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DRAFT REPORT

on fair working conditions, rights and social protection for platform workers -
new forms of employment linked to digital development
(2019/2186(INI))

Committee on Employment and Social Affairs

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MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

on fair working conditions, rights and social protection for platform workers - new forms of employment linked to digital development (2019/2186(INI))

The European Parliament,

- having regard to Regulation (EU) 2019/1150 of the European Parliament and of the Council of 20 June 2019 on promoting fairness and transparency for business users of online intermediation services,
- having regard to Directive (EU) 2019/1152 of the European Parliament and of the Council of 20 June 2019 on transparent and predictable working conditions in the European Union,
- having regard to Directive (EU) 2019/770 of the European Parliament and of the Council of 20 May 2019 on certain aspects concerning contracts for the supply of digital content and digital services¹,
- having regard to Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation),
- having regard to the European Pillar of Social Rights,
- having regard to the Council Recommendation of 8 November 2019 on access to social protection for workers and the self-employed,
- having regard to the Council Conclusions of 24 October 2019 on ‘The Future of Work: the European Union promoting the ILO Centenary Declaration’²,
- having regard to the Council Conclusions of 13 June 2019 on ‘The changing world of work: reflections on new forms of work and implications for the safety and health of workers’³,
- having regard to the Commission proposal of 15 December 2020 for a regulation of the European Parliament and of the Council on a Single Market For Digital Services (Digital Services Act) and amending Directive 2000/31/EC,
- having regard to the Commission proposal of 15 December 2020 for a regulation of the European Parliament and of the Council on contestable and fair markets in the digital sector (Digital Markets Act),

¹ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32019L0770>

² <https://data.consilium.europa.eu/doc/document/ST-13436-2019-INIT/en/pdf>

³ <https://data.consilium.europa.eu/doc/document/ST-9686-2019-INIT/en/pdf>

- having regard to the Communication from the Commission of 19 February 2020 entitled ‘A European strategy for data’,
- having regard to the Commission White Paper entitled ‘Artificial Intelligence - A European approach to excellence and trust’,
- having regard to the Commission Communication of 14 January 2020 entitled ‘A strong social Europe for just transitions’,
- having regard to the Commission Communication of 2 June 2016 entitled ‘A European agenda for the collaborative economy’,
- having regard to its resolution of 21 January 2021 with recommendations to the Commission on the right to disconnect⁴,
- having regard to its resolution of 17 December 2020 on a strong social Europe for Just Transitions⁵,
- having regard to its resolution of 22 October 2020 on the employment and social policies of the euro area 2020⁶,
- having regard to its resolution of 20 October 2020 with recommendations to the Commission on a framework of ethical aspects of artificial intelligence, robotics and related technologies⁷,
- having regard to its resolution of 20 October 2020 with recommendations to the Commission on the Digital Services Act: Improving the functioning of the Single Market⁸,
- having regard to its legislative resolution of 10 July 2020 on the proposal for a Council decision on guidelines for the employment policies of the Member States⁹,
- having regard to its resolution of 10 October 2019 on employment and social policies of the euro area¹⁰,
- having regard to its resolution of 19 January 2017 on a European Pillar of Social Rights¹¹,
- having regard to its resolution of 15 June 2017 on a European Agenda for the collaborative economy¹²,
- having regard to its resolution of 15 June 2017 on online platforms and the digital single

⁴ Texts adopted, P9_TA(2021)0021.

⁵ Texts adopted, P9_TA(2020)0371.

⁶ Texts adopted, P9_TA(2020)0284.

⁷ Texts adopted, P9_TA(2020)0275.

⁸ Texts adopted, P9_TA(2020)0272.

⁹ Texts adopted, P9_TA(2020)0194.

¹⁰ Texts adopted, P9_TA(2019)0033.

¹¹ OJ C 242, 10.7.2018, p. 24.

¹² OJ C 331, 18.9.2018, p. 125.

