

Platform Work - Questions on Chapters V and VI asked by FR to the Commission

- **Chapter V**

Article 13 :

- Can the Commission elaborate on what is covered by « adequate compensation »?
- Can the Commission detail all « their rights arising from this Directive » ?

Article 14 :

- What does the expression « other legal entities which have, in accordance with the criteria laid down by national law and practice, a legitimate interest in defending the rights of persons performing platform work » add to the expression « representatives of persons performing platform work » which seems to be broad enough to cover all forms of representation ?
- In the absence of representatives for the self-employed in the MS regarding its national law or practice in accordance with Article 2 of this Directive, does Article 14 oblige MS to create a legal framework, precisely procedures for persons performing platform work, including self-employed, to have representatives ? Or do the terms “other legal entities” cover this situation?

Article 15 :

- Recital (45) only refers to « workers » and « their employer » in the two first sentences which describe the relevant challenges. Are those challenges also valid for other persons performing platform work? In that case, would not it be more appropriate to use the broader language of « persons performing platform work » and « digital labour platform » as in the following sentences?
- What are the control and sanction mechanisms available to MS in order to ensure that platforms refrain from monitoring or accessing contacts and communications between workers and their representatives?
- Which are the relevant obligations contained in the GDPR that the digital labour platforms have to comply with in the context of this provision? Can the Commission give the exact reference ?
- Has the Commission taken into account the issue of translation into one or more languages understood by all the persons performing work for a platform?

Article 16 :

- What is the scope of this provision? The article refers to “proceedings concerning a claim regarding correct determination of the employment status”, while recital 46 refers to “administrative or judicial proceedings regarding the correct determination of the employment status”, and therefore seems to cover a broader scope. Are only the proceedings leading to a reclassification or also those drawing the consequences of a misclassification concerned?
- What would be the link between the defence's secrecy and the contradictory procedure? Indeed, the judge will not be able to use an element without disclosing it to all the concerned parts in the contradictory procedure.
- What is the added value of Paragraph 3 compared with Article 20(2) ?

Article 18 :

- In Paragraph 1, the term « equivalent » is unclear. Does it designate the decision of the platform to end the contractual relationship with a person performing platform work who does not have an employment contract with the platform ? In the same sense, the title of this Article (« Protection from dismissal ») does not capture the situation of persons performing platform work who do not have an employment contract and thus are not « dismissed ».
- The structure and wording of Article 18 is very similar to Article 18 of Directive 2019/1152 (« dismissal or its equivalent », « measures with equivalent effects »), which only applies to workers. This seems to contradict the interpretation that Article 18 of the Proposal would also protect persons performing platform work who do not have an employment relationship with the platform against decisions taken by the platform to end the contractual relationship based on the same invalid grounds. Can the Commission clarify that interpretation ?
- If this Article consists in obliging MS to introduce measures to prohibit an "equivalent" to dismissal or its preparation in the case of self-employed workers : would this measure not represent a disproportionate infringement of the contractual freedom of those parties (which are not subject to labour law)?
- Regarding the self-employed, how does article 18 relate to article 17, and what is the objective of Article 18 concerning the self-employed? How does the provision of Paragraph 2 articulate with the procedure laid down in Article 8(1) and (2) in the case of decisions resulting from an automated system?

Article 19 :

- What is the purpose of the last sentence of Paragraph 1 regarding the competence of such authority to impose fines compared with what is already provided in the GDPR ? Are there new infringements defined in this Proposal that could lead to such fines ?
- Paragraph 2 seems to be of a different nature than the repressive provisions of Paragraphs 1 and 3, why is it in the same Article ?

- **Chapter VI :**

Article 20 :

- Can the COM and CLS explain why the non-regression clause in Paragraph 1 only covers « workers » and not other persons performing platform work ?
- Can the COM and CLS explain why the clause on more favourable provisions is different for platform workers and for other persons performing platform work in Paragraph 2 ?
- In Paragraph 2 on compatibility with the rules on the functioning of the internal market, which authority will be responsible for this assessment (Commission, CJEU?)
- To what extent can national agreements (or collective agreements) between self-employed workers and platforms, or between platforms themselves, to improve the working conditions of persons performing platform work, where they exist, comply with the guidelines currently being adopted?

Article 22 :

- Can the COM precise what does « key stakeholders » exactly mean?

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- Can the COM precise if it will review the impact of the Directive on solo self-employed (i.e. the current legal status of many persons performing platform work today) as part of the « impact on micro, small and medium-sized enterprises »?