Council of the European Union
General Secretariat

Interinstitutional files:
2021/0414 (COD)

Brussels, 04 August 2023

WK 10141/2023 INIT

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MEETING DOCUMENT

From:	General Secretariat of the Council
To:	Delegations
Subject:	Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on improving working conditions in platform work

Following the Social Questions Working Party meeting of 4th July 2023, delegations will find attached the contributions received from the AT, EE, EL, FI and FR delegations.

Comments from the AT delegation

General remarks:

- AT supported the General Approach in December and was willing to make multiple concessions. From AT's point of view, it is essential to largely **adhere to the balanced text of the General Approach** in the trilogue negotiations.
- In particular, the agreement reached in the Council on the central points of the Directive, especially on the **legal presumption**, should be reflected in the final text of the Directive.
- The limitation to **two categories** (employees and self-employed) is explicitely **rejected by AT**, as this is not compatible with AT´s legal system.
- In any case, the **discretion** granted to national authorities in the Council's General Approach **regarding the application of the legal presumption must be maintained**. Likewise, member states should continue to be able to decide whether to grant **suspensive effect to rebuttal proceedings**.

Legal Presumption, including rebuttal

Row 34
Recital 24

- AT supports the **adherence to the General Approach**.
- In AT, trade unions can only act for employees, not for genuine self-employed persons. This proposal should only grant rights to representatives of self-employed persons insofar as this form of representation already exists in the national legal system.
- The extension of the scope of authorities to social security and tax authorities is also rejected by AT.

Row 38
Recital 28

- AT supports the **adherence to the General Approach**.
- The EP envisages that there should be no suspensive effect in the appeal procedure regarding a decision on the employment status. This would constitute a severe interference in national procedural law, since according to the systematics of AT national law, appeals do have a suspensive effect.
- As provided for in recital 28b of the Council mandate, member states should be able to decide whether challenging a decision regarding the application of the legal presumption has a suspensive effect.

Row 89

Article 4 para 1

- The solution found with the **General Approach** represents the right balance for a fair reconciliation of interests and **should continue to be supported**.
- The wording of the EP mandate makes it clear that there should be no third category.
- This is not compatible with the tried and tested AT system of freelancers (independent contractors). As mentioned several times during the Council negotiations, this third category offers significant advantages for both sides. It must be possible to retain this category at national level.
- The deletion of "or an intermediate employment status" in recital 19 as proposed by the EP is therefore also not acceptable.

Row 89a

Article 4 para 1

- The threshold for the application of the legal presumption was substantially lowered in the EP mandate, which is not acceptable to AT.
- In contrast, the **General Approach** constitutes a more balanced approach that **should be maintained**.

Row 90

Article 4 para 1, 2nd subpara

- **AT prefers the General Approach** and the corresponding provision in Art. 4a para 5 of the Council mandate, as existing national legislation is taken more into account and there is less interference with already existing procedures.

Row 96a

Article 4 para 1a

- The General Approach allows for discretion for national authorities in applying the legal presumption.
- In contrast, the EP does not provide for such a possibility.
- AT is explicitly in favor of **maintaining this discretion foreseen by the General Approach**.

Row 102c

Article 4a para 2

- **AT supports the exception for tax, criminal and social security proceedings as provided in the General Approach**.
- The fact that there is no corresponding provision in the EP mandate is viewed very critically by AT.

Row 106a

Article 5 para 3 (1a)

- The clear separation into two categories is problematic for AT, since AT has a third category ("independent contractors") at the national level and it must be possible to continue to maintain this concept.
- The fact that the criteria are only applied in case of rebuttal and thus the national criteria are relegated to the background is viewed extremely critically by AT.
- In the **General Approach** a balanced solution was found, which **should be maintained**.

Reihe 106m
Article 5 para 3

- The fact that there should be no suspensive effect in the appeal procedure with regard to a decision on the employment status represents a serious encroachment on national procedural law.
- As provided for in recital 28b of the **General Approach**, this **should continue to be subject to the decision of the member states**.

