



The Commission's directive proposal on platform work – paradoxes and novelties

Catherine Jacqueson
Welma Research Centre
Law Faculty, Copenhagen University

WorkWel DFF Research Project No 118164

UNIVERSITY OF COPENHAGEN



WorkWel project - Reshaping Work and Welfare in the Digital Age (WorkWel)



<https://jura.ku.dk/english/welma/research/workwell/>

Together with post-doc, Phd, Alberto Barrio

MAIN QUESTIONS

What are the striking features of the proposal?

Would it improve the protection of platform workers?

What is its added value?

MAIN CLAIMS

- The proposal is paradoxical – on worker and scope
- The proposal is novel – the functions of the principle of transparency

FIRST A SNAPSHOT OF THE CONTEXT...

3 essentials on the proposal

- A Christmas present for platform workers?**
- Did not come alone – a twin package**
- Did not come in a vaccum**

Paradoxes – the concept of worker and social protection



The hybrid concept of worker

A national concept BUT EU limits

- ❑ Should be based on facts/reality, not on formalities
- ❑ Should respect the case-law of the CJEU
- ❑ Imposes an (EU) presumption of worker based on the control element
- ❑ Paradoxical but not new: evidence of a recent trend



From working conditions to social protection

- ❑ From working conditions to social and social security protection? Several references in the proposal
- ❑ Should lead to a uniform *national* concept across tax, social security and labour law
- ❑ Monitoring of the platforms might indirectly impact on social and social security protection

The novelties of the proposal – Transparency



Transparency to enhance compliance

- Declaration of platform **employers** (Article 11)
 - => **Declare** work to labour and social authorities
 - => To authorities where the **work is performed**
 - => **Share** 'relevant data'
 - => Concerns **only workers**
- => Especially important for **cross-border situations** and social security coordination => **competent state?**



Transparency to enhance compliance

- Declaration of all platforms (Article 12)
- ⇒ **Obligation to inform** national labour, social protection authorities and platform workers' representatives on:
 - Number of persons performing platform work,
 - contractual or employment status and the general terms
- ⇒ Info may be used in a broad range of actions, i.e. correct employment status for social security purposes, contributions and the benefits even maybe concerning welfare
- ⇒ - Those operating on a regular basis
 - Not only workers

Transparency - Algorithmic management

- Quick and easy information of automated monitoring and decision-making systems => open the box



- Limit instances where personal data may be processed
 - => Prohibited data: on emotional or psychological state, private conversations or health
 - => Prohibition to collect any personal data outside of the performance of platform work



Transparency - Algorithmic management

Automated decisions

⇒ Requirement of human review on significant issues

⇒ In line with and specifies GDPR

⇒ Administrative law requirements

- right to an **explanation** and access to a **contact person** when decision on **working conditions**
- **written statement** when restrict, suspend or terminate account, refuse remuneration or contractual status
- right to receive a **review** by platform within 1 week

Would it improve the
protection of
platform workers?

Main conclusions

- Long and maybe bumpy way at EU level
- Ambitious but also dependent on national willingness
- Presumption improves the position of platform workers
- More control of platforms and information for the benefit of workers and their social security protection
- Status of worker not always sufficient to ensure effective protection in case of risks => fall within the gaps

Thank you for your attention