

Portugal: Prospects for a new labour legal framework for platform workers

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PEDRO PERISTA – EUROPEAN SOCIAL POLICY NETWORK

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The Portuguese government is preparing a labour legal framework for platform workers. The framework is expected to provide these workers with basic rights and increased social protection. The proposal was submitted to the social partners on 31 March 2021. There seems to be political consensus on the proposal, which addresses the demands of national and international instances.



Description

The Portuguese government is preparing a labour legal framework for platform workers. No concrete deadline has been announced but the Minister for Employment, Solidarity and Social Security referred to the government's intention of establishing such a framework "in the short term".

The framework should provide these workers with basic rights such as a minimum wage, regulated holidays and rest periods, as well as social protection in the event of sickness, parenthood and unemployment. Additionally, it should regulate work organisation, performance assessment and career development.

The proposed framework, which may lead to a new classification of jobs, is expected to combine some of the rights guaranteed to employees with specific rights and obligations taking account of the specificities of self-employment (esp. regarding flexibility). It is part of a wider initiative: the "Green Paper on the future of work", which the government presented to social partners on 31 March 2021 and which will be submitted to public discussion in May 2021.

The purpose of the Green Paper is to develop an agenda for the promotion of decent work and inclusive social protection and to highlight a set of core points for social dialogue. These points include the need to extend collective bargaining to new categories of workers including outsourced and platform workers, and to promote mechanisms to

tackle the isolation and fragmentation that often characterise these new forms of work.

An important issue regarding the regulation of platform work is the "presumption of a labour relationship". This means that the worker does not have to demonstrate the existence of a labour relationship with the company. The burden of proof is transferred to the employer, who would have to demonstrate the non-existence of a labour relationship with the worker.

Other issues include the need for a specific contributory and tax system as well as the need to widen social security coverage to all workers regardless of their legal status, and to ensure their access to adequate social protection.



Outlook and commentary

The Portuguese government's initiative addresses EU demands, including those laid down in the EU Council of Ministers' Recommendation of 8 November 2019 on Access to social protection for workers and the self-employed, and of international organisations such as the International Labour Organization. It is in line with similar developments across Europe.

The government has been emphasising the concept of "presumption of a labour relationship" as a crucial element. The Minister for Employment, Solidarity and Social Security has stated that, even if such a presumption is difficult to prove, it will nonetheless be crucial to increase the rights of platform workers and

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ensure better regulation of working relations in this particular context.

The proposal seems to be the subject of political consensus. It addresses concerns voiced by trade unions: the legal possibility to demonstrate the presence of a working relationship between digital platform companies and people working for them, and the need to provide platform workers with labour rights, a decent income and social protection.

The Confederation of Portuguese Workers (CGTP-IN) considers that the ideas set out in the Green Paper are insufficient to ensure decent work. In their view, it is not enough to recognise equal rights for platform workers; digital platform companies are employers and should thus be responsible for contributing to their social security coverage.

It also stresses that, whenever possible, collective labour regulations should be applied. As a concrete example, they suggest that platform drivers should be included in the collective agreement related to transport of passengers.

Platform companies have emphasised their willingness to dialogue and be part of the solution. They have voiced openness to improving work conditions and social protection, while highlighting that their workers tend to value flexibility and that this is deemed to contribute to a more dynamic economy and labour market.

Further reading

Council of the European Union (2019), *Council Recommendation of 8 November 2019 on access to social protection for workers and the self-employed (2019/C 387/01)*, Official Journal of the European Union 15.11.2019: [https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32019H1115\(01\)&from=EN](https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32019H1115(01)&from=EN)

Dray, G. and Moreira, T. C. (coords.) (2020), *Livro verde sobre o futuro do trabalho* [Green Paper on the future of work].

European Commission, *Questions and Answers: First stage social partners consultation on improving the working conditions in platform work*, Brussels, 24 February 2021: https://ec.europa.eu/commission/presscorner/detail/en/qanda_21_656

International Labour Organization, *World Employment and Social Outlook 2021: The role of digital labour platforms in transforming the world of work*, International Labour Office, Geneva: ILO, 2021: https://www.ilo.org/global/research/global-reports/weso/2021/WCMS_771749/lang--en/index.htm

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