The Platform Work Directive

Trade union guide to transposition

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Chapters

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Foreword

You are opening a guide that is both interpretative and practical. It brings together a clear reading of the Platform Work Directive and concrete arguments for its correct and ambitious transposition. This is not an abstract legal exercise: it is a tool for action, designed to support trade unions and their allies in a decisive phase for the future of platform workers' rights.

This guide equips you with the legal, political and strategic arguments needed to counter the intense lobbying pressure exerted by digital labour platforms. Across Europe, platforms are seeking to dilute, delay or distort the Directive's intent. Their objective is clear: to preserve business models built on misclassification, opacity and power asymmetries. But for this not to happen, it is essential to be clear about where we stand. **We are no longer in a negotiation phase. The Platform Work Directive is adopted EU law. Member States are now required to transpose binding obligations into national legislation before 2nd December 2026**. Core elements of the Directive – including the rebuttable presumption of employment – are not up for renegotiation. The debate ahead is not about whether these measures should exist, but how they should be designed and implemented so that they genuinely benefit workers, rather than creating new procedural hurdles or empty rights on paper.

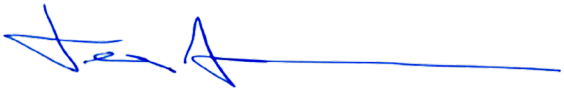
Social dialogue remains the best and most sustainable way to shape changing labour markets. However, dialogue cannot be one-sided. In many countries, digital labour platforms are refusing to engage constructively with trade unions, while simultaneously investing heavily in lobbying governments to promote their own interpretation of the Directive. In this context, **trade unions must be visible, vocal and proactive.** We must highlight the concrete victories achieved through this Directive and defend them against attempts to hollow them out during transposition.

The coming months will therefore be critical. Success will depend on strong advocacy and action of each union. Trade unions must act to ensure governments understand that correct and worker- centred transposition is not optional. It is the only fair and lawful path forward for a rapidly growing number of workers whose livelihoods depend on platform work
This guide is offered in that spirit.

Read it. Use it. Win.

Tea Jarc, ETUC Confederal Secretary

Brussels, February 2026



Acronyms

AMDMS (automated monitoring and decision-making systems)

CJEU (Court of Justice of the European Union)

DLP (digital labour platform)

GDPR (General Data Protection Regulation)

OSH (Occupational Safety and Health)

PPPW (person performing platform work)

PWD (Platform Work Directive)

Executive Summary

The Platform Work Directive contains significant lee-way for member-states in transposition. It's imperative that trade unions seek to influence the transposition to deliver the most worker-friendly platform work law that is possible in all 27 member-states.

Key transposition proposals include:

- The legal presumption of rebuttable employment for PPPWs should be a broad, general presumption that is easy to trigger, not a conditional presumption that includes a criteria that is burdensome for PPPWs.

- The procedural laws for the legal presumption should include an administrative process to trigger the presumption, not a judicial one; that labour inspectorates or comparable competent authorities can pursue collective enforcement actions, not only on a worker-by-worker basis; and that there should be no 'suspensive effect' at the rebuttal stage of the presumption.

- Supporting measures for the legal presumption include a simple, effective mechanism for PPPWs to make claims to competent authorities; an extraordinary campaign by competent authorities to investigate bogus self-employment in the platform economy; and additional resources for competent authorities to deal with the increased workload.

- In relation to intermediaries (sub-contractors), competent authorities should be actively required to identify which entity (the platform or the intermediary) is the real employer, and joint and several liability should apply throughout the sub-contracting chain and apply across all of PPPWs' terms and conditions.

- In relation to rights relating to algorithmic management, these rights should be extended beyond PPPWs to all workers and the right to access a data expert should be applied to all the algorithmic management rights, not only those relating to collective information and consultation.

- OSH rights should be extended to all PPPWs regardless of employment status for the time they are working for a DLP.

- Strong enforcement measures are imperative to ensure DLP compliance with the directive, including financial penalties which are tied to the DLP's national or global turnover and criminal sanctions on DLP executives which hire workers on a bogus self-employed basis.

Introduction

The Platform Work Directive (PWD)[1] was passed into EU law in November 2024. PWD is aimed at improving the working conditions of platform workers.

