



ETUC's next steps towards fair platform work

Discussed at the Executive Committee meeting of 24-25 June 2024

The Directive on improving working conditions in platform work is to be finally adopted after a lengthy process and after the fight between progressive governments, MEPs and trade unions representing workers' voices, and liberal governments who sided with platforms enchanted by their promises to offer jobs at the cost of dismantling the European labour and social rights framework.

This victory is not just a policy milestone; it is a testament to the resilience of collective efforts against the challenges posed by the evolving organisation of work and the power dynamics within the European economic sphere.

ETUC is particularly satisfied to see the first legislation addressing the misclassification and role of algorithms in platform work was finalised, including ambitious policy tools in the context of the fierce opposition of platform lobbies, business associations and their backers in some governments.

The struggle of trade unions has impacted the EU policymaking. In 2019, ETUC and its affiliates succeeded in putting this issue on the agenda, left aside before by the EC in the name of a laissez-faire attitude towards technological innovation. However, there was no guarantee in 2019 that we would achieve the results we did. At the time, measures were in the pipeline to improve social protection for self-employed and their access to collective bargaining under competition law. Thanks to workers' mobilisations, victorious court cases, legislative proposals, and our advocacy work, we have imposed the items of correct classification of employment status and algorithmic transparency. In 2020, ETUC Executive Committee set its priorities and, for the first time in the European debate, proposed the presumption of employment and the reversal of the burden of proof. At the end of 2021, the EP own initiative report, followed by the EC proposal for a Directive, included our proposals. We also got a Directive, not recommendations, and coverage of all sectors, not just passenger and food delivery platform work. During the legislative process (2022-2024), despite mounting challenges with the Council, we ensured that no agreement was detrimental to workers. We managed to eliminate criteria for triggering the presumption of employment, which ETUC identified from the outset as an obstacle.

This resolution analyses the main features of the Directive. It identifies the way forward to achieve full respect for workers' rights in the platform economy as quickly as possible during the transposition period.

The Directive on improving the conditions of workers in the platform economy.

ETUC's emblematic demand for the **presumption of employment relationship** will become a reality for each national system where platform workers find themselves



within the overcrowded groups of non-standard workers, falling through the cracks of the social acquis. This procedural tool, conditioned by the reversal of the burden of proof, can therefore not operate with obstructive criteria that were discussed at different stages of the negotiations, but instead, it spelt out that the Directive must bring an offer a procedural facilitation that cannot increase the existing burden for the person performing platform work.

Neither the definitions of workers nor self-employed must change due to this Directive and the procedural ease afforded to workers is a game-changer.

Furthermore, the provisions inserted into the final compromise at a late stage (Art.24.3) stipulate the cooperation among Member States in implementing the legal presumption, which should facilitate a certain degree of level playing field.

The chapter on **algorithmic management** in platform economy is the first legislation of its kind, and our movement left a strong imprint all over it. Its use has exploded and it was therefore, crucial to secure the rights of trade unions to effectively represent workers in this new work set-up, with the goal that innovation cannot interfere with existing workers' rights. This first step should serve as a baseline for a future regulation on Artificial Intelligence in the workplace.

The Directive enables platform workers, their representatives, and relevant national authorities to be informed about automated monitoring or decision-making systems (ADMS). It guarantees the rights to human intervention and to receive explanations for decisions made by ADMS. It also stops certain dangerous activities currently used by digital labour platforms, including using personal data to analyse the emotional or psychological condition of individuals engaged in platform work and whether they are currently working (surveillance).

Trade unions are recognised as workers' representatives and will also have the right to take action for reclassification. The right to bargain collectively is crucial in counterbalancing the employer's substantial economic power and promoting workplace democracy. The Directive recognises and promotes this right while affirming existing provisions on information and consultation in platform work and algorithmic management. Additionally, communication channels for platform workers will be established by the platform companies, which can create a new impetus for organising and can be used by the trade union to offset the obstacle of decentralised workplace and language barrier.

Room for ambition at the national level

In the compromises necessary to secure the Directive, some important elements have been lost in the shuffle. However, as the discussions draw to a close, trade unions should be ready to campaign vigorously for the reintroduction of these crucial measures at a national level.

The stronger **the support measures**, the faster the problem of the abuse of bogus self-employed will be eradicated. The Directive calls on the Member States to put procedures in place to "identify, target and prosecute" platforms that do not comply with the rules (Art 6) and to conduct checks and inspections on platforms where a reclassification has already been decided. ETUC believes that automatic inspections and measures simplifying the reclassification for workers employed by the same company where the reclassification case was concluded are the best ways forward as it would lower the costs for competent national authorities, bring legal certainty for platforms and ensure equal treatment among workers.



