

Event Report: It's more than a gig! A webconference on the EU proposal for a Directive on platform work

- The private employment industry views platform work as a new way of organising work and providing services rather than a specific new form of work.
 - WEC-Europe calls for the correct classification of people working through digital platforms and emphasises the need for the enforcement of existing regulation and the role labour inspectors can play in monitoring platforms whose service providers are classified as employed.
 - WEC-Europe is concerned by the potential one-size-fits-all regulation that covers all services provided through platform work and the potential of overlap between this proposal and the Directive on Temporary Agency Work.
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Introduction

On 17 February 2022, the World Employment Conference-Europe (WEC-Europe), in partnership with French National Federation, Prism'emploi, hosted a webinar on the European Commission proposal on improving working conditions in platform work.

The event was moderated by WEC-Europe's Managing Director, Denis Pennel, with opening statements provided by the President of WEC-Europe, Herman Nijns.

The panel was comprised of numerous experts on the topic and included Max Uebe, European Commission Head of Unit of Future of Work at DG Employment, Rebekah Smith, Deputy Director for Social Affairs at Business Europe, Isabelle Eynaud-Chevalier, Director General at the French federation Prism'emploi, Willem Pieter de Groen, Senior Research Fellow at the Centre for European Policy Studies and Eric Didier, CEO of Comet. WEC-Europe was also honoured to welcome the contribution of French Minister for European Affairs, Clément Beaune, to the event as a representative of the French Presidency of the Council of the European Union.

All participants welcomed the proposal on platform work and its aim to provide clarification on the employment status of people providing services via digital labour platforms as workers or self-employed, particularly as this new method of organising work grows and becomes more widespread. However, some key concerns remained around unnecessarily clarifying genuine self-employed workers as employed workers, the rebuttable presumption of an employment relationship and a lack of understanding for a sector that is highly diverse and evolving at a rapid pace.



Setting the scene

First to take the floor, the day's moderator, Denis Pennel, opened the event, welcomed the guests and briefly outlined the European Commission's December 2021 proposal on platform work and WEC-Europe's interest in the file.

Mr Pennel gave the floor to the president of WEC-Europe, Herman Nijns, who outlined the organisation's position on the platform work proposal and its support for the European Commission's perspective. He highlighted that, in contrast to others, the private employment industry views platform work as a new way of organising work and providing services rather than a specific new form of work.

Mr Nijns outlined WEC-Europe's position that it is essential to ensure the correct classification of people working on digital platforms as the means to ensure a level playing field between digital and traditional service providers. He recognised the European Commission's proposed establishment of a rebuttable presumption of an employment relationship as a suitable way forward for the employment industry.

He continued by saying that WEC-Europe agrees with the European Commission's provisions on remedies and enforcement and that the proposal should further emphasise the role labour inspectors can play in monitoring platforms whose service providers are classified as employed. He also clarified the organisation's support for the proposed obligations regarding algorithmic management and transparency. However, he specified that the industry is concerned by overlap when it comes to services provided by agencies and the existence of other, potentially more relevant, instruments such as the Artificial Intelligence Act or GDPR when it comes to transparency obligations.

Following Mr Nijns opening statement, Max Uebe, Head of Unit of Future of Work at the DG Employment, European Commission proceeded to present an outline of the Directive and a summary of the main areas the Directive is attempting to regulate.

Mr Uebe first explained why establishing common European rules on platform work through an EU level instrument had been designated a priority by the European Commission. He informed the audience that the number of digital platforms had grown exponentially over the years with their revenues growing by 500%. By 2025, he said, approximately 43 million people will be working through digital platforms.

He remarked that up to 5.5 million people could be reclassified as ‘workers’ under the Directive which would ease the number of legal cases brought to court. Therefore, one of the European Commission’s foremost priorities was to provide clarity on the employment status of platform workers. He added that this was also recognised by most national courts.

Mr Uebe finalised his presentation by stating that the proposal aimed to overcome a general lack of human oversight when it comes to the role of algorithms used by digital labour platforms that pushed people to work longer hours and issue penalties, bonuses and ratings without human review. He concluded by saying the rebuttable presumption would be applicable in all administrative and legal settings and that the European Commission insists that digital labour platforms must declare platform work to national authorities.

Mr Uebe some questions from the audience regarding the companies concerned by the European Commission’s proposed legislation on platform work and the entities responsible for triggering the rebuttable assumptions. He answered that, currently, determining who would be impacted by the proposal was complicated as the legislative process was still underway and that the proposal may yet evolve, but that he views labour inspectorates and the social security institutions of EU Member States as potential entities who could trigger the rebuttable presumption.

