



EUROPEAN COMMISSION

*Brussels, 15.7.2022  
C(2022)5154 final*

*Dear President,*

*The Commission would like to thank the Senat 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, supported 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 Senat's support for a European legislative framework guaranteeing the rights of platform workers. It also notes the Senat's concerns regarding the presumption of employment relationship, the criteria triggering the presumption and the possible consequences for digital labour platforms, people working through them and for consumers, as well as on the employment opportunities in some Member States.*

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

*The proposal for a Directive underscores the principle of primacy of facts in the correct classification of employment status and aims at establishing minimum standards in working conditions for persons performing platform work, on the one hand by ensuring that platform workers that have been misclassified benefit from existing rights they*

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*should have as ‘workers’, and, on the other hand, by setting new rights as regards algorithmic management.*

*The presumption of employment that the Commission proposes, based on clear criteria, will ensure more legal certainty at EU level than exists currently. The significant number of Court rulings 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 systemic approach, providing improved certainty both for workers and platforms alike.*

*At the same time, such a presumption should not prevent genuine self-employment in the platform economy. The Commission continues to strongly support genuine self-employment and entrepreneurship. The proposal ensures that people working through platforms who are genuinely self-employed will remain so, if needed by rebutting the presumption. Importantly, genuine self-employed should also have the freedoms and autonomy that go with that status.*

*Consequently, the estimated overall impact of the proposed Directive on employment levels, as documented in the impact assessment accompanying the proposal, will depend on how platforms will adjust to the new rules. Some might turn to the employment model, while others might provide conditions for genuine self-employment or opt for a hybrid model combining both.*

*The Commission has included an analysis of the impact of its initiative on the European consumers in its impact assessment. Some of the short-term costs of the digital labour platforms adjusting to the new rules may indeed be passed on to consumers. In the longer run, however, increased legal certainty and the level playing field deriving from this initiative will likely make the platform economy more competitive, thereby driving consumer costs down.*

*The Commission proposal is currently in the legislative process involving both the European Parliament and the Council.*

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

*Yours faithfully,*

*Maroš Šefčovič  
Vice-President*

*Nicolas Schmit  
Member of the Commission*