
I. Mechanism of the rebuttable presumption

1) Can delegations agree with the mechanism of the rebuttable presumptions as laid out above?

RO could support the mechanism of rebuttable presumption as presented by the CZ PCY in the note.

II. Criteria triggering the presumption

The introduction of the presumption, as a political objective, was strongly supported during discussions so a positioning on the options should take into account the optimal way to balance the EU interest with the national one, as well as the results of an assessment of the national implementation capacity.

Option A, as a consolidated version of the application of the presumption for all persons and all digital platforms, may raise challenges related to the freedom of work, the identification of the platforms that fall under the scope of the directive, as well as the categories of persons and the state under which they perform work, with uncertain legal effects and especially on the effective application.

Option B, based on the general approach of the directive, could respond to the objective of harmonization pursued by the EU action, and by simplifying and improving the mechanisms, it could allow a reconciliation of the interests of the parties involved.

Option C, preferable from the point of view of flexibility and margin of national adaptation, autonomy of managing labour and labour relations, may be restrictive in application for states that have not regulated a worker status, do not have databases on platforms or expertise in platform control and/or do not have efficient administrative and judicial systems.

In conclusion, we would prefer option B at this moment as a starting point and we are open and flexible on amending the criteria concerned (no., threshold, consistence).

III. Technical remarks on chapters V and VI

Art. 14, art. 17 and art. 18 - correlated with the definition of "employee representatives" in the directive - we consider that the provisions are not contrary to the national practice that gives unions and employee representatives the right to defend and represent employees before the courts, the administration and the employer, they benefit from protection against adverse treatment and of the dismissal in the exercise of the mandate, the right to represent the interests being also recognized to the representative associations.

The application in practice could be hampered by the length of judicial proceedings and the establishment of effective inter-institutional communication and with the platforms.



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Art. 19 - The article refers to inter-institutional cooperation, there being a correlation with art. 21 para 3), which provides for the involvement of social partners in implementation. Thus, we support the involvement of social partners in cooperation and dialogue with the authorities to improve decisions.

Art. 20 - 22 - contain final standard provisions approved in the latest European regulations that introduce the obligation of the states to involve the social partners and to strengthen the social dialogue in the implementation of the directive, which can be supported in line with the political commitments of the states.

Art. 21 para 3) - the completion of the provision with "other directly involved parties" ("key stakeholders") could be analyzed, as provided for in art. 22, in the case of consultations carried out by the Commission, in order not to exclude from the dialogue parties concerned in the application, such as the representatives of platforms without employer status and not affiliated to social partner organizations.