Impact assessment on data protection, OSH and working conditions

Row 134a
Article 7 para 2 (2a)

- What is meant by "*competent labor authority*"?
- Impact assessments are not static evaluations, but are to be updated as required.
- Therefore, the transmission of impact assessments on an ongoing basis and at a specific point in time in accordance with Art. 7 (1) does not seem appropriate.
- The detailed regulation of the EP mandate is too far-reaching, which is why the **General Approach should be maintained**.
- In any case, the term "*labor authorities*" should be deleted from this provision.

Intermediaries/subcontracting

- The solution found in the **General Approach** for intermediaries is **balanced** from AT's point of view and **should therefore be maintained**.

Representation of persons performing platform work and platform workers

- AT rejects the idea that only recognized trade unions may represent employees.
- The decision on who is allowed to act as an employee representative should be left to the national law of the member state. Therefore, the **General Approach should be maintained**.
- AT also considers those provisions of the EP mandate problematic, which stipulate that trade unions should be able to take over representation functions for self-employed persons.
- This concept is not in line with the national AT legal system.

Comments from the EE delegation

Written comments (07.07.23) from the Estonian delegation on document ST 10758/23

Estonia is still examining the EP's amendments and our comments therefore are preliminary.

1. **Legal presumption, including rebuttal**
   (Rows: **89 to 96a; 102-102j, 103 to 106m**; 34 to 35b, 38-38c)

In June EPSCO Estonia abstained. We would have liked to have seen a legal presumption whose application would have been as likely as possible to lead to the right results and to reduce the risk of misclassifying genuinely self-employed.

The EP amendments on legal presumption and its rebuttal are going in the wrong direction and therefore, we have no room for manouver concerning the EP's amendments on Chapter 2 of the Directive.

However, we have difficulties in understanding the concept of EP's (automatic) legal presumption and its legal concequences and implementation in practice. We ask the Presidency to clarify with the Parliament the concept of legal presumption and its functioning.

2. **Interdiction of processing of certain types of data** (Art. 5a, resp. 6.5)
   (Rows: **81d-81e, 107a to 107e and 123 to 127h**; 22, 39-42, 44-44a)

General remarks concerning the EP's amendments on data protection

With regard to the provisions on the protection of personal data (Art 5a and Art 6(5)), we ask the Presidency to maintain the General Approach as much as possible.

A considerable number of the EP's proposals seem over-regulatory or their added value and necessity is questionable. The EP logic, including on Art 6(5) would create widespread legal ambiguity and would unduly reshape the GDPR standard in a way that does not strike the right balance between the parties.

Therefore, we ask the Presidency to clarify the links with GDPR and avoid duplication of legislation and conflicts of different legal acts. Where appropriate, reference should be made to the GDPR or respective explanations should be included in the recitals.

Some specific remarks on prohibition to process personal data

- Rows 81d and 81e (biometric data). The EP's proposal here means an exception to the GDPR. The GDPR principles apply to platforms in one way or another (e.g. the principle of minimisation, the principle of legal basis, purpose limitation, etc). Therefore, it is questionable how a platform could prove, for example, that it has the right to use a person's pulse in a way that is consistent with and permitted by the above-mentioned GDPR principles.

- Row 126a. As already referred to above, the GDPR lays down different principles for data protection, e.g. purpose limitation, minimisation, legal basis, etc. For example Art 5(1)(c) of the GDPR establishes the principle of data minimisation, according to which only the data necessary for the purpose of the processing may be collected. In any case, these requirements must be met in order for data to be processed at all. Therefore, in view of the content of point (ca) in row 126a, it does not appear that the platform could have a reason to process data of this nature. We consider it is an excessive and confusing regulation and are sceptical about the EP's proposal.

- Rows 127a till 127d. Based on the same arguments as presented concerning the row 126a, it is questionable whether there is a need for such a regulation taking into account the regulation of the GDPR and its principles of data processing.

- Rows 127a and 127d (biometric data). Does the EP's proposal prohibit the processing of biometric personal data which prevents the identification of a person, so that the platform cannot check, that the person with whom it has contracted is providing the service? The issue needs further clarification with the EP.

