

AT Comments

General remarks:

- AT supported the General Approach (GA) and was willing to make concessions.
- From AT's point of view, it is therefore essential to largely **stick to the balanced text of the GA** in the trilogue negotiations.

Supporting measures: rows: 101a – 101c, 102l, 102n, 102o, 102q, 35a, 36 – 36b, 38e

Row 36-36b ; 101a-101c ; 102o-102q

RE 26-26b; Art. 4 (3) lit.da-dc; Art. 4b (1) lit. c)

- The EP Mandate is too detailed and creates a disproportionate bureaucratic burden, in particular the EP proposal for row 101a.
- **AT supports the GA.**

Transparency on data processing: rows: 111a, 112, 115, 115a & 115b, 119, 120, 127g

Row 111a:

Art. 6 (1) 1a

- The extension of the scope of application proposed by the EP in Art. 6 para. 1 (1a), which would also include service providers that sell their management services to the platform, is too extensive.
- **AT rejects the proposal by the EP and supports the text agreed upon in the GA.**

Row 115-115b:

Art. 6 (2) lit a ii) - iib):

- The additional phrases in the EP mandate are redundant as these issues are already covered by ii).
- **AT supports the GA.**

Row 119-120:

Art. 6 (2) b iii)-iv):

- The wording of the GA is broader and includes all persons performing platform work, thus **AT supports the GA.**

Row 127g:

Art. 6 (5b):

- The regulations of the EP mandate are too detailed, the general provisions of the GDPR are sufficient to ensure data protection.
- **AT supports the GA.**

Limitations to automated decisions: rows: 120a, 42a

Row 120a:

Art. 6 (2a):

- The EP mandate is too extensive, Art. 7 of the GA offers an adequate regulation to avoid abuse and to ensure human monitoring of automated systems.
- **AT rejects the EP mandate and supports the GA.**

Confidential information: (EP Article 6a) rows: 127i – 127n, 43

Row 127i – 127n:

Art. 6a:

- The EP proposes a new article on confidential information (Art. 6a). The proposal is too extensive, in particular as regards the indicators for the verification of the confidentiality of information MS have to develop. This not only **interferes with entrepreneurial freedom** but also overlooks the fact that different industries and sectors consider different information confidential.
- The paragraph on urgent administrative or judicial decisions to review the classification done by platforms **interferes with the procedural autonomy of MS.**
- Generally, Art. 6a is too extensive and goes beyond the GA.
- **AT rejects the detailed EP mandate.**

Row 43:

RE 33:

- The provisions on the confidentiality of information proposed by the EP are too extensive.
- In particular, the obligation for MS to create indicators is disproportionate and therefore rejected.
- **AT supports the GA.**

Information and consultation – Article 9: rows: 144, 145, 145a, 146, 146a, 42

Row 144:

Art. 9 (1):

- The wording on the cooperation of representatives and platforms is too extensive.
- With regard to the autonomy of the social partners, it is questionable how this provision should be implemented at national level.
- **AT supports the GA.**

Row 146:

Art. 9 (3):

- **AT prefers** the balanced threshold of 500 workers provided for in the **GA**.
- The **discretion of MS** in the last sentence of the GA is **necessary** to address national circumstances and is in line with the character of a directive.

Row 42:

RE 32:

- The EP Mandate is too extensive and it burdens the platforms disproportionately.
- **AT supports the GA.**

Data protection impact assessment, OSH and working conditions: rows: 127f, 129, 134c, 135-135b,

Row 127f:

Art. 6 (5a):

- The **EP Mandate is too detailed** and creates a disproportionate **bureaucratic burden**.

Row 129:

Art. 7 (1):

- The participation rights of workers' representatives provided for by the EP are **too far-reaching**, and the extension of the scope of application and the introduction of an annual review are also rejected.
- The extension of the assessment to fundamental rights goes **beyond the scope** of the directive and places a disproportionate responsibility on platforms, especially compared to other companies.
- **AT supports the GA.**

Reihe 134c:

Art. 7 (2c):

- The term “undue pressure” is **unclear**.