Panel Discussion

Following Max Uebe’s presentation, the discussion turned towards the panel and their organisation’s perspectives on the platform work proposal and the opportunities and challenges that it may present.

Rebekah Smith, Deputy Director of Social Affairs at Business Europe, stated that Business Europe welcomes the European Commission’s proposal to clarify the definition of platform workers, but that the final version of the Directive should not undermine the benefits of platform work.

She underlined the wide diversity of entities operating on platforms and the need for fair competition on the market. She added that defining the employment status of people operating on platforms is challenging because of the flexibility they offer workers whose frequency of work varies widely. She said that BusinessEurope welcomes a more structured approach at EU level and concluded that many workers are presently correctly classified as being self-employed, but that a strict classification of their working status could take that flexibility away.

sabelle Eynaud-Chevalier, Director General at the French federation Prism’emploi, continued the panel discussion and focused on the perception of the EU’s proposal in France.



She stated that France's primary challenge concerns the presumption of self-employment established at national level and the need for national courts to appreciate the reality of working on platforms. She also underlined the challenges surrounding a general presumption of employment and the need to apply sectoral rather than horizontal regulations.

She pursued by highlighting the role that agencies providing temporary agency work could play in terms of providing security to workers regarding their status. Finally, she said reforms were necessary to reduce mistakes in the classification of workers and the need for a more balanced approach between innovation and job creation and ensuring the rights of workers.

Willem Pieter De Groen, Senior Research Fellow at the Centre for European Policy Studies took the floor and outlined the research that he had conducted on the subject and areas where the proposal may impact most significantly. He underlined that over 500 companies are active on digital labour platforms and that they target both consumers and businesses.

Mr De Groen underlined the growth of online platforms since the beginning of the pandemic and the fact that approximately 75% of platform services currently concern the food delivery and transportation industries. He indicated that a worker's autonomy is relatively low in these industries and that the European Commission's proposal will primarily affect them. He added that, excepting the taxi industry, almost all companies clarify the status of their employees on their website.

Mr De Groen concluded that many labour platforms would have to change their business models to accommodate EU legislation on improving the condition of workers on platforms and that, with a vast majority of platforms not turning a profit, numerous companies will have to drop out of the market as it matures.

The panel's final speaker, Eric Didier, CEO of Comet, provided his perspective as an entrepreneur and business owner on the proposal. He noted France's heavy-handedness when it comes to regulating the labour market, but also that he welcomed the European Commission's proposal and its flexibility when it comes to classifying workers either as employees or self-employed workers. Mr Didier specifically emphasised the risk of fraud and unfair for companies, such as Comet, that operate on platforms. He believes that more clarity is needed when it comes to classifying workers.

An open floor discussion followed Mr Didier's contribution with several points being made about the added value of EU Member States dictating the definitions included in the proposal on platform work with the EU providing the criteria for such a definition. Mr Uebe underlined that any risk of overlap when it comes to agency work should, therefore, be addressed at a national level.

It was also underlined that the legislation on platform work must go beyond the 5.5 million people directly concerned by the provisions on employment statuses to provide support to all workers operating on labour platforms. Ms Smith shared her thoughts about the flexibility offered by being self-employed while Mr De Groen emphasised the need to address the long working hours without remuneration for people on platforms and that employment agencies can provide a pathway for those seeking a more regulated framework. Ms Eynaud-Chevalier and Mr Didier spoke of the current regulatory gap and the need to understand that a subordinate relationship between worker and platform implies that someone should be classified as an employee.

The event closed with a contribution from the Minister for European Affairs, Clément Beaune, who represented the French Presidency of the Council of the European Union and outlined its priorities for the French Presidency of the Council. He reiterated France's primary objectives when it comes to platform work and the determination of workers' employment status. He stated that France will prioritise files aiming to protect worker rights with a focus on both securing minimal pay and supporting the rights of people on platforms and the many workers who were on the frontlines of the pandemic crisis.

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About the World Employment Confederation-Europe

The World Employment Confederation-Europe is the voice of the private employment services industry at the European level, representing national federations as well as large international workforce solutions companies from across Europe. Members of the World Employment Confederation-Europe represent a wide range of HR services, including agency work, direct recruitment, career management, Recruitment Process Outsourcing (RPO) and Managed Service Provider (MSP).

The World Employment Confederation-Europe works to broaden recognition of the positive economic and social role which the private employment services industry plays in enabling work, adaptation, security and prosperity. This role involves building networks with relevant stakeholders such as policy makers, social partners and the academic world; setting high recruitment and employment standards and practices; acting as a thought-leader shaping futureproof and competitive labour markets and providing strategic data on employment issues. The World Employment Confederation-Europe is the recognised, EU sectoral social partner for temporary agency work.