3. Impact assessment on data protection, OSH and working conditions

Data protection (Rows: **127f**, 42b)

- Row 127f. The obligation to carry out a data protection impact assessment is already provided in Art 35 of the GDPR. The proposal is therefore redundant.

OSH and working conditions (Rows: **129, 132,** 48a)

- Row 129. In the light of the proposal for a data protection impact assessment in Art 6 (row 127f), it remains unclear what the added value is here and whether and in what way the two impact assessments overlap or do not overlap?

Discrimination (Rows: **131a**)

- Row 131a. We understand the purpose of the EP's proposal, but we would ask the Parliament to clarify further how it has envisaged assessing such a risk in practice?

General (Rows: **134a-134b**)

- Row 134a. The information should be made *„available"* and not *„submitted"*. In addition information should only be made *„available"* to the competent national authorities when requested, which is also the approach agreed in the General Approach.

- Row 134b. The problem is that the EP's proposal in Art 7(2b), row 134b, is probably an undesirable solution. Firstly, it would create an incentive for platforms to refrain from objectively reflecting risks in the impact assessment, which would have the opposite effect to that desired. Secondly, certain theoretical risks will always remain with the use of algorithmic systems, which is why the provision that systems may not be used without fully mitigating all theoretical risks, is not a realistic solution. We consider that Art 35 of GDPR should be a sufficient regulation.

Comments from the EL delegation

EL QUESTIONS ON THE EP MANDATE

Greece is still examining the EP amendments looking for possible common grounds.

Underneath we have formulated a few questions which would help us advance with our assessment and we would kindly ask for the Commission's and the CLS's insights on how they perceive the relevant parts of the EP text.

Questions:

1. It seems that the legal presumption/rebuttal mechanism as described in Commission's initial Proposal and the same mechanism as described in the EP text have significant differences. We would appreciate the Commission's and the CLS's insights on these two concepts and the differences between them.

   More specifically:
   On the application of the legal presumption
   a. Are we to assume the EP in its text (row 89) provides for a generalised legal presumption in favour of the employment relationship (unless the presumption is in the end rebutted)?
   b. What is the correlation of row 89 to row 86 [article 3(1) of the initial Proposal] which reads: "*Member States shall have appropriate and effective procedures in place […] with a view to applying the presumption of an employment relationship in accordance with Article 4(1) for the purpose of ascertaining the existence of such a relationship as defined by applicable law, collective agreements or practice in force in the Member States […]"?*

   c. On the rebuttal
      The EP mandate in its rows 105, 106 and 106b makes another reference to national law. How does this correlate with row 106c where at least a new prerequisite is inserted and rows 106d to 106l where an array of "European" criteria is set?
      For example a person who, under national law, is self-employed will see the legal presumption rebutted according to the initial Proposal (and the Council GA). What happens according to the EP text?
      What if the person who is self-employed under national law, is a courier not *"engaged in an independently established trade profession or business of the same nature as that with which the work performed is related …"* etc? What if the same person, according to contract and facts, also fulfills some of the criteria indicating "control and direction" mentioned in rows 106d-106l?
      Prima facie the amendments of the EP seem to be self-contradicting and thus uncertain and we would like some guidance from the Commission and the CLS so we can understand them better.

It is important for us, before we confirm our flexibility towards any amendment introduced by the EP, to know whether the solutions proposed are clear and legally certain.
We would also be grateful if the Presidency could ask the EP for clarifications and convey their answers to us.

d. How does the *"independently established trade, profession or business of the same nature as that with which the work performed is related"* translate to couriers (working through delivery platforms)?
Also, how is the distinction between *taxi dispatch services* and *ride-hailing digital labour platforms* (row 27b) to be perceived?

<u>Matters of taxation, social security etc.</u>

2. We understand that when it comes to the extension of the effects of the proposed Directive to taxation, social security etc perhaps a different choice has been made by the EP than the one the Council made in its General Approach. Aside the political choice, we would appreciate the CLS (oral) opinion on whether the EP amendments regarding the impacts on taxation, social security etc (ex row 87a and row 34) affect only "marginally" these areas and are in conformity with the legal basis of article 153 1 b or go beyond the "marginal" implication.