market¹³,

- having regard to the its resolution of 4 July 2017 on working conditions and precarious employment¹⁴,
- having regard to the opinion of the European Economic and Social Committee of 18 September 2020 entitled ‘Fair work in the platform economy’,
- having regard to the opinion of the Committee of the Regions of 5 December 2019 entitled ‘A European framework for regulatory responses to the collaborative economy’,
- having regard to the European Social Partners’ Framework Agreement on Digitalisation of June 2020¹⁵,
- having regard to the International Labour Organization’s Recommendation No. 198 on Employment Relationship,
- having regard to the Commission study entitled ‘Study to gather evidence on the working conditions of platform workers’,
- having regard to the Commission Joint Research Centre (JRC) report ‘entitled the changing nature of work and skills in the digital age’,
- having regard to the Commission JRC report entitled ‘Platform Workers in Europe’,
- having regard to the European Parliament study entitled ‘The platform economy and precarious work’,
- having regard to the European Parliament study entitled ‘The Social Protection of Workers in the Platform Economy’,
- having regard to the Cedefop report entitled ‘Developing and matching skills in the online platform economy’,
- having regard to the Cedefop briefing note entitled ‘Online working and learning in the coronavirus era’,
- having regard to the Eurofound study entitled ‘Employment and working conditions of selected types of platform work’,
- having regard to the Eurofound policy brief entitled ‘Platform work: Maximising the potential while safeguarding standards?’,
- having regard to the Eurofound research report entitled ‘Back to the future: Policy pointers from platform work scenarios’,

¹³ OJ C 331, 18.9.2018, p. 135.

¹⁴ OJ C 334, 19.9.2018, p. 88.

¹⁵ https://www.etuc.org/system/files/document/file2020-06/Final%2022%2006%2020_Agreement%20on%20Digitalisation%202020.pdf

- having regard to the EU-OSHA study entitled ‘Protecting Workers in the Online Platform Economy: An overview of regulatory and policy developments in the EU’,
 - having regard to the ILO report of 20 September 2018 entitled ‘Digital labour platforms and the future of work: Towards decent work in the online world’,
 - having regard to Rule 54 of its Rules of Procedure,
 - having regard to the opinion of the Committee on Transport and Tourism,
 - having regard to the report of the Committee on Employment and Social Affairs (A9-0000/2021),
- A. whereas platform work can create employment opportunities, increase choice, provide additional income, and lower barriers to entering the labour market; whereas platform work facilitates flexibility for both workers and clients, and the matching of demand for and supply of services, as well as innovation in digital tools, which is a useful vector for growth in times of crisis and recovery;
 - B. whereas platform work has also raised concerns about precariousness or poor working conditions, lack of access to adequate social protection, fragmented and unstable income, and a lack of occupational health and safety measures, especially for lower-skilled on-location platform workers and workers performing micro-tasks, as highlighted during the COVID-19 crisis;
 - C. whereas platform work covers different realities and is characterised by a high level of heterogeneity in the activities carried out; whereas there are different categories of platform work such as online or on-location, requiring a high or low level of skills, paid per task or per hour, performed as a secondary or primary occupation, and that the profiles of platform workers and types of platforms vary widely;
 - D. whereas people working in the platform economy are generally classified as formally self-employed; whereas, as such, these people do not benefit from the equivalent social, labour, health and safety protection that are connected to an employment contract in most countries;
 - E. whereas the blurred distinction between workers and the self-employed often seen in platform work causes uncertainty as regards their rights, entitlements, and applicable rules: whereas more and more sectors are likely to be impacted by this in the future;
 - F. whereas Member States have developed different approaches, leading to fragmented rules and initiatives; whereas there is a need for European level action to overcome the resulting legal uncertainty and improve platform workers’ rights;
1. Notes that the current European framework is unsatisfactory, with EU legal instruments which do not cover all platform workers in their personal scope and which do not address the new realities of the world of work; regrets that this fragmentation places some platform workers in a legally precarious situation, resulting in some platform workers enjoying fewer or more limited rights than should be guaranteed to all platform workers regardless of their employment status;

