

# **Online platform workers — Protection of workers in the digital economy**

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**Where do we  
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**01**

**Context**

# Context (intro)



- Platform economy began in Europe in mid-2000s due to technological innovations
  - Covid-19 pandemic accelerated digitalization of work and increased demand for platform workers
  - Currently over 28 million people in EU work through online platforms
  - Expected to increase to 43 million by 2025
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# Context (intro)



- Impact of online platforms on work organization and conditions has raised concerns
  - Lack of clear legal definitions for platform activities and work provision has led to deeper fragmentation of EU labor market
  - Online platforms can operate across countries without formal registration and specific tax obligations, resulting in misinterpretations of labor law and regulatory loopholes
  - European Commission proposed a directive to improve working conditions in platform work.
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# Context (legal bases on which the directive is based on)

These legal bases provide the necessary authority for the EU to propose a directive to protect platform workers' rights, promote fair competition, and ensure the proper functioning of the internal market.

**Article 153(1)(b) of TFEU** allows the adoption of EU- level measures to improve working conditions, including health and safety at work, social security, and employment rights

**Article 53(1) of the Charter of Fundamental Rights of the European Union** protects workers' rights, including fair and just working conditions

**Article 114(1) of TFEU** allows the EU to adopt measures to promote the functioning of the internal market and prevent distorted competition

**Article 16 of TEU** promotes social progress and a high level of employment, as well as the protection of workers' rights

**Article 19(1) of TEU** ensures a high level of consumer protection


# Context



- In December 2021, the European Commission proposed measures to improve working conditions in platform work and support sustainable growth of digital labor platforms in the EU.
  - The proposed measures include a Communication setting out the EU approach and measures on platform work, **a proposal for a Directive on improving working conditions in platform work**, and draft guidelines clarifying the application of EU competition law to collective agreements of solo self-employed people seeking to improve their working conditions.
  - The proposed Directive aims to ensure that people working through digital labor platforms are granted the legal employment status that corresponds to their actual work arrangements
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# Context



- The criteria for determining whether a platform is an employer are clearly defined under the proposed Directive.
  - The proposed Directive also increases transparency in the use of algorithms by digital labor platforms and ensures human monitoring of working conditions.
  - The proposal addresses enforcement, transparency, and traceability issues and requires platforms to make key information about their activities and the people working through them available to national authorities.
  - The proposed measures aim to provide increased legal certainty, enabling digital labor platforms to benefit fully from the economic potential of the single market and a level playing field.
- 



# Context (Major events that lead to the directive)

Year	Event
2016	European Commission launches the "New Skills Agenda for Europe" to address digitalization and changing labor market needs.
May 2017	European Commission publishes a report titled "Online Platforms and the Digital Single Market Opportunities and Challenges for Europe."
November 2017	European Commission publishes a report on the "Social Protection of Workers in the Platform Economy".
December 2017	European Commission issues guidelines on the classification of platform workers.
2018	European Parliament adopts a resolution on "Social Protection for Workers in the Platform Economy".
December 2019	European Commission releases a study to gather evidence on the working conditions of platform workers in EU countries.
2020	COVID-19 pandemic highlights the precarious working conditions of platform workers.
February 2020	European Commission launches a consultation on the challenges of platform work.
December 2021	European Commission releases a proposal for a directive on improving working conditions in platform work.

Note: The proposed directive is currently under discussion and negotiation between the European Parliament and the Council of the European Union. If adopted, it will be implemented by all EU member states.

# Context



*Who are the platform workers?*

*The typical European platform worker is a young male, educated to a degree level.*

*The proportion of women decreases as the intensity of platform work increases. There is, however, substantial heterogeneity across countries.*

*The fact that most platform workers are highly educated is not surprising given that to be able to provide services via platform one needs to be a savvy internet user, and internet use tends to be correlated with higher education.*


*Despite conventional wisdom, a typical platform worker is likely to have a family and kids. Furthermore, regardless of age, platform workers tend to have fewer years of labour market experience than the average worker*



# Context (conclusion)



Overall, the proposal aims to provide greater legal certainty for platform workers, while also ensuring that they are able to enjoy fair and decent working conditions.