<u>Algorithmic management, personal data</u>

3. We have expressed our concerns about possible interventions to a Regulation which is directly applicable and in force (the GDPR) by a Directive to be. The EDPS commenting on the Commission Proposal specified that only elements "complementing" or "particularising" the GDPR can be accepted. It is true that the Council General Approach has been very prudent in this area not going beyond what is necessary and proportionate. However in the EP mandate we find: new prohibitions of processing (ex row 127c), already existing restrictions with no mention to the exceptions to those restrictions as read in the GDPR text (ex row 126a), interference with procedures provided for in the GDPR under specific conditions which are not necessarily respected in the EP text (ex row 127f) etc. A lot of the EP amendments seem to be going far beyond "complementing" or "particularising" the Regulation and therefore, their legitimacy is questionable.
We would appreciate the (oral at this stage) opinion of the CLS on whether such amendments would be compatible with the GDPR. On Chapter III and as far as personal data are concerned it is difficult for us to agree with any of the suggestions of the EP without a proper analysis of their legitimacy vis a vis the Regulation by a body competent to perform such an analysis.

Comments from the FI delegation

Our general position is to maintain the Council's general approach as much as possible. There are, however, few points in the EP text, where we can show some flexibility (see below).

- **Legal Presumption, including rebuttal:**

We do not support the changes made to the provisions regarding the legal presumption and its rebuttal in the EP mandate.

There is one point in particular which is of great importance for us: we should ensure that the presumption does not apply to taxation, social security or criminal proceedings (Article 4a.2 of the general approach) - this should be kept as it is in the GA.

- **Interdiction of processing of certain types of data (Art. 5a, resp. 6.5) (Rows: 81d-81e, 107a to 107e and 123 to 127h; 22, 39-42, 44-44a):**

Generally, we think that the general provisions of the GDPR should be followed and no additional overlapping provisions should be approved. It would be important to maintain the article 5a in the Council mandate since it is clearer than the article 6.5 in the EP mandate; the provisions should only apply to processing by means of automated monitoring or decision-making systems.

Row 81e: the definition of *biometrics based data* is unclear. What is the relationship between the definition of biometric data in the GDPR and the definition of biometrics based data?

Row 126a: we can be flexible regarding the limitation of processing of certain categories of sensitive personal data ie. "*personal data revealing racial or ethnic origin, migration status, political opinions, religious or philosophical beliefs, disability*".

However, the next parametres mentioned in the same sentence, namely "*State of Health, including chronic disease or HIV status*" seems to overlap with point (b), where health data has already been mentioned.

And furthermore; still in 126a; In Finland, employers can pay trade union membership fees to trade unions based on collective agreements. It is important for us to retain the possibility to continue this system. Hence, the prohibition of trade union membership information without exceptions could be problematic in this regard. We would also like to ask how the prohibition on processing information on trade union membership would relate to employers' obligations concerning the protection of employees' representatives?

Row 127a: We would be ready to discuss the provision to limit the biometric identification up to a certain point, but further consideration of the text would be required; we would not be in favour of a categorical ban on biometric identification. The principle that the platform must choose the least intrusive means is an approach consistent with the spirit of the GDPR. In addition, the subparagraph would also prohibit disproportionate or undue surveillance of work performance, which seems unnecessary and would need clarification.

Row 127c: The meaning of the subparagraph is not clear to us and we would like to ask for a clarification. Does the subparagraph include for example discrimination in recruitment?

Row 127f: As a general remark, we would like to emphasize that the general provisions of the GDPR regarding data protection impact assessments should be followed as such and no overlapping provisions should be approved. Here we see some risks that the formulation of the provision overlaps or conflicts with the regulation of the GDPR. If a specific provision on data protection impact assessment is considered necessary, could a simple reference be made to Article 35 of the GDPR?

We are flexible as regards including to the text the parts of the Commission's proposal which explain the relationship between the provisions and the room for manoeuvre provided in the GDPR, in particular Article 88 of the GDPR (for example rows 40 and 41).

