

The EU platform package in a nutshell

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



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

MAIN QUESTIONS

- (1) What is the background of the EU package for platform work?
- (2) What are the striking features of the 2 EU proposals?
- (3) How do they fit within the national landscapes?

The background of the EU platform package

□ Long announced by the EU Commission

⇒ Social market economy

⇒ Social pillar

⇒ Digital single market and AI

⇒ 2 initiatives proposed just before Christmas 2021



The background of the EU platform package

□ A double Christmas present from the Commission?

⇒ The draft directive – DG Employment



⇒ The draft guidelines – DG Competition



□ The EU package did not come in a vaccum

Paradoxes and novelties of the draft directive



Paradox 1 - the hybrid concept of worker

A national concept BUT with 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



Paradox 2 - 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

Novelties – Transparency and data

Transparency



The new **black** – various functions

(1) **Enhance compliance** - obligations on platforms

- as employers (art. 11)
- all platforms (art. 12)

(2) **Regulate algorithmic management**

- automated monitoring and decision-making systems (art. 6) => open the box
- human monitoring and intervention (art. 7- 8)
- information and consultation of **workers** (art. 9)



The guidelines on competition rules



Thinking out of the box

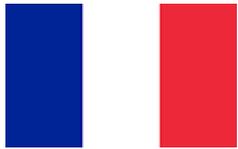
- ⇔ EU law stands in the way of collective agreements for self-employed
- ⇔ Aim: empower solo self-employed who are in a weak bargaining position (worker like)
- ⇔ All persons operating on labour platforms fall outside the competition rules regardless of status
- ⇔ Non-binary thinking => need for protection is key
- ⇔ Groundbreaking for EU law and some national systems



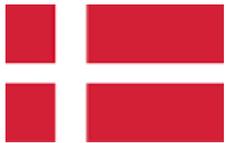
Impact on the national set-up



A precursor of both EU proposals



More liberal direction



Status quo - both would be new

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Strengths and shortcomings

Timeline, process and legal effect

The directive



1st reading by Council and EP by end 22

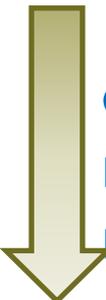
Compromise agreement between EP and Council?

2nd reading

Agreement or conciliation procedure – adoption or not

2 years implementation – minimum rules

The guidelines



Consultation of stakeholders ended 2.22

Final guidelines to be adopted summer 22

Binding on the EU COM and in practice followed by the national competition authorities

Thank you for your attention