the cultural and political landscape of many societies, providing affordable housing and paving the way for social housing projects in cities. In Italy, factory takeovers were promoted in the Emilia Romagna region, mostly manufacturing plants.

In Argentina cooperativisation fed into wider tendencies of social movement unionism and multi-faceted insurgencies against neoliberalism, inspired by Anarchist, Marxist and other revolutionary traditions. Cooperatives in each locale were largely initiated by committed individuals hoping to break the stranglehold of commercial banks and provide lower rates of interest. In the global North, mainstream economic theory has traditionally viewed firms as 'black boxes' producing goods and services which analysis treated largely in quantitative terms. Little attention was paid to the choice of capital, whether conventional capitalist firms and 'land/knowledge market friendly' (KMF) businesses, municipal enterprises, cooperatives, or on how organization affected the type and quality of output.

Arguments were later posited against atomistic industry analysis in favor of family and relation-based models, alongside qualitative effects that emphasized single firms' behavior such as experimentation, innovation, industry evolution, cooperation between knowledge providers and users, strategic alliances and regional production webs. Such work has important empirical implications on cooperatives' ability to enter and remain

in major service and knowledge industries, where personal relations and tacit dimension growth speed impacts most. It is argued that skills should be seen as invested in and accumulated rather than as resources which modelled as given endowments, and through which other additional production inputs were mixed.

Still Guy, Williams, Wray and others have examined phenomena ranging from technological armies to accountant-led globalization to the emergence of the new knowledge economy, using explicit factors of production and output variables. Worker cooperatives are organizations primarily owned and controlled by their employees, existing for the mutual benefit of worker-members (Mannan, 2019).

4.3. Informal Networks

With respect to representation outside unions, many workers reported turning to informal networks, including relatives, friends, co-workers, or acquaintances looking for work. Social connections were sometimes more reliable than formal job-search resources because, without an established reputation or references, workers felt that they were less likely to be "seen" in the eyes of formal organizations. Colleagues were also turned to as potential sources of new information about jobs, particularly in precarious sectors such as food delivery and hospitality where vacancies are often filled via informal means (Murgia and Selmi, 2012).

For some, relying on informal networks was in part unavoidable to differing degrees, including being new to a city, lacking a network of acquaintances with knowledge of work opportunities, and speaking a language that posed a barrier. Others discussed informal networks as a resource they used in addition to formal job-search methods as it helped ensure that they were being informed about as many opportunities as possible. And while there were certainly some differences, on the whole, the informal networks report among precarious workers closely resembles reports in studies of framed workers.

5. Conclusions

The analysis carried out in this report has shown the extraordinary variety of forms of representation of casual workers in Europe, ranging from unofficial organisations of workers, sometimes very widespread and trans-national, to campaigns aimed at raising the visibility of precinct workers, to more integrated welfare services. Obviously, the diversity of methods of representation is connected to the different centrality of OC workers in the labour markets of the various countries and to the different labour contexts in which workers move.

Whatever the form of representation, it seems possible, however, to outline some common lines of development and appropriation of best practices. First of all, although OC work represents a largely invisible reality, there seems to be a wide-spread assumption by unions on the importance of beginning to confront this world. Even when unions are not directly involved, there is a recognition of the importance of devoting attention to personal engagements that may lay the basis for relations and services.

Secondly, it can be seen that language and communication play a key role in the same way in which they represent limits and barriers to addressing OC workers.

Most of the experiences presented have a great focus on communication and the use of different tools, from less traditional to more traditional. The development of tools for communication with OC workers holds also the potential to generate relations in situations where the workers' voice is not represented by any organisation.

Thirdly, there is a well-codified experience of street surveys in relation to OC workers. These surveys are generally linked to campaigns aimed at particular groups of workers.

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