- **Impact assessment on data protection, OSH and working conditions: Data protection: 127f, 42b OSH and working conditions: 129, 132, 48a Discrimination: 131a General: 134a-134b:**

Rows 134a and 135a: we do not support the idea presented here that the impact assessment should be submitted to the authorities and they should take action - that would mean unnecessary increase in administrative burden – Council's position should be kept here as in row 135b.

Row 131a: We have a flexible approach to discuss the amendment made in the EP mandate. However, it would need clarification and its place in the text should be reconsidered as it does not relate to health and safety

- **Intermediaries / subcontracting (Rows: 80a, 83a+83b, 159d to 159h, 197, 28d, 36, 52a, 78):**

We consider it important that the provisions regarding intermediaries remain as in the Council mandate (rows 80a, 83a 83b), enabling nationally appropriate regulation.

- **Representation of persons performing platforms work and platform workers. (Rows 81, 81a, 87a, 89, 89a, 107d, 109, 122, 126, 126a, 127f, 127g, 127j to 127n, 129, 134a, 135b, 139, 144, 145a, 146 and 149a to 149f, 154, 158, 164, 165-165c, 167, 167a, 173, 173a; 18, 25, 28a, 28b, 33, 34, 42, 42b, 43, 44a, 45, 48, 49, 52, 55, 71a):**

As regards representation, we prefer the Council mandate.

Rows 149a-149f: *Promotion of collective bargaining in platform work*: We would like to ask for a clarification, as this article seems unclear; can the provisions on the promotion of collective bargaining in platform work be restricted only to those in an employment relationship? What, in concrete terms, could be expected from the Member States when implementing these provisions?

Row 167: We would like to remind that the provision should contain a reference to directive 2002/58/EC on privacy and electronic communications (as in the Council's mandate).

- **Cross-border cooperation (Rows: 159a to 159c; 51-52):**

The article on cross-border cooperation could be a topic for further negotiations; however, we are wondering what new would this article bring compared to the current situation (especially regarding ELA)? Why is EURES relevant/mentioned here?

- **Enforcement and penalties (Rows: 182 to 184e; Rows 57):**

Row 182: Adding the phrase "*together with national labour authorities*" is problematic. We would not accept overlapping powers of the authorities. We prefer the formulation on row 183 in the Council's mandate: *the authorities shall, where relevant, cooperate in the enforcement of the directive.*

The EP has added a reference to paragraphs 4 and 6 of the Article 83 of the GDPR, which makes the provision imprecise and is not acceptable for us. Paragraphs 4, 5 and 6 define different maximum levels of administrative fines for different infringements.

Rows 184 and 184: We think that the addition of financial penalties makes the regulation unclear and is not necessary.

Row 184b: We do not consider it appropriate to link the amount of the financial penalties to the sanctions for violating another regulation, i.e. the GDPR. The amount of the financial penalty should be determined according to the infringement (proportionality principle).

- **Other preliminary remarks:**

We do not understand what is the purpose of the changes made in the definitions of digital labour platform (76-77) and platform work (78). Could the purpose of these changes be elaborated?

We could accept and maybe even prefer the definition of *automated monitoring systems* as in the EP mandate row 81b.

We are critical towards the amendments made in the EP mandate to the supporting measures, especially rows 100-101a.

We prefer the Council's mandate regarding article 8a (row 142b-) as it is clearer and more systematic. The additions made in the EP mandate seem unclear and illogical taking into account the general principles according to which the risks should first be identified, then eliminated and the significance of the remaining ones to health and safety should be assessed. However, we have some flexibility in including (in the provision on row 142f) the idea of EP's mandate that risks should primarily be prevented and that the basic principles of occupational safety should be complied with.

Row 87b: We would like to have an explanation on how these two directives (PWD and 2008/104/EC) would be applied together in a situation where a digital labour platform as a temporary work agency mediates platform workers for other employers?

Rows 120a and 134 b: These provisions are problematic; they are too far-reaching and radical prohibitions.

Row 162a: The right to lodge a complaint would be problematic for us.

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Row 162a: The right to lodge a complaint would be problematic for us.

Comments from the FR delegation

FR comments and questions on document ST 10758/23

France wishes to recall the terms in which it gave its support to the general approach for this text, referring to its statement dated 12 June 2023[1], made within the framework of the Council.

