



EUROPEAN COMMISSION

*Brussels, 02.08.2022
C(2022) 5696 final*

Dear President,

The Commission would like to thank the Camera dei Deputati for its Opinion on the proposal for a Directive of the European Parliament and of the Council on improving working conditions in platform work {COM(2021) 762 final}.

The objective of the legislative proposal is to improve the working conditions of persons performing platform work by ensuring correct determination of their employment status, by promoting transparency, fairness and accountability in algorithmic management, and by improving transparency in platform work, including in cross-border situations while supporting the conditions for sustainable growth of digital labour platforms in the EU.

In proposing these measures, the Commission is delivering on the commitment in its 2021 Work Programme to improve the working conditions in platform work. The proposal also supports the implementation of the European Pillar of Social Rights Action Plan, endorsed by Member States at the Porto Social Summit in May 2021, by addressing the changes brought by the digital transformation to labour markets.

The Commission welcomes the Camera dei Deputati's support for a European legislative framework guaranteeing rights of platform workers. It also notes the Camera dei Deputati's concerns regarding the criteria triggering the presumption of employment relationship, the collective bargaining dimension and the role of social dialogue, the need to protect genuinely self-employed as well as to clarify the relationship between the proposed Directive and the existing and upcoming instruments in the digital field.

The clear criteria that the Commission proposes will ensure more legal certainty at EU level than exists currently. The significant number of Court decisions on the employment status of people working through platforms and hundreds of cases still pending across the EU attest to the need to secure a more systemic approach, providing improved certainty both for workers and platforms alike.

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The criteria were derived from the case law of the Court of Justice of the European Union and the rulings of the highest national courts in cases on platform work. Rather than opting for general criteria such as for example “subordination”, the Commission has proposed a list of more specific criteria relevant for platform work, that are operational and would not require complex legal analysis from those who would trigger the presumption.

The proposed Directive promotes social dialogue on algorithmic management systems. Article 9 requires digital labour platforms to inform and consult platform workers’ representatives if they intend to introduce new automated monitoring or decision-making systems. The proposal also aims to create communication channels for persons performing platform work to communicate with each other and with their representatives.

The Treaties confer a number of competences to the EU in the area of employment and social affairs. The EU is empowered to set minimum standards through directives in defined areas, such as working conditions, and information and consultation of workers (Article 153 of the Treaty on the Functioning of the European Union). These competences are relevant for the area of platform work.

In order to protect genuinely self-employed people against the risks caused by the use of automated monitoring and decision-making systems, Article 16 of the Treaty on the Functioning of the European Union was added as the second legal basis. It allows for the protection of personal data of workers and genuinely self-employed, as well as setting the rules on transparency and remedies against decisions taken or supported by those systems.

In addition, other existing and proposed EU internal market and data protection instruments remain or will be applicable to digital labour platforms’ operation and the people working through them, e.g. General Data Protection Regulation, Platform to Business Regulation or the proposed Artificial Intelligence Act. While they tackle algorithmic management in certain respects, they do not specifically address the perspective of people working through platforms, labour market specificities and collective rights.

Going beyond the requirements suggested in the Artificial Intelligence Act, the proposed Directive requires digital labour platforms to regularly monitor and evaluate the impact of individual decisions taken or supported by automated monitoring and decision-making systems on working conditions. The proposal also establishes the right for persons performing platform work to obtain explanation from the digital labour platform for a decision taken or supported by automated systems that significantly affects their working conditions.

Business users form a specific group of self-employed providers of services, which is regulated by the Platform to Business Regulation. The proposed Directive is not intended to interfere with the provisions of that Regulation. Consequently, the provisions of the Platform to Business Regulation prevail if the self-employed person working through a digital labour platform is classified as a business user within the meaning of the Regulation.

The Commission hopes that the clarifications provided in this reply address the issues raised by the Camera dei Deputati and looks forward to continuing the political dialogue in the future.

Yours faithfully,

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Member of the Commission*