The Directive includes the need to improve the **technical expertise** of the competent authorities in the field of algorithmic management, with appropriate resources. The ETUC stresses the importance of further clarifying this measure to ensure that understanding the opaque algorithms is often a key element in determining the worker's status. In this respect, better integration between Chapter II (Employment Status) and Chapter III (Algorithmic Management) should be considered during the implementation phase. Targeted resources for training and capacity building should be provided to workers' representatives.

Migrant workers are here vulnerable to double exploitation. First, platform workers cannot enjoy the protections that employment law provides and trade unions continue facing difficulties when reaching out and organising them. Second, they can be subject to exploitation due to their migration and residence status, especially if undocumented. [ETUI](#) confirms that migrants work more intensively through platforms and are more economically dependent on them with ongoing risk (if not current practice) of platforms trapping migrants in work that is relatively easy to obtain but may offer few chances of career development. While this aspect is absent from the Directive, ETUC recalls its demands to **protect undocumented third-country nationals from retaliation and deportation, particularly when litigating to obtain workers' rights.**

The development of online labour markets allows for spatial and temporal flexibility of work, which (if left unchecked) creates a serious risk of exacerbating **gender inequalities**. Despite promises of algorithmic management being "gender-blind", the data found striking gender pay gaps in platform-mediated remote work. While the thrust of the Directive is good, effective policies must do more than simply address employment and working conditions. Tackling structural gender-based inequalities and discrimination, such as the unequal division of housework and caring responsibilities, is likewise vital. In this respect, national measures, and engagement of social partners are vital to ensure a gender-transformative design of work in regards to algorithms and pricing mechanisms for different tasks.

As is practice in EU policymaking, the responsibility for **enforcement measures** is left to the member states. Examples from across Europe underscore the **critical need for robust enforcement mechanisms and dissuasive fines** to compel digital platforms to abide by regulations. Creating a patchwork of approaches across member states would prove counterproductive as it is paramount to prevent platforms from cherry-picking 'convenient' markets. The EU institutions should intensely monitor infringements.

Although enforcement is left to member states, trade union action across Europe will help speed up enforcement in other countries, because workers face the same multinational tech giants, therefore, winning in one country or sector will undoubtedly help workers in other countries.



Annex I ETUC support to members

The Directive, which will enter the two-year implementation period in autumn 2024, is an important signal for trade unions to continue and step-up their efforts to organise platform workers, as the sector is confirmed to be growing, and the voice of platform workers is key to fair implementation. The ETUC reaffirms its ongoing commitment to support our members in achieving fair platform work.

The online meetings of the ad hoc working group, which have been crucial in coordinating our advocacy process for the Directive, will continue regularly. ETUC materials remain relevant tools for organising platform workers and policy-making at a national level.

- [ETUC analysis of the Directive](#)
- [ETUI Policy brief](#)
- [Toolbox](#) on establishing workers' representation in the platform economy
- [Country Reports](#) on trade union activities, organising and the interplay between national and EU legislation
- [Key policy recommendations](#)
- [Digital platform observatory](#)

The exchange of best practices among national experts proved to be one of the most appreciated tools. ETUC will continue doing this practice with the **support of the new project- Fair Platforms**, which in the next two years will deliver, among others, thematic seminars and expert reports on the following topics:

- Sectors within the economy that are shifting to platform work
- Health and safety conditions in platform work
- Negotiating the algorithm
- Implementation of the Directive

The aim is to improve our members' capacity to act quickly and coordinate across borders to address the challenges raised in this continuously changing environment.

The **trade union Platfor(u)m** should be marked on the agenda of all trade unionists and workers' representatives (last weekend of September) involved in the field. After Austria in 2022 and Spain in 2023, Platfor(u)m will take place in France in 2024, where ETUC French affiliates will jointly host its third edition (25-27 September). This event will bring together more than 100 international participants, trade union leaders, experts and policymakers for high-level exchanges and bottom-up workshops led by our members.

The negotiations leading to the Directive were particularly complicated, exacerbated by media interest and misinformation often surrounding its content. Therefore, ETUC called on the Commission to establish the **Informal Commission Expert Group on the transposition of the Directive**. It is of utmost importance to have this group start working quickly after the final adoption by all institutions in the next legislative term. Based on past practice, Social Partners will have a small number of places (4-5 for each side) assigned to our members who will regularly participate in these reimbursed meetings in Brussels. A call for applications will be sent out upon confirmation of the creation of this group. The preparatory online meetings for the Expert Group meetings will be open to all members of the ad-hoc working group.