

Amendments and remarks by The Netherlands on Chapters I, II, V and VI of the proposal for a directive on improving working conditions in platform work

General remarks

The Netherlands thanks the French presidency for its hard work on improving chapters I and II. However, we do have some concerns regarding the changes to the subject matter and scope and the legal presumption and rebuttal. In our opinion these elements of the first compromise text weaken the Commissions' proposal. Therefore we suggest reverting to the original wording, except where the changes entail a mere neutral clarification of the text. In addition, we believe more discussion is needed on the definition of 'digital labour platform' before we finalise the text. Furthermore, NL maintains its scrutiny reservation on the entire text.

Remarks on the compromise text for Chapters I and II

Our concerns especially pertain to the changes made to article 1 and corresponding recital 15B and the main changes to articles 4 and 5. We support the original COM text, because the proposed amendments often weaken the position of platform workers (for example with the deletion of a reference to 'minimum rights') and would also restrict national courts. The concept of 'controlling the performance of work' in article 4 fits better with the core of employment relationships and therefore cannot be narrowed to 'restricting the freedom to organize one's work'.

Furthermore, we find it important that competent authorities verifying compliance with or enforcing relevant legislation *shall be able to rely* on the legal presumption. We would therefore propose going back to the Commission's proposal for article 4 (1). It is up to national law to determine which are the competent authorities and whether the presumption should also apply in the field of taxation or social security, but all relevant competent authorities *shall be able to rely* on the presumption, leaving them enough margin of maneuver as explained by COM in the SQWP.

The changes to the criteria of the legal presumption are acceptable to us.

Amendments Chapters V and VI

CHAPTER V REMEDIES AND ENFORCEMENT

Article 13

Right to redress

In accordance with national law or practice, Member States shall ensure that persons performing platform work, including those whose employment or other contractual relationship has ended, have access to effective and impartial dispute resolution and a right to redress, including adequate compensation, in the case of infringements of their rights arising from this Directive.

Article 14

Procedures on behalf or in support of persons performing platform work

1. In accordance with national law or practice, Member States shall ensure that representatives of persons performing platform work or other legal entities which have a legitimate interest in defending the rights of persons performing platform work, may engage in any judicial or administrative procedure to enforce any of the rights or obligations arising from this Directive. They may act on behalf or in support of a person performing platform work in the case of an infringement of any right or obligation arising from this Directive in accordance with national law or practice.
2. Representatives of persons performing platform work shall also have the right to act on behalf or in support of several persons performing platform work in accordance with national law or practice.

Article 15

Communication channels for persons performing platform work

Digital labour platforms shall create the possibility for persons performing platform work to contact and communicate with each other, and to be contacted by representatives of persons performing platform work, through the digital labour platforms' digital infrastructure or similarly effective means, while complying with the obligations under Regulation (EU) 2016/679. Member States shall require digital labour platforms to refrain from accessing or monitoring those contacts and communications.

Article 19

Supervision and penalties

1. The supervisory authority or authorities responsible for monitoring the application of Regulation (EU) 2016/679 shall also be responsible for monitoring the application of Article 6, Article 7(1) and (3) and Articles 8 and 10 of this Directive, in accordance with the relevant provisions in Chapters VI, VII and VIII of Regulation (EU) 2016/679. They shall be competent to impose administrative fines up to the amount referred to in Article 83(5) of that Regulation.

2. The authorities referred to in paragraph 1 and other competent national authorities shall, where relevant, cooperate in the enforcement of this Directive, within the remit of their respective competences, in particular where questions on the impact of automated monitoring and decision-making systems on working conditions or on rights of persons performing platform work arise. For that purpose, those authorities shall exchange relevant information with each other, including information obtained in the context of inspections or investigations, either upon request or at their own initiative.

3. Member States shall lay down the rules on penalties applicable to infringements of national provisions adopted pursuant to provisions of this Directive other than those referred to in paragraph 1 or of the relevant provisions already in force concerning the rights which are within the scope of this Directive. The penalties provided for shall be effective, proportionate and dissuasive.