
Fairwork's Response to the EU Directive on Platform Work Platforms Should Follow Enforceable Standards!

Fairwork welcomes the Employment, Social Policy, Health and Consumer Affairs Council vote in favour of passing the EU Directive on Platform Work.

Over the past five years, Fairwork's research has underlined the need for universal standards to regulate platform work. Our analysis of working conditions in 39 countries makes it clear that without setting enforceable standards, digital labour platforms consistently fail to meet even minimum standards of fairness. Many platforms fail to pay workers a living, let alone minimum wage, and continue to put the financial, mental, and physical health of workers at risk. Practices concerning algorithmic management are opaque, and hide key information from workers, such as remuneration and work allocation. Channels of communication to raise grievances or have issues resolved are either ineffective, or non-existent. And when workers contest subpar working conditions and demand improvements, they often face repercussions from platforms.

The Directive recognises many of these issues. Yet, it comes short in addressing them by way of setting enforceable standards:

1. The Directive states that platforms, not workers, have to prove employment status. It proposes labour inspectorates, in respective member states, to monitor platform operations to ensure that workers are not misclassified. This is an important step forward as workers often do not have the means to seek employment status alone. And when they do, litigation leads to prolonged court cases. Fairwork's research shows that most workers lack the means of support (financial and legal) to withstand this pressure. Moreover, due to the temporary nature of employment in platform work, they are discouraged from taking companies to court. Additionally, in some countries, such as Portugal, courts reach decisions on an individual basis, making the process [arduous](#). For these reasons, it is imperative for member states to provide workers with measures to withstand these challenges by providing extensive legal guidance.

Strict government regulations, such as those in the area of food delivery in Spain, reduce the risk of bogus self-employment. However, the example from Spain, where Glovo and Uber Eats have so far simply ignored the legal requirements, also shows that government regulations need effective sanctions to force platforms to comply with the rules. Similarly, in Belgium, procedures on rebuttal lead to lengthy court cases with no practical outcomes. While the Directive urges member states to implement mechanisms to avoid such a scenario,

it does not qualify what these mechanisms would entail, leaving this entirely up to individual member states to decide.

2. The Directive does not set a universal standard on employment classification, leaving it to member states to implement country-specific legislation. There is a risk that the country-specific legislation on employment status (e.g., the definition of what “control and direction” means under national law) will be platform-friendly, which could potentially leave some workers in bogus self-employment arrangements, due to legal loopholes exploited by platforms. This is particularly a concern in member states where the power of labour unions is undermined (e.g., where unions do not readily represent platform workers) or where existing arrangements between labour unions and platforms (such as collective bargaining agreements) do not yield to advantageous outcomes for workers, such as in Italy.

3. In cases where subcontractors/3PLs/intermediaries are used, the Directive indicates that member states will take appropriate measures to ensure shared liability. However, the text comes short in specifying mechanisms for shared liability. Research conducted by Fairwork has uncovered many examples of platforms outsourcing work to subcontractors. What this practice regularly engenders, is platforms negating their responsibility to respond to issues with payment, or subpar working conditions and unfair clauses embedded in subcontractor contracts. When evaluating platforms against the Fairwork Principles, Fairwork insists that platforms engage in regular monitoring of subcontractor contracts and working conditions, if they are to receive a high score. One way to do that is to enforce a mechanism whereby platforms conduct regular audits of their subcontractors, including via workplace visits, or implement whistleblowing systems.

4. The Directive demands that platforms be transparent about their algorithmic management tools and practices, irrespective of employment status. This clause goes beyond what is already covered under the GDPR. Fairwork welcomes this initiative. Such transparency will result in better data to develop algorithmic practices that are not discriminatory or exploitative. However, it is important to monitor how this demand will play out in practice. For one, there should be legal repercussions for platforms that resort to measures to keep their algorithms, which they consider proprietary information, hidden from public view. There is hope, nonetheless, that platforms will comply, as evident in [the Uber ruling](#) by the District Court of Amsterdam in 2023.

5. The Directive states that platforms should establish channels for workers to communicate with each other. Over the last five years, Fairwork has spoken to over five thousand workers. One consistent finding is that many workers who work for the same platform, or take shifts using the same hub or warehouse, often do not get a chance to communicate with each other.



Communication is often vertical (between management and workers), and therefore atomising – making organising or the identification of collective grievances challenging. It is therefore important that legal mechanisms are in place to ensure that these communication channels are established, and all workers are included in them, without the fear of repercussions from the platforms.

Since the early days of the trilogues, Fairwork has [highlighted](#) the need to address key issues, such as making employment status platform proof and implementing enforceable mechanisms to regulate subcontracting arrangements. We have underlined that employment benefits should be available to all platform workers, including less visible platform workers, such as those providing domestic services and those working online via cloudwork platforms. While we applaud the Council for reaching a deal on the Directive, there is now an urgent need for the implementation of robust measures to enforce it.

Fairwork Europe