

Comments by DK

Concerning article 2a Denmark has been flexible in relation to finding text in relation to “intermediaries” during the Council negotiations. We supported the solution found, and wording used, in the General Approach.

However, the introduction of provisions on joint and several liability is unfortunately a red line for us. Introducing a liability system whereby the digital labour platform and the intermediary, or any subcontractor in a subcontracting chain, shall be held jointly and severally liable is not acceptable for DK since this could also create a precedent for future EU-initiatives.

If a text concerning liability is needed in order to reach a compromise it must be clear from the text that Member States are not forced to introduce such a system. It could be a proposal to include “if such exists” or similarly. The PRES proposal in the note 14768/2023 states “if appropriate” (and the latest COR 1 version ‘when appropriate’). Maybe a compromise way forward could be if a new recital is to be drafted from where it is clear that Member States, which do not have liability systems, are not forced to introduce such a system e.g. “Nothing in this Directive shall be construed as imposing an obligation on any Member State to establish a system of joint responsibility if such does not already exist”.

In summary, we would encourage the PRES to stick to the GA on this, as stated by several MS, not to create uncertainty. If PRES proceed on text amendments, we kindly ask you to not expand from wording used in the GA and take our concerns above into consideration.

Comments by FR

Following yesterday’s WP on platform work, we would like to share with you some amendments’ proposals regarding two points :

1/ On communication channels

As expressed during the WP, the EP proposal regarding the possibility for trade unions to proactively contact persons performing platform work should be done in a secured manner, so that lists of names can be protected, according to national law.

Accordingly, we propose the following amendment in row 167 :

“In accordance with national law or practices, Member States shall take the necessary measures to ensure that digital labour platforms create, the possibility for persons performing platform work to contact and communicate privately and securely with each other, and to contact ~~or be contacted by~~ workers’ representatives, trade unions and 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.”

2/ On intermediaries

Joint liability mechanisms can largely differ from one MS to the other. We prefer the GA on this point but the following wording could also be acceptable on row 83b :

“..., including joint and several liability mechanisms, which are to be applied when appropriate **and in accordance with national law and practice**, across subcontracting chains and effective access to redress.”

Comments by NL

Text suggested for art. 20a in the Platform Work Directive.

- 1. Member States may, by law or by collective agreements, provide for more specific rules to ensure the protection of the rights and freedoms in respect of the processing of persons performing platform work's personal data under Articles 6, 7 and 8 of this Directive.
- 1(new). Member States may allow the social partners to maintain, negotiate, conclude and enforce collective agreements, in accordance with national law or practice, which establish arrangements concerning platform work which differ from those referred to in Articles 8a, 9, 11 and 12 of this Directive. Member States shall ensure that this provision does not lead to a reduction in the protection afforded by this Directive to persons performing platform work.



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WORKING 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 - MS Comments

Following the Social Questions Working Party meeting of 21st-22nd November 2023, delegations will find attached the contributions received from the DK, FR and NL.