As a Directive, PWD sets out a goal which EU member-states have to achieve, but leaves them discretion in how to implement this into their national laws. It is therefore up to each member-state to come up with their own law, within the requirements established by PWD. This is known as transposition. PWD must be transposed at the latest by 2 December 2026.

This trade union guide to the Platform Work Directive has two purposes. Firstly, it is designed to help deliver the most worker-friendly transposition of PWD that is possible in each member-state.

There is significant margin for member-states to transpose PWD in different ways, ones which could be more or less favourable to platform workers. The details of key aspects of the Directive, such as the rebuttable presumption of employment, are vitally important: get them wrong and it is possible PWD could be less useful than the status quo, even if the status quo is that there is no platform work-specific national laws at all. It is therefore crucial that unions in every member-state seek to influence PWD transposition to ensure a positive outcome.

Secondly, the guide aims to be helpful for the post-transposition phase, after national laws have been established. Here again, trade unions will be absolutely central to making sure that the law is acted upon in a way which actually delivers better working conditions for platform workers in practice, not just on paper. Nothing will be handed on a plate to platform workers: it will be necessary for unions to fight to make best use of the new law and to hold digital labour platforms accountable.

This guide is split into three sections. The first section is an article-by-article explanation of what exactly is contained within the Platform Work Directive, what requirements it places on member-states and seeks to clarify some potentially contentious matters of interpretation.

The second section is about the transposition of PWD. We propose specific policies which are going to be most favourable for workers, while highlighting transposition options which should be avoided.

The third section seeks to help unions after the transposition phase, when the new law is

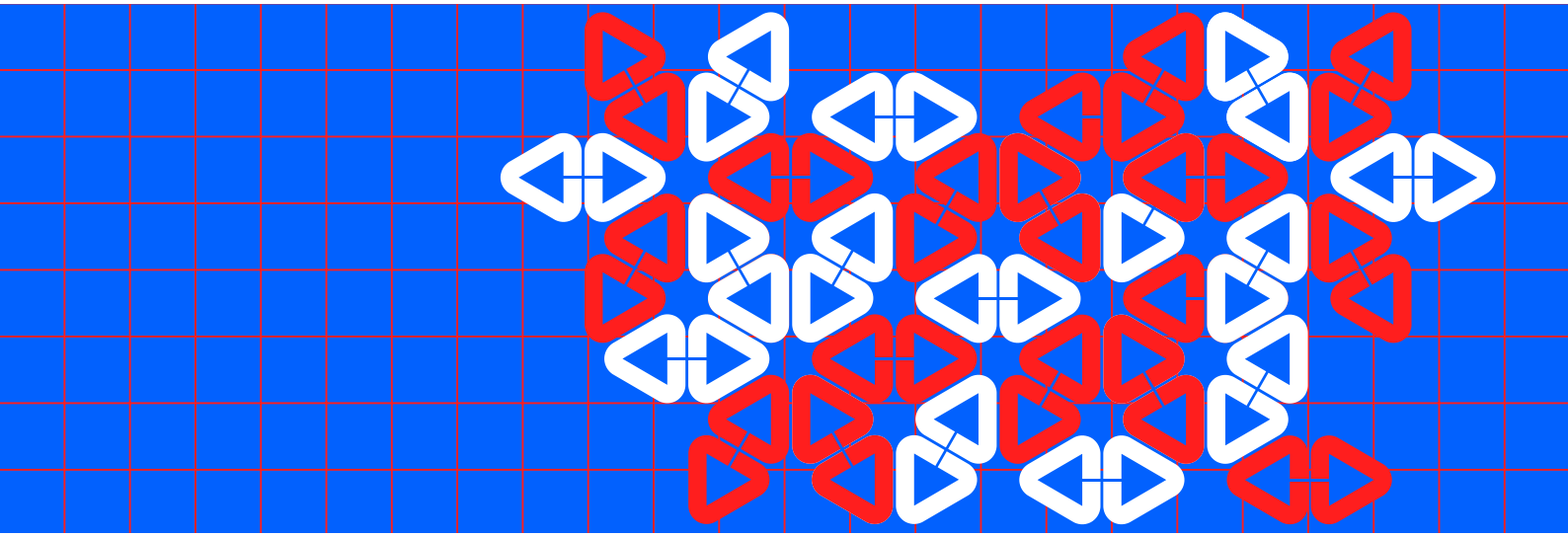
1 European Union (2024). 'Directive (EU) 2024/2831 of the European Parliament and of the Council of 23 October 2024 on improving working conditions in platform work (Text with EEA relevance)'.