2. Stresses that the meaning of the terms ‘worker’ and ‘self-employed’ are not uniformly defined in all Member States; notes that the boundary between these two terms is less clear for new forms of work, and that some workers are at risk of being misclassified;
3. Believes that this legal uncertainty must be urgently addressed, while acknowledging that it cannot be easily solved by a one-size-fits-all approach; believes that any proposal must recognise the heterogeneity of platforms and of platform workers, and take into account the current digital labour platforms model, where some platform workers are genuinely self-employed and wish to remain so;
4. Welcomes the Commission’s proposal for a legislative initiative to improve the working conditions of platform workers; calls on the Commission, if the social partners do not express the wish to initiate the process provided for in Article 155 of the TFEU, to put forward a new directive on platform workers in order to guarantee them a minimum set of rights regardless of their employment status, and to address the specificities of platform work;
5. Stresses the need to better combat bogus self-employment by means of a directive, so as to cover platform workers which are fulfilling the conditions characteristic of an employment relationship based on the actual performance of work, and not on the parties’ description of the relationship; is of the opinion that special attention should be given to digital labour platforms that strongly organise conditions and remuneration of online and on-location platform work, which could be used as guidance for determining the degree of responsibility of platforms towards platform workers;
6. Calls on the Commission, when exploring ways to improve working conditions to:
 - better implement the prohibition of exclusivity clauses, and ensure all platform workers are permitted to work for different platforms (multi-apping) and not be subject to adverse treatment for doing so;
 - improve rights in case of restriction, suspension or termination by the platform by ensuring all platform workers have the right to a reasoned statement , and, if this is disputed, a right of reply and to effective and impartial dispute resolution providing the possibility to re-establish compliance or rebut the statement;
 - address the current lack of transparency by ensuring the provision of essential information regarding working conditions, the method of calculating the price or fee, and transparency in the event of a change in the terms, conditions and procedures for temporary or permanent deactivation, if any, which should be preceded by consultation;believes that the aforementioned communication should be made in a clear, comprehensive and easily accessible way;
7. Stresses that some platform workers may be subject to increased health and safety risks; is of the opinion that the Commission proposal must address the occupational health and safety of platform workers as well as establish minimum requirements to enable them exercise a right to disconnect without any adverse consequences;
8. Considers that platform workers should receive compensation in case of work accidents

and occupational diseases, and be offered sickness and invalidity insurance coverage; welcomes, in this respect, the initiatives of some platforms to provide insurance as well as occupational health and safety measures;

9. Strongly believes that formal and effective coverage, adequacy and transparency of social protection systems should apply to all workers including the self-employed; calls on the Member States to fully and immediately implement the Council Recommendation on access to social protection for workers and self-employed, and to ensure that their national plans set out relevant measures to be taken address the social protection of platform workers;
10. Recalls in particular the importance of extending social protection rights to self-employed platform workers, including people transitioning from one status to another or who have both statuses, for schemes covering maternity and equivalent parental benefits, and unemployment, sickness, healthcare and old-age benefits;
11. Recognises that freedom of association and the right to collective bargaining are fundamental rights for all workers, and believes a directive on platform workers should ensure that these rights are effective and enforced; notes the potential for imbalanced relationships between digital labour platforms and workers, who may lack the individual bargaining power to negotiate their terms and conditions; notes further that there are also practical issues such as a lack of common means of communication and opportunities to meet online or in person, which can prevent collective representation in practice; calls on the Commission to address such impediments in its proposal; stresses the need for platform workers and platforms to be properly represented in order to facilitate social dialogue;
12. Regrets the legal difficulties in collective representation faced by platform workers, and is aware that the solo self-employed are considered ‘undertakings’, and as such are subject to the prohibition on agreements that restrict competition; welcomes in this regard the inception impact assessment published by the Commission¹⁶, and the planned initiative to address this obstacle; is convinced that EU competition law must not hinder the improvement of the working conditions (including the setting of remuneration) and social protection of solo self-employed platform workers through collective bargaining;
13. Believes that basic training must be provided to platform workers by the platform at least on the use of their website or the application; believes further that platform workers, in particular less qualified workers, should be offered training enabling skilling and re-skilling to improve their employability and career paths; calls for the facilitation of the recognition, validation and portability of attainments in the field of non-formal and informal learning; believes in this regard that a ‘certificate of experience’ should be issued for platform workers who have participated in such training, which could be uploaded on individual learning accounts;
14. Considers that platform workers should be entitled to transparent, non-discriminatory and ethical algorithms; believes that algorithm transparency should apply to task distribution, ratings and interactions, while respecting trade secrets, and that an intelligible explanation of the functioning of the algorithm on the way tasks are

¹⁶ https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=PI_COM%3AAres%282021%29102652

assigned, ratings are granted, the deactivation procedure and pricing should always be provided, as well as information in a clear and up-to-date manner on any significant changes to the algorithm; is of the opinion that ethical algorithm implies that all decisions are contestable and reversible, and that incentive practices or exceptional bonuses in particular should not lead to risky behaviours; is convinced that non-discriminatory algorithms are those which prevent gender and other social biases;

15. Recalls that all online platforms must ensure full compliance with EU non-discrimination and data protection law; believes further that platform workers should have access to all data concerning their own activities, understand how their personal information is processed, and have the right to export their ratings; believes that the possibility of a portable rating certificate, recognised between similar platforms, should be explored;
16. Calls on the Commission to establish a European quality label which would be granted to platforms implementing good practices for platform workers in order for users, workers and consumers to make informed decisions, and which would highlight platforms with quality working conditions and transparent systems;
17. Instructs its President to forward this resolution to the Council and the Commission.