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Platform workers need stronger legal protection

2023 can become an important year for the platform economy. A strong directive might be decided, finally improving conditions for workers

This year will be a crucial year for the platform economy. After the European Commission's proposal on improving working conditions in platform work in December 2021 and long discussions in the European Parliament and Council in 2022, this year, the directive might be finally adopted – potentially impacting the lives of millions.

But let's take one step back. The platform economy began to emerge in Europe in the mid-2000s, driven by rapidly developing technological innovations such as the widespread use of the internet and mobile devices, along with online applications. The Covid-19 crisis has accelerated the digitalisation of work and increased the need for labour for platforms such as Just Eat, Uber or Bolt. Nowadays, over 28 million people in the EU work through online platforms, and some estimates suggest that this number will increase to 43 million people by 2025.

While growing at an incredible speed, the impact of online platforms on the organisation of work and working conditions has been intensifying. The absence of legally binding definitions for platform activities and the provision of work is causing a deeper fragmentation in the EU labour market. Online platforms can operate across countries without formal registration and specific tax obligations, which are usually transferred to the individual contracts of workers that perform activities via the platforms. This leads to various misinterpretations of labour law and the creation of regulative loopholes for deceptive practices.

Division amongst – and within – the institutions

In December 2021, the European Commission reacted with a proposal for a directive on improving working conditions in platform work. The

key aim of the proposal is to ensure that people working via online platforms obtain the correct employment status and gain access to the applicable labour and social protection rights. Currently, workers are presumed to be self-employed and it is their responsibility to challenge their status in court. In consequence, many platform workers are misclassified as self-employed or freelancers. This, as a result, leads to a 'precarisation' of working conditions with insufficient income, a low level of social protection and limited access to social security.

The second main aspect of the proposal is to ensure fairness, transparency and accountability in algorithmic management in the platform work context. This is particularly important as platform workers need to install an application of their company – often on their private phones – to be able to work. Transparency in algorithmic management should ensure that platforms are not processing personal data such as private conversations – for example on the psychological state of a worker – or any information while the person is not performing platform work. So far, algorithms are not subject to public scrutiny under the excuse of protecting business secrecy.

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Meanwhile, in the European Parliament, the year 2022 ended with an important step towards a strong directive. On 12 December, the Parliamentary Committee on Employment and Social Affairs (EMPL) voted in favour of a compromise text, focusing on 'the protection of workers, the protection of good employers and the protection of the "genuine" self-employed'. The compromise text is in favour of achieving a general presumption of employment without any criteria – in contrast to the Commission's proposal, which proposed the introduction of five criteria that could motivate a legal presumption. EMPL's proposition is in line with key demands from trade unions. However, on 2 February, the report still needs to go through a final vote at plenary – which might be particularly risky for the deal, as members of the Parliament tend to be less oriented towards worker protection than the EMPL committee.

In the Council of the European Union, the 2022 Czech presidency presented its own compromise text, which stands in huge contrast to the debate in the European Parliament. Ludovic Voet, Confederal Secretary of the European Trade Union Confederation (ETUC), estimates that

the proposed text would 'weaken protections for precarious platform workers'. Seven member states have also objected the Czech proposal, showing the division within the Council between those who are in favour of a strong directive, benefiting the workers, and those member states who are prioritising sector growth and are opposed to the general legal presumption. The heated debates in the Council may also be related to the fact that the directive impacts employment law – a national competence.

Time is up for the Czech presidency to reach a deal, a task that Stockholm has now taken over. While Commissioner Nicolas Schmidt has asked the Council to revert to the directive's original text, , the new Swedish presidency will likely continue the previous path, possibly bringing down the level of worker protection even further.

Three areas of improvement

While this directive – if it were to pass – would address the status of the workers as well as transparency regarding the algorithms designed to allow regulation of the platform economy in Europe, it does not cover all pressing issues of platform work. It is therefore important to go beyond the current debate to tackle the issues that this new form of labour brings with it. An international research project by the Competence Centre Future of Work of the Friedrich-Ebert-Stiftung shows the complexity of the platform ecosystem and identifies three areas within the platform landscape that need to be addressed by policymakers.

Firstly, member states should introduce a publicly available register of platform companies to collect more information on the number of active platforms and platform workers as well as their employment status. This information is important in addressing the legal responsibility of platform companies, not only in terms of the quality of services provided but also in terms of fair working conditions for platform workers. Currently, such registers only exist in a few member states such as France or Portugal. Still, even in these countries, the registers only exist for tax reasons, without making the data publicly available.

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Secondly, platform-mediated work remains insufficiently understood. Tasks that are performed via platforms such as delivery or care work are not new in terms of the scale of tasks involved or the level of skills required. However, platform work introduces new forms of subordination with the use of automated systems to match supply and demand as

platforms operate via mobile apps. In consequence, algorithms are performing automated or semi-automated decision-making functions in the organisation of labour.

Thirdly, it needs to be recognised that an important share of platform workers are migrants and women and that 'platformisation' also exists in fields such as care, cleaning and domestic work. Here, the initial step needed is to acknowledge that platform work is directly linked to gender and ethnic inequalities in the labour markets. This is particularly important not only in developing policy options to ensure fair working conditions for workers regardless of their origin, ethnicity and gender but also in terms of equal collective representation by recognising the voices of workers coming from different groups and backgrounds. Trade unions, in particular, have a central role in establishing such a social dialogue.

2023 has the potential to be an important year for the platform economy. A crucial factor will be the final compromise on the Commission's directive proposal. Only a strong directive can have a real impact on improving working conditions for platform workers!



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