in place. This includes devising a plan for tackling employment misclassification, making best use of the new rights in relation to algorithmic management, and maximising the opportunities the new law will bring to strengthen union representation.

The guide also contains six case studies which examine particular issues in more detail and finishes with a few annexes which provide some practical tools for trade-unionists.

The Platform Work Directive was a milestone in the struggle for platform workers' rights, but it was only one step on a journey to ensure all platform workers have decent and dignified work. We hope this guide can help workers take the next step in that journey.

1. Interpreting the Platform Work Directive: article-by-article



Chapter I: General provisions

Article 1: Subject matter and scope

This article (which should be read in conjunction with Recitals 14-18) explains that the Platform Work Directive (PWD) has three main purposes: to facilitate the correct employment status of persons performing platform work (1a), to improve rights relating to algorithmic management (1b), and to improve the transparency of platform work (1c).

Recitals 16 and 18 clarify that the Directive applies to all digital labour platforms regardless of where they are headquartered or operate from, as long as the platform work is performed within the EU.

Article 2: Definitions

This article (which should be read in conjunction with Recitals 19-24) defines the key terms used in the Directive. These definitions are for the purposes of the Directive only, they don't replace definitions at national level for other purposes.

For **'digital labour platform'** (DLP), the entity must meet all the points listed in the definition

to be considered a DLP, including: the service is provided at least partly at a distance by electronic means; it's provided at the request of a recipient; it involves work in return for payment; and it involves the use of automated monitoring and/or automated decision-making.

It is clarified in Recital 20 that DLPs do not include platforms for exploiting or sharing assets, like AirBNB, nor for volunteers or for other platforms that do not mediate work. Recital 19 makes it clear that a DLP can include a company where the worker provides a service to a business client or to the company itself, such as in the case of microwork (also known as 'clickwork' or 'crowdwork'), as well as platforms in which payment for work is processed off-platform.

Recital 20 also states that the definition of a DLP "should be limited to providers of a service for which the organisation of work performed by the individual…constitutes a necessary and essential component, and not merely a minor and purely ancillary component." It is important that this is not misinterpreted: if, for example, a multi-national company with various departments has a DLP for home-cleaning as one minor part of its operations, that part of the company would still be considered a DLP, because the above sentence in Recital 20 is about the importance of the platform model to the service which is being provided, it's not about the importance of the platform model to the company as a whole.

In regards to '**person performing platform work' (PPPW) and 'platform worker'**, a PPPW is anyone working on a digital labour platform regardless of the contractual relationship, while a 'platform worker' is a worker on a digital labour platform deemed to be in an employment relationship. 'Platform work' is work organised via a digital labour platform with a contractual relationship (employment relationship or other) with a DLP or an intermediary.

The European Commission has stated in its PWDReport[2] that the Directive is not inclusive of undeclared platform work, i.e. working on a platform without a registered account, often because they are undocumented workers.[3]

An **'intermediary'** is a 'natural or legal person' (i.e. an individual or a company) which either has a contractual relationship with a DLP and a PPPW, or is part of a subcontracting chain between a DLP and a PPPW. This definition of an intermediary is very broad and can encompass a wide range of possibilities, from a self-employed person to a multinational company.

The Commission's Reportstate's that wage portage companies (which handle administrative

2 European Commission (2026). 'Report: Expert Group: Transposition of Directive (EU) 2024/2831 on improving working conditions in platform work', pg 17.