# 02

## Problem

# Problems

**Unclear employment  
status**

**Autonomy and Control**

**Earnings and taxation**

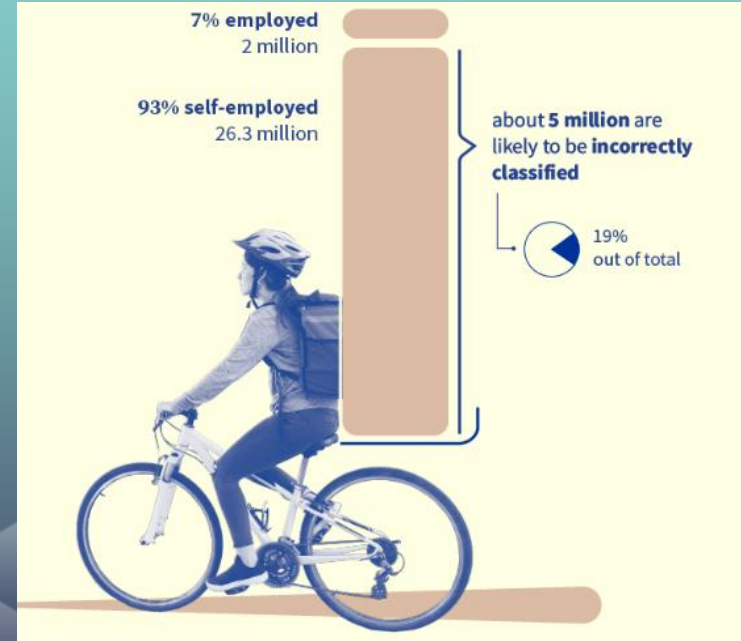
**Working Conditions**

**Representation**

**Risk of  
precariousness**

# Unclear employment status

- No regulation of employment status of platform workers at MS level
- Most of the time, platform workers are classified as **self-employed**.
  - Lack of social security coverage
  - Lack of protection under labor law
- Review of the status of platform workers has mostly been left to the judiciary, creating disparities between MS




# Autonomy and Control

- Various level of autonomy depending on the type of platform work
  - Impacts the evaluation of the subordination to an employer
- Platforms monitors performance, usually relying on data processing and algorithmic means
- For workers relying solely on platform work, *de facto* autonomy is most of the time reduce by financial considerations and market constraints




# Earnings and taxation

- Earnings are highly variable → renders taxation hard to determine
    - Depending on the platform and the type of work
    - Depending on whether work is done as a side or main activity
  - But in general, income is low, unstable, insecure and unpredictable
    - Task-based remuneration
    - Costs for the worker
    - Fees
    - Unpaid time
- 





# Working Conditions

- High work intensity and speed pressure
    - On-demand work
    - Competition
    - Low pay
  - Little or no access to training
  - Little or no opportunity for career progression
  - Aggravation of traditional health and safety risks
- 




# Representation

- Lack of representation among platform workers
    - Deprivation of collective rights
    - Lack of collective agreements
    - Lack of public voice through the regular channels
    - Difficult to assess and solve issues arising from platform works
- 



# Risk of precariousness

- Combination of above-mentioned factors put platform workers at higher risk of precariousness while lacking for resources to fight for better working conditions
  - Majority of platforms workers are young and combine platform work with a regular job
  - Platforms rely on their power and relations to prevent reform for better working conditions
- 



# 03


## Solution

Proposal for a directive on improving working conditions in platform work, COM(2021) 762 final

# Scope



**Digital labour platforms (DLP)** = platforms who provide

- Commercial service
  - At distance through electronic means
  - At the request of the recipient of the service
  - Organisation of work performed by individuals is an essential component of the service
- 


# Scope



## **Platform work =**

- Any work performed in the Union by an individual
- Organised through a DLP and
- Contractual relationship between the DLP and the individual

Not relevant: existence of a contractual relationship between the worker and the recipient of the service



# Scope



Two types of **workers**

- **Person performing platform work:** any individual performing platform work; contractual relation with the platform irrelevant
- **Platform worker:** employment relationship with the DLP

NB: All platform workers are people performing platform work!



# What does the proposal bring new?

The proposal is bringing three sets of new obligations:

- Rules concerning the **employment status** and the qualification of the contractual relationship between the worker and the DLP
- Rules concerning **algorithmic management** and control of the work
- New **transparency** obligations

Enforcement?



# Employment status

The determination of the employment status must be **correct**


- Verification procedures
- Based on the facts/reality and irrespective of any contractual arrangement between the parties

Legal **rebuttable presumption** of employment between the DLP and the person performing platform work if there is a **control** of the DLP. Control?

- Who sets the remuneration?
- Who sets rules regarding appearance and conduct?
- Who verifies the quality of the result?
- Who can set the working hours and can accept or refuse tasks?
- Is there a restriction on the building of a client base?

# Algorithmic management



- Transparency obligations if use of automated monitoring systems or automated decision-making systems
  - Human evaluation of the systems and human review of automated decisions that significantly affects platform worker's working conditions
  - Incentive to inform and consult platform workers and/or their union if introduction or substantial changes in the use of automated systems by the DLP
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# Transparency



Declaration of platform work to competent labour authority by DLPs themselves

Providing of informations to the competent authority including

- Number of persons performing platform work
  - General terms and conditions of the contractual relationship
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# Enforcement

- Right to effective and impartial dispute resolution
- Protection in case of adverse treatment or consequences resulting from a complaint and protection from dismissal and retaliation measures
- Full respect of the GDPR

=> No revolution




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**04**

**Where do we stand today?**



## Where do we stand today?

- The proposed directive is currently under discussion and negotiation between the European Parliament and the Council of the European Union
  - The discussions are difficult and that the council has proposed a new version of the recent text on March 17th. It's scheduled to be discussed this Monday, March 27th: [Here](#)
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**Thanks for your  
attention**

Any questions?

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