

WORKWEL PROJECT

**COPENHAGEN,
26 September 2022**

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THE PRESUMPTION OF EMPLOYMENT RELATIONSHIP & THE GUIDELINES

POTENTIALS AND RISKS

WHAT APPROACH *IS* EMERGING FROM EU LAW- MAKING?

AND WHAT *SHOULD* IT BE?



The Commission proposal for a Directive



The legislative work on the proposal



Are we going in the right direction?



The Guidelines



A new paradigm?

THE COMMISSION PROPOSAL

43 MIL PEOPLE WORK THROUGH DIGITAL LABOUR
PLATFORM IN 2025.

RECLASSIFICATION EFFET:
BETWEEN 1-72 MIL AND 4-1 MIL

SCOPE OF APPLICATION



Presumption of employment relationship

The platform exercises **control** over the performance of the service (2/5 criteria)

Provisions on algorithmic management

Persons working through a digital labour platform (which **organises** workers)

Outside the scope of the directive

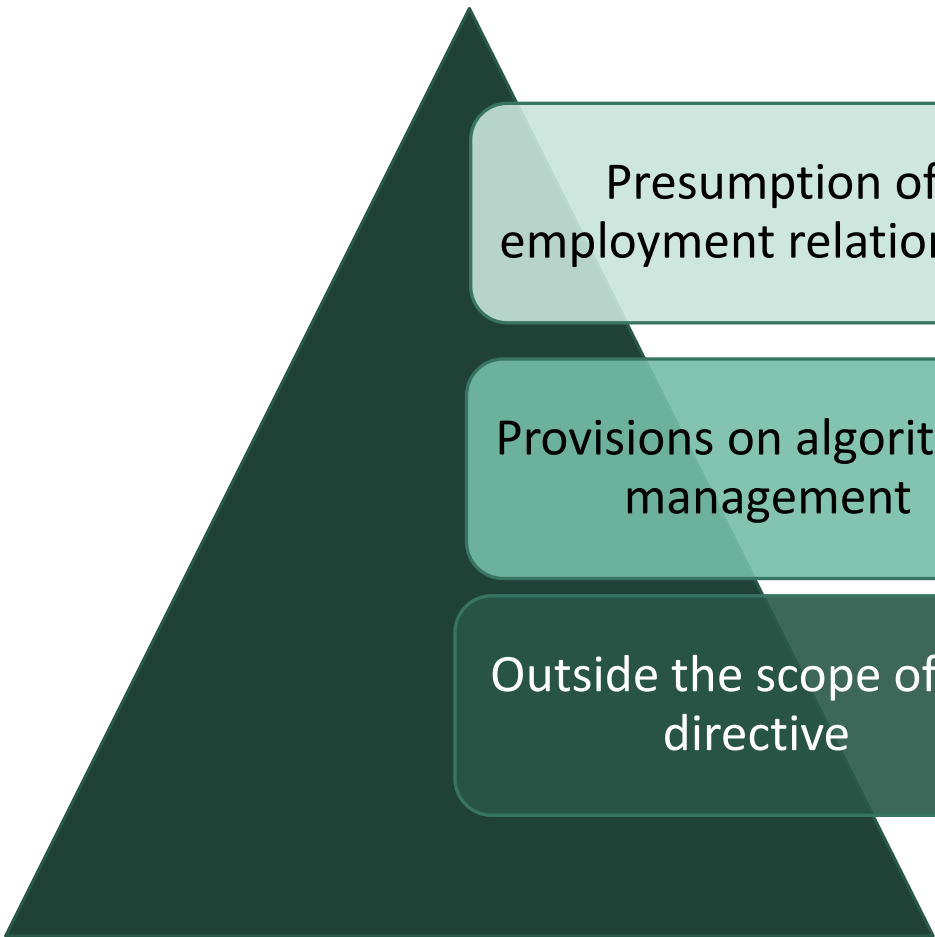
Persons working through a digital platform

LEGISLATIVE DEVELOPMENTS

GUALMINI REPORT (MAY 2022)

DRAFTING OF A POLITICAL COMPROMISE

SCOPE OF APPLICATION



Presumption of employment relationship

The platform ~~exercises control~~ over the performance of the service (2/5 criteria)

Provisions on algorithmic management

Persons working through a digital labour platform (which **organises** workers)

Outside the scope of the directive

Persons working through a digital platform

EU definition of self-employed in the rebuttal (control; entrepreneur)

Persons working through digital labour platform (which enables/intermediates)

Any worker subject to algorithmic management



Persons not subject to algorithmic management

THE EU REGULATORY APPROACH?

LABOUR RIGHTS REMAIN LINKED TO NOTION OF CONTROL

CRITERIA IN ORDER TO DEFINE CONTROL IN THE CONTEXT OF PLATFORM ECONOMY

IS IT ENOUGH?

PLATFORM WORK NEEDS A BROAD DEFINITION (ETUI survey 2022)

- When digital platform **matches supply and demand** and **enables the provision of work**.
- **4,3 %** of the surveyed people : platform workers.

PRECARITY AS OVERARCHING CHARACTERISTICS

- **Click work** (2% respondents) → much likely to escape the **classical notion of control** and subordination.
- **28%** of platform workers **do not set their own tariffs**

MONOPSONISTIC LABOUR MARKETS

- Platform economy & emergence of companies with **excessively strong labour market power**
- **depressive effect on wages and labour conditions** in the whole industry

THE COMMISSION GUIDELINES

**APPROACH THE DEFINITION OF SELF-
EMPLOYED FROM A MARKET /
COMPETITION PERSPECTIVE**

SELF EMPLOYED CAN BARGAIN COLLECTIVELY IF:

Solo self-employed persons performing services through digital platforms

- Access to collective bargaining as their situation is comparable to employees

Solo self-employed persons in a weak bargaining position vis-à-vis the counterpart / unable to significantly influence their working conditions

- Collective bargaining to correct a clear imbalance in the bargaining power



A NEW PARADIGM?

Imposed
acquiescence

Labour rights
when algorithmic
management

**GOING BEYOND NOTION OF
CONTROL/SUBORDINATION**

**LABOUR LAW TO LIMIT DISRUPTIVE
EFFECT OF PLATFORM**

THANK YOU!