3 The fact that they are not within the scope of the Directive does not preclude undocumented workers from pursuing a regularisation process based on national laws.

and payroll tasks between a worker and their client), umbrella companies (which act as the employer for a worker who may work for several clients), temporary employment agencies (which hire workers and place them in temporary positions with companies they have contracts with), and a PPPW who uses a substitute could all potentially be included within this definition of an intermediary.[4]

'Workers' representatives' are "representatives of platform workers",that is . PPPWs who are employees. This includes "trade unions and representatives who are freely elected by the platform workers in accordance with national law and practice". An example of the latter type of representative is Works' Councils, which exist in many EU countries as company-level representative bodies for workers. The reference to "national law and practice" is important because across the EU there is a wide variety of mechanisms for determining what constitutes a worker representative, how representativeness is determined and the relationship between union representation and Works' Council representation.

PWD defines **'Representatives of persons performing platform work'** as "workers' representatives and, insofar as provided for in national law and practice". The Commission Report statesthat the reference to "national law and practice" here does not place limits on the right of all PPPWs to join a union, but it will be up to member-states to decide if they consider a union or other representative to be a workers' representative of a self-employed platform worker.[5]

However, as labour law researchers Nicola Countouris and Silvia Rainone have pointed out, "precluding access to collective bargaining on the basis of contractual status is contrary to various instruments of international law (ILO Convention 87, 98 and European Convention of Social Rights, article 6 among others)".[6] It can therefore be argued that all PPPWs in all EU countries must have the right to worker representation based on international laws which are above and beyond what is contained in the PWD.

'Automated monitoring systems' is defined broadly as "systems which are used for or support monitoring, supervising or evaluating" PPPWs and the activities of PPPWs. This can include even basic data monitoring tools, like GPS trackers or working time recorders.

'Automated decision-making systems' are systems "which are used to take or support… decisions that significantly affect PPPWs". It's important to note the inclusion of "significantly" here, which is not included in the definition of automated monitoring systems above. The threshold for "significance' in this definition is not defined explicitly. However, including in the

4 European Commission (2026). 'Report: Expert Group', pg 18.
5 European Commission (2026). 'Report: Expert Group', pg 19.
6 Nicola Countouris and Silvia Rainone (2021). 'Collective bargaining and self-employed workers'. European Trade Union Institute.

definition is a long list of examples of significant automated decision-making systems, which can be used as a point of reference.

Article 3: Intermediaries

This article (which should be read in conjunction with Recital 24) establishes that PPPWs which are contracted by an intermediary must "enjoy the same level of protection" as PPPWs hired directly by a DLP. To that end, member-states must establish "appropriate mechanisms" based on "national law and practice". These mechanisms "shall include, where appropriate, joint and several liability systems".

The European Commission has stated in its PWD Reportthat **"the same level of protection" doesn't mean similar or equivalent protection, but equal to that of a PPPW with a direct contractual relationship to a DLP and covering all of the rights contained in the Directive.**[7] That means that there must be literally no difference in the rights of a PPPW whether they are hired via an intermediary or directly.

To deliver this in practice requires member-states to ensure "appropriate" mechanisms are in place. The Commission Report makes it clear that this means member-states must take "active measures" to ensure PPPWs which are hired via an intermediary can access all of their rights, and states explicitly that a PPPW being able to go to court if an intermediary or platform is not compliant does not meet the threshold of appropriateness.[8]

In terms of the reference in article 3 to "joint and several liability systems", this means that the principal contractor (in this case, the platform) can be held legally liable for unpaid wages or other liabilities by sub-contractors. Joint and several liability systems already exist in almost all EU countries as they were part of both the Posted WorkersDirective[9] and Enforcement Directive[10], and in most countries they exist across all sectors (in some countries they only exist in the construction sector).

Joint and several liability systems can take a wide variety of forms, some are limited to specific financial issues, like unpaid wages, whereas others cover all possible liabilities. Also, some joint and several liability systems are only in relation to the direct sub-contractor, whereas others cover the full sub-contracting chain.[11] **It will be important for unions to familiarise themselves with the current rules on joint and several liability in their country.**

7 European Commission (2026). 'Report: Expert Group', pg 22.
8 European Commission (2026). 'Report: Expert Group', pg 22-23.
9 European Union (1996). 'Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services'.
10 European Union (2004). 'Corrigendum to Directive 2004/48/EC of the European Parliament and of the Council of 29 April 2004 on the enforcement of intellectual property rights'.
11 European Labour Authority (2025). 'National liability mechanisms in subcontracting chains'. Pg 11.

