Improving working conditions of persons working through digital labour platforms

2021/0414(COD) - 09/12/2021 - Legislative proposal

PURPOSE: to improve the working conditions of people working through digital platforms.

PROPOSED ACT: Directive of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: the digital transition, accelerated by the COVID-19 pandemic, is shaping the EU economy and its labour markets. Digital labour platforms have become an important part of this emerging new social and economic landscape. Today, more than **28 million people in the EU** work through digital labour platforms, and it is estimated that there will be 43 million by 2025.

It is estimated that nine out of ten platforms active in the EU currently are estimated to classify people working through them as self-employed. While most of these people are truly autonomous in their work, many are in a **subordinate relationship to the platforms**, for example in terms of pay levels or working conditions.

Digital labour platforms use automated systems to match supply and demand for work. These practices, often referred to as ‘algorithmic management’, sometimes mask the existence of subordination and control by the digital labour platform over the people doing the work. It is also felt that difficulties in enforcement and lack of traceability and transparency, particularly in cross-border situations, sometimes exacerbate poor working conditions or inadequate access to social protection.

This proposal follows the Commission's commitment to examine ‘ways to improve the labour conditions of platform workers’ and supports the implementation of the European Pillar of Social Rights Action Plan.

CONTENT: the proposal aims to **improve the working conditions of persons performing work via a platform** by: (i) ensuring a correct employment status; (ii) promoting transparency, fairness and accountability in the algorithmic management of platform work and (iii) improving the transparency of platform work, including in cross-border situations.

Employment status

The proposed directive aims to ensure that people performing work through digital platforms are granted the legal employment status corresponding to their actual working arrangements. It provides a **list of criteria for checking whether the platform is an ‘employer’**. If the platform meets at least two of these criteria, it would be legally presumed to be an employer.

Those who, as a result of correct determination of their employment status, will be recognised as workers will enjoy improved working conditions – including health and safety, employment protection, statutory or collectively bargained minimum wages and access to training opportunities – and gain access to social protection according to national rules.

The proposal also provides for a **legal presumption** of an employment relationship (including a reversal of the burden of proof) for persons working through digital labour platforms that control certain elements

of the performance of work. Platforms would be allowed to rebut this legal presumption but would then have to prove the absence of an employment relationship under national definitions.

This framework is expected to benefit both the false and the genuine self-employed working through digital labour platforms.

Algorithmic management

The proposal ensures the right to transparency regarding the use and operation of automated monitoring and decision-making systems, as well as **human monitoring** of the impact of automated systems on working conditions, so as to protect workers' fundamental rights and health and safety at work. It also provides for appropriate channels to discuss and request a review of automated decisions. These new rights will be granted to both employed and genuinely self-employed workers.

Enforcement, transparency and traceability

The proposal aims to improve transparency and traceability of platform work to support competent authorities in enforcing existing rights and obligations in relation to working conditions and social protection. It clarifies the obligation of digital labour platforms which are employers to **declare platform work to the competent authorities of the Member State** where it is performed.

The proposed Directive will also improve labour and social protection authorities' knowledge of which digital labour platforms are active in their Member State by giving those authorities access to relevant basic information on the number of people working through digital labour platforms, their employment status and their standard terms and conditions.

The Commission estimates that actions to tackle the risk of misclassification should lead to between **1.72 and 4.1 million people** being reclassified as employees. 484 million, as they would be covered by sectoral laws and/or collective agreements.