

The European Confederation of Independent Trade Unions (CESI) is a confederation of more than 40 national and European trade union organisations from over 20 European countries, with a total of more than 5 million individual members. Founded in 1990, CESI advocates improved employment conditions for workers in Europe and a strong social dimension in the EU. Most of CESI's affiliates are employed in the fields of central, regional and local administration, education, training and research, security and justice, healthcare, postal services and telecommunications, defence and transport. CESI represents public and private sector workers.

In a position paper on *Future of work – A trade union perspective: Social protection, decent employment & interest representation* CESI has already advocated to allow, where this is not yet the case, the right of association especially for the precarious and vulnerable self-employed, regardless of the economic sector, and to explicitly allow them to become trade union members.¹

A general prohibition of collective bargaining for the self-employed via trade unions on the grounds that there may be cartel-forming through joint wage negotiations which is not in line with EU competition law and the integrity of the single market (article 101 TFEU) is a misplaced contextualisation of EU law, especially when it is applied to vulnerable and precarious self-employed persons, -these working particularly often in solo self-employment-, as the cost of services is determined by many factors beyond wages too. Here, the establishment and preservation of collective 'wage'-bargaining powers are legitimate to guarantee a general balance of powers and interests between all actors involved, i.e. the service provider the service taker, and, given the case, the intermediate (such as platforms), and to avoid that those concerned are excessively sold out by market powers and forced to provide work for indecently low wage levels. It is therefore of major importance to allow and strengthen the collective labour rights especially of the precarious and vulnerable self-employed.

CESI would greatly appreciate the extension of the right to collective bargaining especially to the precarious and vulnerable the self-employed. CESI stresses that such a right collective bargaining must be embedded in a four-tier approach which gives the concerned self-employed (1) the right to join trade unions, (2) the right to collective bargaining, (3) the right to become a part of collective agreements, and thus (4) also the right to industrial action. The mere right to collective bargaining on paper will not bring advantages; only by considering the above complete set of four elements may the right to collective bargaining be organised and enforced in practice and bring a concrete improvements for the self-employed. Establishing this would

¹ https://www.cesi.org/wp-content/uploads/2014/02/CESI-Presidium-Future-of-work-position-paper-20191211_adopted.pdf



be an important element for the EU to deliver on ‘social Europe’ and bring concrete benefits to affected worker-citizens.

CESI stresses that this initiative should not be aimed at the bogus self-employed, which by definition work in exploitative and precarious conditions as they are denied regular employee contracts because employers want to avoid higher social ‘costs’. This would be treating symptoms, not tackling roots. Bogus self-employed are, as the term reveals, false self-employed and de facto employees. What is necessary here is to ensure that they are considered as such with all consequences (regular individual and collective labour law and rights and social security schemes applied to them), thus eliminating bogus self-employment in the first place – an issue for the legislators to ensure clear legal frameworks and for (well-staffed and resourced) labour inspectorates to control their application and issue (detering) sanctions for violations.

CESI also wonders why this initiative is part of a consultation on a digital services act package. The right to collective bargaining for the self-employed is clearly an issue in the digital work sphere, but it spans much further and is also a matter for labour market and employment policies beyond digital services. In this sense, **CESI hopes that this initiative will be of horizontal nature and not be restricted to the digital work sphere.**