As requested by the Presidency, France would like the following elements to be included in the inter-institutional negotiations so that European Parliament (EP) can clarify its mandate.

In any case, France is still examining the EP's mandate, comments therefore are preliminary. The answers to the following questions will enable France to continue its analysis.

- ***Concerning Legal Presumption, including rebuttal (Rows 89 to 96a; 102-102j, 103 to 106m; 34 à 35b, 38-38c)***

How does the mechanism of legal presumption, as set out in EP's mandate, work?

Row 34:

- Why is it specified that the legal presumption can be used by trade unions, whereas row 89 states that it can be used by "representatives of persons performing work by a platform" ("their representatives"), which may not be always "trade unions" depending on the national legal system?
- What does the distinction between "administrative procedures" and "administrative and legal proceedings" mean?
- What is the meaning of the possibility - or even the obligation - for the competent authorities to "apply" the legal presumption rather than "rely on" it?
- From the sentence added to this recital, it seems that the presumption is not automatic, as the platform always has the option of requesting that it be rebutted before a decision is taken → How would this mechanism work in practice?

Row 38:

- What does Parliament mean by the "common European framework"? Does it refer to the list of criteria characterising genuinely self-employed activity in Article 5(1a) and the list of criteria characterising "control and direction" in Article 5(1b)? If so, is it an attempt to define the concept of "genuinely self-employed work" in Union law and the concept of "worker" (insofar as it is based on the concept of "control and direction")?

Row 38a: To which provision of the normative part does this recital correspond?

Row 90:

- The first sentence on the non-automatic nature of the reclassification due to the legal presumption contradicts the described operation of the mechanism. The European Parliament therefore needs to clarify what it means by automatic.
- It is stated that platforms can rebut the legal presumption before any decision is taken. How does this work in practice?

[1] Document ST 10107 2023 ADD 3.

(i) given that the legal presumption "must be applied" by the relevant authorities, and there are no criteria for deciding whether or not to trigger it;
ii) given that it must be possible to reverse the legal presumption before a decision is taken in an administrative or judicial procedure, while at the same time it must apply in all administrative or judicial procedures?

- The legality of this provision raises questions. Is Parliament's intention to introduce a presumption of self-employment in addition to the legal presumption set out in Article 4.1?

Row 102:

- What is the purpose of the reference to Directive 2019/1152? Is it a reminder of the existence of the presumption mechanisms provided for under Article 10(b) and Article 15? If so, what is the added value?
- How is the presumption provided for in the proposed directive supposed to fit in with these other presumption mechanisms?

Row 104:

- The possibility of rebuttal applies not only to platforms but to any party. However, line 90 mentions only platforms: how can this possibility of rebuttal be exercised if it can be exercised by all parties before any judicial or administrative decision is taken?

Row 105:

- How should the reference to Article 4(1) be interpreted in the context of the procedure for rebutting the presumption? Without a criterion for triggering the presumption, in what situation will a platform consider that its contractual relationship in question is not an employment relationship under Article 4(1), since the latter does not lay down any criterion or condition for applying the presumption? Does this not simply preclude the possibility of requesting a rebuttal of the legal presumption?

Rows 106a, 106b, 106c:

- Is the mechanism for rebutting the legal presumption additional to the mechanism provided for in paragraph 1 (row 105)?
- If this mechanism intends to implement the possibility provided for in paragraph 1, how does the establishment of criteria for the "genuine self-employment" of a person performing platform work respect the national definitions of the concept of self-employed and take account of the case law of the CJEU? Furthermore, do the Treaties allow criteria to be defined at European level in order to define what a self-employed is?
- The legality of this provision raises questions. Is EP's intention to introduce a presumption of self-employment in addition to the legal presumption set out in Article 4.1?
- Can it be considered that a self-employed should be free of any control or direction from the platform (as from any other principal)?
- What does the second criterion of "genuine self-employment" mean? Is it cumulative with the previous one? Does it prevent you from being genuinely self-employed if you are just starting your business activity and have no anteriority of carrying out this activity? Is it compatible with the freedom of entrepreneurship and the freedom to access the market? How should it be transposed, particularly with regard to the term "usually"? Does it refer to a previous period of activity in the same sector, for example, and if so what period is it?