The inclusion of the words "where appropriate" in article 3 on joint and several liability systems could be interpreted as referring to the fact that some countries in the European Union either do not apply joint and several liability or do not apply it across all sectors. For instance, in Czechia, Estonia and Lithuania joint and several liability is limited to the construction sector, while Denmark has a fund, collected by contributions from Danish employers, to pay unpaid wages to sub-contracted workers, as an alternative to joint and several liability.[12] However, in most countries in the EU joint and several liability should apply to all PPPWs.

It's likely that platforms will seek to interpret "where appropriate" as giving member-states the option to decide if joint and several liability should be included in transposition or not, but it should also be recognised that the inclusion of the words "shall include" immediately prior to this puts the emphasis on the need for member-states to apply this measure as long as it fits within their national legal systems.[13] The Commission Report advises that joint and several liability systems are "not mandatory in all cases, but should be implemented when suitable".[14]

It's important to consider specifically the challenges around ensuring the same level of protection for workers hired via intermediaries when it comes to the algorithmic management rights contained in PWD. To take a hypothetical example, let's imagine a PPPW is employed by an intermediary but works on a platform and wants a human review of an automated decision (permitted under article 11 of PWD). In this scenario, the entity running and managing the algorithmic management system would be responsible for conducting this human review, but since the PPPW has no contractual relationship with the platform, there would have to be a joint responsibility and a duty of cooperation between the DLP and the intermediary to ensure that the PPPW can apply for a human review to the intermediary and receive the response (either from the platform or from the intermediary), without that being any more difficult for that PPPW than for a PPPW contracted directly by the DLP.

However, it can get more complicated in a scenario whereby both the intermediary and the platform are 'joint controllers' (as defined in GDPR) of the PPPWs' data. To be a joint controller, GDPR states, "two or more controllers jointly determine the purposes and means of processing".[15] In most relationships between intermediary and DLP, it is the DLP which exclusively determines the purposes of processing, and usually the means as well, but in the rare cases where joint controller does apply, both entities need to determine their respective

12 'National liability mechanisms in subcontracting chains', pg 14.
13 The vagueness of article 3 is explored in detail by labour law academic Astrid Sanders, who concludes: "Ultimately, Member States have significant freedom to interpret article 3 as narrowly or as widely as they choose, which will probably mean that there will be very divergent impacts when translated into national law and practice." See Sanders (2025), 'Article 3 in the Platform Work Directive on intermediaries: Joint liability or joint employment?'. European Labour Law Journal, 16(4), 452-471.
14 European Commission (2026). 'Report: Expert Group', pg 22.
15 GDPR (2016). 'Art. 4 GDPR: Definitions'. Intersoft Consulting.

responsibilities and make that clear to the PPPW and the PPPW can go to either company to exercise their data rights.

Finally, there may also be a scenario where the DLP is the data controller but the intermediary is the data 'processor' (as defined in GDPR), i.e. they process the data on behalf of the DLP. For instance, there are examples of ridehail intermediaries where the PPPW works through an intermediary's app, and that app is processing the data of the ride hail platform. In this scenario, articles 24-31 of GDPR - which deal with the relationship between controller and processor - apply. These articles establish that the controller has a series of obligations in relation to ensuring that the processor operates legally and that all data processed by the processor must be done under the authority of the controller.[16] In this scenario, the DLP and the intermediary therefore have a joint responsibility in relation to the algorithmic management rights of the PPPW.

Chapter II: Employment status

Article 4: Determination of correct employment status

This article (which should be read in conjunction with Recitals 25-29) spells out what member-states must have in their procedural laws to determine the correct employment status for PPPWs.

4.1 makes it clear that procedures (judicial, administrative, or both) must be both "appropriate" and "effective" in determining employment status. Where a member-state already has procedures in place, these can be compliant with the Directive, as far as they are both appropriate and effective, including in relation to article 5 (on the legal presumption of employment, see below).

4.2 establishes the primacy of facts principle. This means that, in determining employment status, analysis of the actual working relationship (including the use of automated systems) is decisive, "irrespective" over what is written in the PPPW's contract. Importantly, these facts include "the use of automated monitoring systems or automated decision-making systems in the organisation of platform work".