Reihe 135:

Art. 7(3):

- **AT rejects the EP mandate and prefers the GA.**

Human oversight/monitoring – Article 7(1): rows: 128, 128a – 129

Row 128a:

Art. 7

- **AT supports the GA** as it goes beyond working conditions.

Row 129:

Art. 7(1)

- **AT prefers the GA.**

FI comments

New comments based on steering note 12608/23:

- **Supporting measures: rows: 101a – 101c, 102l, 102n, 102o, 102q, 35a, 36 – 36b, 38e**

We prefer the general approach (102l-). We are critical towards the amendments made in the EP mandate as regards supporting measures, especially rows 100-101a (and respective recitals).

- **Definitions: Automated monitoring and decision-making:**

We prefer the general approach. We do not understand what is the purpose of the EP changes made in the definitions of digital labour platform and platform work. Could the purpose of these changes be elaborated?

On the other hand, we could accept and maybe even prefer the definition of *automated monitoring systems* as in the EP mandate row 81b.

- **Transparency on data processing: rows: 111a, 112, 115, 115a & 115b, 119, 120, 127g**

Row 111a: we can be flexible as to this EP proposal.

Rows 115ii and 119iii: we would like to ask what is meant by the term “data” here? Does it refer to personal data or also some other kind of data?

Row 115b: we would like to ask what is meant by the phrase “functioning and mode of operation” in concrete terms? It is not clear as such.

Row 120: We could be flexible regarding the idea of the additions made by the EP, especially “the grounds for promotion, for task allocation”.

Row 127g: We could be flexible regarding 127g (workers’ representatives not included). However, we wonder if this is overlapping with the provisions of the GDPR?

- **Limitations to automated decisions: rows: 120a, 42a:**

Rows 120a (as well as 134 b): These provisions are problematic as too far-reaching and radical prohibitions.

- **Confidential information: (EP Article 6a) rows: 127i – 127n, 43**

We prefer the general approach. We wonder how does this new article relate to the directive 2002/14/EC (DIRECTIVE 2002/14/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing a general framework for informing and consulting employees in the European Community?

- **Information and consultation – Article 9: rows: 144, 145, 145a, 146, 146a, 42**

We prefer the general approach.

- **Data protection impact assessment, OSH and working conditions: rows: 127f, 129, 134c, 135-135b**

Reference to our earlier comment: we are worried that the formulation of the provision poses a risk that 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 reference be made to Article 35 of the GDPR?

Row 129: We prefer the general approach.

Also reference to our earlier comment on rows 134a and 135a: we do not support the obligations to submit the impact assessment to the authorities or the obligation of the authorities to take measures based on the impact assessment. We support the Council mandate row 135b.

- **Human oversight/monitoring – Article 7(1): rows: 128, 128a – 129**

We prefer the general approach.

- **Human review – Article 8: rows: 136 – 142a:**

Row 137: We could be flexible regarding adding the phrase: “The explanation shall be presented in a transparent and intelligible manner, using clear and plain language”

Row 138: We could be flexible regarding adding the phrase ”to restrict access to work assignments”, although we do not consider it necessary.

Otherwise we prefer the general approach.

- **OSH- Council Article 8a and EP Article 7(2): rows: 120a, 130 – 134, 142b – 142g:**

As already mentioned before, 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.

- **Persons performing platform work: rows: 142a (links with row 68), 147, 148, 149:**

We prefer the general approach.

Other remaining remarks (that have been included in our earlier comments 6.7.23):

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?

As to rows **109 + 122:** we do not like the EP proposal. It should be enough that the information is available to representatives and MS competent authorities upon request.

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



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From:	General Secretariat of the Council
To:	Delegations
N° Cion doc.:	ST 14450 2021 INIT
Subject:	Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on improving working conditions in platform work - MS comments

Delegations will find attached comments by AT and FI on doc. 12608/23.