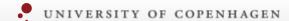


## The Commission's directive proposal on platform work – paradoxes and novelties

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





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

Together with post-doc, Phd, Alberto Barrio

### **MAIN QUESTIONS**

What are the striking features of the proposal? Would it improve the protection of platform workers? What is its added value?

### **MAIN CLAIMS**

- ☐ The proposal is paradoxical on worker and scope
- □ The proposal is novel the functions of the principle of transparency

### FIRST A SNAPSHOT OF THE CONTEXT...

### 3 essentials on the proposal

- □ A Christmas present for platform workers?
- □ Did not come alone a twin package
- □ Did not come in a vaccum

# Paradoxes – the concept of worker and social protection



## The hybrid concept of worker

### A national concept BUT 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
- ☐ Paradoxical but not new: evidence of a recent trend



## 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
- Monitoring of the platforms might indirectly impact on social and social security protection

# The novelties of the proposal – Transparency



## Transparency to enhance compliance

- Declaration of platform **employers** (Article 11)
  - => Declare work to labour and social authorities
  - => To authorities where the work is performed
  - => Share 'relevant data'
  - => Concerns only workers
  - => Especially important for cross-border situations and social security coordination => competent state?



## Transparency to enhance compliance

- Declaration of all platforms (Article 12)
- ⇒ Obligation to inform national labour, social protection authorities and platform workers' representatives on:
  - Number of persons performing platform work,
  - contractual or employment status and the general terms
- ⇒ Info may be used in a broad range of actions, i.e. correct employment status for social security purposes, contributions and the benefits even maybe concerning welfare
- $\Rightarrow$  Those operating on a regular basis
  - Not only workers

## **Transparency - Algorithmic management**

 Quick and easy information of automated monitoring and decision-making systems => open the box



- Limit instances where personal data may be processed
  - => Prohibited data: on emotional or psychological state, private conversations or health
  - => Prohibition to collect any personal data outside of the performance of platform work

## **Transparency - Algorithmic managment**

### Automated decisions

- ⇒ Requirement of human review on significant issues
- ⇒ In line with and specifies GDPR
- ⇒ Administrative law requirements
  - right to an explanation and access to a contact person when decision on working conditions
  - written statement when restrict, suspend or terminate account, refuse remuneration or contractual status
  - right to receive a review by platform within 1 week

## Would it improve the protection of platform workers?

### **Main conclusions**

- Long and maybe bumpy way at EU level
- Ambitious but also dependent on national willingness
- Presumption improves the position of platform workers
- More control of platforms and information for the benefit of workers and their social security protection
- Status of worker not always sufficient to ensure effective protection in case of risks => fall within the gaps

Thank you for your attention