4.3 is about identifying which entity is the employer. This is very important in cases involving intermediaries, as the very fact of an intermediary does not necessarily make that entity the real employer, if the reality of the working relationship is that direction and control is exercised by the DLP, not the intermediary. Considering 4.2 above - that it is necessary to

16 GDPR (2016). 'Chapter 4: Controller and processor'. Intersoft Consulting.

take account of the use of automated systems when considering the primacy of facts - then it could easily be the case that the DLP is the real employer, since it is the DLP which typically controls the algorithmic management of the PPPW.

Also, 4.3 states that more than one party can have employer obligations, so a DLP could have some employer obligations (e.g. in relation to the minimum wage if it processes payments) while an intermediary may have responsibilities for other obligations (e.g. in relation to health and safety obligations like personal protective equipment) in a multi-party relationship. However, for every job there can only be one employer, not two, so the party which is deemed to be primarily responsible for exercising direction and control over the worker is the real employer.[17]

Article 5: Legal Presumption

This article (which should be read in conjunction with Recitals 30-34) requires member-states to establish a rebuttable legal presumption of employment for PPPWs. A legal presumption establishes a rule that certain facts are legally considered to be true until proven otherwise. The concept of a presumption of employment in labour law can be broadly compared to a presumption of innocence in criminal law, where the prosecution bears the burden of proof and the defendant may be acquitted without putting forward any evidence.

However, legal presumptions vary considerably from one to the other, with the detail of how a legal presumption is defined in law being extremely important to determining how it operates in practice. In article 5, there is a number of important details which have to be taken into account about the legal presumption:

Triggering: Article 5.1 states that **the presumption is triggered "where facts indicating direction and control**, in accordance with national law, collective agreements or practice in force in the Member States and with consideration to the case-law of the Court of Justice, are found". This makes it clear that the **presumption is not automatic, it has to be triggered based first and foremost on "facts indicating direction and control"** of the PPPW, following the primacy of facts principle established in article 4.2. Furthermore, those facts are primarily based on national legal definitions of what is an employee, as determined by a combination of national laws and collective agreements. Additionally, consideration should be given to Court of Justice of the European Union (CJEU) case law, where relevant.

17 Cases of employer obligations split across multiple parties are called multi-party employment relationships and are associated with temporary work agencies as well as intermediaries. There is no common EU law for multi-party employment relationships so laws on that differ from country-to-country, but typically it involves some joint legal liability for employment obligations. See ILO (2018), 'Multi-party work relationships; concepts, definitions and statistics' for more.

CASE STUDY 1: What is the Yodel case and what does CJEU say about employment status in the platform economy?

The 2020 Yodel case (C-692/19) at the Court of Just of the European Union (CJEU) was in relation to Yodel Delivery Network Ltd, a business-to-customer parcel delivery company operating exclusively in the UK.[18] The ruling was what is called a 'reasoned order' by one CJEU judge, not a full judgement, and therefore cannot be considered a conclusive determination of CJEU's position. As an employment status case, Yodel is relevant to the Directive but, given the company is by no means a major player in the European delivery market and offers a very specific type of service, it can hardly be considered a legal standard bearer on platform work.

The two cases which have been specifically about Uber which have gone to the CJEU (Élite Taxi C-434/15[19] and Uber France C-320/16[20]) were not specifically about employment status but have been regularly cited by national courts in employment status cases because they found that Uber should be considered to be a transport company, not a mere digital intermediary.

Indeed, labour law academic Christina Hießl has concluded that "CJEU case law has so far not comprehensively assessed typical situations of platform work in relation to the concept of employee."[21] Hard and fast conclusions about the CJEU's position should therefore not be drawn from the Yodel case.

The CJEU judge found that there were four criteria for independence which are needed in combination for a worker to be considered self-employed: discretion to use sub-contractors or substitutes, discretion over which tasks and how many tasks workers have to accept, discretion to provide services to any third party, and discretion to fix their own working hours.