- How should an activity carried out via the platform be considered to be "of the same nature" as an established activity? What evidence should be provided? Doesn't this only apply to regulated activities subject to authorisation or licence, which would effectively exclude all other unregulated self-employed activities?

Rows 106d to 106l:

- How should the items listed be "taken into account" by the authority? Should a relative weight be given to each element? Do the elements have equal weight?
- Can other factors that exist in national law to characterise "genuine self-employment" be decisive on their own, over and above taking into account the factors listed in this paragraph?
- If one of these elements is met, does this prevent the person from being considered "free from control and direction by the platform" under point a) of paragraph 1a?

Row 106m: Is EP's intention to require Member States to introduce an administrative procedure if none exists in national law?

- ***Concerning interdiction of processing of certain types of data (rows 81d-81e, 107a to 107e and 123 to 127h; 22, 39-42, 44-44a)***

How does parliament's mandate on the processing of personal data fit in with existing legislation in this area (Regulation (EU) 2016/679)?

Rows 81d and 81e: Would a reference to the definition in the Regulation (EU) 2016/679 be sufficient?

Row 127a: Why ban the use of biometric identification procedures? What would be the justification to apply such a protection only to persons performing platform work if such a ban already exist at a national level?

Row 127b: Isn't the prohibition of any discriminatory practice through the use of personal data already a general principle covered by the Regulation (EU) 2016/679 and the equal treatment directives?

Row 127c: Does Parliament have any examples of infringements or abusive practices in this respect in the platforms' sectors?

Row 127d: What is the difference in interpretation and in practice between biometric data and biometrics-based data? Can the EP give examples?

- ***Impact assessment on data protection (rows 127f, 42b), OSH and working conditions (129, 132, 48a), discrimination (row 131a), general (rows 134a-134b)***

- ***Intermediaries / subcontracting (rows 80a, 83a+83b, 159d to 159h, 197, 28d, 36, 52a, 78)***

What situations led Parliament to lay down these rules?

Rows 36 and 159d: What situations are covered?

Row 52a: Are there any examples of problems of this type arising from the introduction of a legal presumption?

- ***Representation of persons performing platforms work and platform workers (rows 81, 81a, 87a, 89, 89a, 107d, 109, 122, 126, 126a, 127f, 127g, 127j to 127n, 129, 134a, 135b, 139, 144, 145a, 146 and 149a to 149f, 154, 158, 164, 165-165c, 167, 167a, 173, 173a; 18, 25, 28a, 28b, 33, 34, 42, 42b, 43, 44a, 45, 48, 49, 52, 55, 71a)***

How would the representation of persons performing platforms work and platform workers work in practice?

Row 34: see below.

Row 89:

- The legal presumption seems to be of general application and not subject to the fulfilment of a certain number of criteria, which has the effect of considerably broadening the scope of the presumption.
- The wording gives the representatives of persons performing platform work the power to apply the presumption without reference to national law.
- In any event, the words "and their representatives" appear to be redundant with the specific provisions set out in the directive (in particular) and could, due to its general nature, generate legal uncertainty as to the conditions of this representation.
- The reference to the "framework of measures" may be problematic if the reference to representatives is retained.

Row 89a:

- How should this provision on the operation and scope of the legal presumption of EP's mandate be interpreted?
- This provision would oblige the competent authorities and bodies to apply the legal presumption in administrative and judicial proceedings when the dispute concerns job classification.
- The EP's version seems to imply the possibility for trade unions to bring class actions. Such an extension would therefore contravene the procedural autonomy of the Member States.
- What are “competent authorities and bodies, including those responsible for registering administrative procedures”?

Row 126: Is the restriction limited to workers only?

- ***Cross-border cooperation (rows 159a to 159 c; 51-52)***

- ***Enforcement and penalties (Rows: 182 to 184e; Row 57)***

Rows 184a and 184d: Does this provision respect the autonomy of the Member States?

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