

Protecting people working through platforms: second-stage consultation of social partners

**FOR ADOPTION
EXCOM 7 SEPT 2021
AGENDA ITEM 3A**

2021-08-31
Nayla Glaise

Commission website about the consultation [here](#)

Eurocadres represents six million professionals and managers on European level. Those of professionals and managers who are engaged in platform work, usually work for online platforms in the fields of software development, AI training, encoding data, translation work, tagging pictures, IT or design projects. The nature of their tasks makes them more invisible than other platform workers while their working conditions are almost similar.

Eurocadres supports ETUC's response globally and in addition to that wants to highlight the importance of some issues concerning high-skilled online platform workers.

I. What are your views on the specific objectives of possible EU action set out in Section 5.1?

The Commission states that “the overall objectives of the initiative would be to ensure that people working through platforms have decent working conditions, while supporting the sustainable growth of digital labour platforms in the EU”.

For Eurocadres, having decent working conditions means having social protection and wages according to national legislation or collective agreement for all workers especially for high

skilled workers. While the rapid growth of platforms' model is based on poor working conditions and lack of social protection, we may doubt that this double objective can be attainable in these conditions.

At the same time the Covid19 crisis highlighted the importance of social protection and Health and Safety measures for all workers, it becomes inconceivable not to review the model itself. Eurocadres supports ETUC's position concerning the need to recognise platforms as employers with all the obligation that this status entails.

In its specific objectives, the Commission states that the EU initiative should:

- 1- **“Ensure that people working through platforms have – or can obtain – the correct legal employment status in light of their relationship with the platform and gain access to associated labour and social protection rights”.**

Eurocadres welcomes this statement and urges the Commission to put an end to the misclassification. We consider that platform workers should be considered as either employees or self-employed. In the last case they benefit from freedom and autonomy in their daily activities and in fixing their prices especially for online platform workers.

- 2- **“Ensure fairness, transparency and accountability in algorithmic management”.**

Eurocadres agrees with this objective and highlights the role of workers' representatives in the algorithm management and data control at the workplace. Workers' representatives should be informed and consulted on the algorithm management and data collected. They should have a right to expertise the impact of the algorithm and data on the work organisation. Workers should be aware of the use of the data collected and consent freely on its use; this means that they fully understand the use and the nature of data collected.

- 3- **“Enhance knowledge of developments in platform work and provide clarity on applicable rules for all people working through platforms operating across borders”.**

Eurocadres supports ETUC's demand on the recognition of platforms as employers. The workers are then under the legislation of the country where the work is carried out.

II. What are your views on the possible avenues for EU action set out in Section 5.2 of this document?

Eurocadres welcomes the position of the Commission on not creating a “third” employment status at EU level but rather respecting the national concept regarding the employment status. However, Eurocadres considers that non-binding rules in EU initiative is dangerous because it will lead to non-protection for platform workers and will not help improving the model and reaching the goals specified in section 5.1. The non-binding rules may also lead to difference in member states perpetuating the cross borders’ workers’ issue.

The most appropriate instrument would be a directive including online platform workers.

In section 5.2.1 “***Addressing misclassification in employment status***”,

Eurocadres as stated above encourages the option of the rebuttable presumption of the employment relationship, however this option should be combined with the shift of the burden of proof to the employer, which means that the latest is not another option.

The Commission states in the beginning of the document that the high rate of migrant and young workers employed in platforms shows that there are low barriers of entry in platform sector. We believe that the ease access to platforms for these workers is due to the poor working conditions, wages and absence of social protection. This will increase the gap in terms of working and living conditions between migrant and young workers on one hand and workers with normal employment status on the other. This also will increase precarious conditions of these workers who are in most case highly qualified as well as the rate of high skilled poor workers.

The Commission states that the initiative should “take into account the imbalance of power between the platforms and the people working through them”. This is one important reason why Eurocadres calls for a European regulation to guarantee a strong presumption of employment relationship and the reversal of the burden of proof for platforms. Platform workers are even more vulnerable than traditional workers; a regulation that makes them responsible of any administrative or court action will be completely useless.

For all these reasons Eurocadres opposes the proposals of **administrative procedure** and **certification of work-related contracts**. These instruments add more complexity to the system and will require to go to the court when the decision is not accepted, and we know that

workers will not be able to do so.

For Eurocadres, different instruments between online and on-location platform workers is not an option. Online platform workers are mostly high-skilled young workers in domains that evolve quickly like IT sector, with poor wages and working conditions. These workers should have the same conditions as others in the same sector in 'traditional employment'; they should have the right to access training and social protection and benefit from decent wages. Eurocadres considers that the presumption of employment with the burden of proof for platforms is the only solution possible for these workers to keep their jobs and evolve their qualifications with the rapid evolution of technologies.

For Eurocadres, different instruments between online and on-location platform workers is not an option. Online platform workers are mostly high-skilled young workers in domains that evolve quickly like IT sector, with poor wages and working conditions. These workers should have the same conditions as others in the same sector in 'traditional employment'; they should have the right to access training and social protection and benefit from decent wages. Eurocadres considers that the presumption of employment with the burden of proof for platforms is the only solution possible for these workers to keep their jobs and evolve their qualifications with the IT changes.

In section 5.2.2 *"Introducing new rights related to algorithmic management"*, Eurocadres supports the ETUC comments in general. Information and consultation of trade unions' representatives, work councils and workers on the algorithm and its effects on workers and working conditions is essential. This would require a right to mandate experts to analyze the algorithm. Workers must be involved in algorithms' conception especially high-qualified workers and must have the right to alert in case of ethical conflicts. This would also require having access to continuous training.

In sections 5.2.3 and 5.2.4, ***"Tackling cross-border challenges"*** and ***"Strengthening enforcement, collective representation and social dialogue"***, Eurocadres supports ETUC on the reporting obligations of the platforms, the applicable social legislation of the country where the worker executes his work and the role of social partners in collective representation and social dialogue.

III. What are your views on the possible legal instruments presented in Section 5.3?

Eurocadres considers that an EU directive would be the most appropriate instrument to achieve fair working conditions for platform workers. Any recommendation, charter, code of conduct or good practices without binding measures would not be efficient to reach the general and specific objectives mentioned in section 5.1. This directive should ensure that workers are classified according to their employment relationship which will clarify applicable social and employment regulations. The presumption of employment for platforms' workers and the shift of burden of proof for the platforms should be specified in a directive.

IV. Are the European social partners willing to enter into negotiations with a view to concluding an agreement under Article 155 TFEU with regard to any of the elements set out in Section 5.1 of this document?

The discussions with employers on this issue will not lead to any legal framework. Platform companies are not members of employers' organisation participating in European social dialogue. Platform companies should assume their responsibilities as employers and the Covid19 crisis highlighted the emergency to protect all workers and provide them decent working conditions. With time passing without any EU legislation protecting platforms' workers, court cases increased significantly proving the existence of employment relationship. It is time for an ambitious legislation without delays.