Some of these findings are clearly questionable. For instance, the discretion to use substitutes has been found by courts all over Europe to be largely fictitious in the platform economy because workers hardly ever use this discretion, but the CJEU judge did not consider this case law in its ruling. Hießl finds that out of courts in 14 countries that have considered the role of substitutes on delivery platforms, just one (the UK Supreme Court) has seen this as "an insurmountable barrier for their classification as employees." Labour law academics Nicola Contouris and Valerio De Stefano have argued that the strong inclusion of a 'primacy of facts' principle in article 4 of the Platform Work Directive makes it "irreconcilable with the criteria

18 European Union (2020). 'Order of the Court (Eighth Chamber) of 22 April 2020. B v Yodel Delivery Network Ltd.'
19 InfoCuria (2018). 'C-434/14: Asociación Profesional Élite Taxi: Judgement (OJ), 09/02/2018.'
20 European Union (2017). 'Opinion of Advocate General Szpunar delivered on 4 July 2017. Criminal proceedings against Uber France.'
21 Christina Hießl (2024). 'Case Law on the Classification of Platform Workers: Cross-European Comparative Analysis and Tentative Conclusions: Updated to February 2024'. Pg 87. Comparative Labour Law & Policy Journal.

in Yodel."[22]

Nonetheless, the CJEU judge did not only apply the four criteria stated above in the Yodel case. The Court also found that the criteria could only apply if the independence of the worker did not appear to be fictitious and if it is not possible to establish a relationship of subordination between the worker and the platform on any other basis.

It's that ability to find subordination on another basis to the four criteria the CJEU judge identified which is the basis upon which the vast majority of courts across Europe have found that workers on delivery platforms are employees. Indeed, Hießl has studied every employment status case relating to digital labour platforms across Europe up until February 2024, finding that 508 cases have found that they are an employee, with 143 finding that they are self-employed, 38 finding that they are a third category of worker, and 11 that they are a temporary agency worker. In many cases where employment status has been found, Yodel has been cited as part of a justification in favour of the decision.[23]

That flies in the face of how the platform lobby has sought to use the Yodel case to provide a legal flourishing to their arguments for (bogus) self-employment, often through blatant misinterpretations of what Yodel actually states.

For example, an employer proposal in Poland for a criteria for the transposition of the legal presumption of employment in the Platform Work Directive supposedly inspired by the Yodel case proposed that if any of the four criteria stated above applied, then the worker could not trigger the legal presumption. That proposal completely misses out that the CJEU sought to apply that four criteria in combination - i.e. that all four need to be met to show independence - whereas the employer proposal makes the case that any one of those criteria is enough to demonstrate self-employment. Also, the CJEU's other two stipulations - that independence must not be fictitious in reality and that other forms of subordination must not be evident - are completely ignored in the Polish employers' proposal.[24])

We can conclude that while article 5 of PWD states explicitly that the case law of CJEU must be taken into consideration, there is currently no decisive judgement from the CJEU on employment status in the platform economy, and Yodel can only be considered one of many points of reference for legal consideration.

22 Nicola Contouris and Valerio De Stefano (2025). "'Not the usual gig': The personal scope(s) of application of Directive 2024/2831 on improving working conditions in platform work". European Labour Law Journal

23 Hießl (2024). 'Case Law on the Classification of Platform Workers', pg 89.

24 Cited orally and through a power-point presentation by Stanislaw Kierwiak on 22 January 2026 at a European Trade Union Confederation online workshop on the transposition of the Platform Work Directive.

It is important to recognise that the triggering of the presumption does not require that the facts presented meet the legal threshold required in a court of law to prove the existence of an employment relationship. If this were the case, there would be no legal presumption at all. As the Commission's PWD Report state's, what is required is **"factual elements which make legal subordination appear plausible or at least possible"**.[25]

The threshold which the Commission Report sets for this "prima facie evidence" is that contained within the EU anti-discrimination acquis,[26] which is based on a 2000 Directive on equal treatment. This included a legal presumption of direct or indirect discrimination when a person considered themselves to not be subject to equal treatment.[27] The first time this legal presumption came before a court of law, it was found that the presumption had not been triggered because the complainant had not provided "specific and objective evidence" of her discrimination.[28] We can derive from this that in triggering the presumption, the legal bar that must be cleared is specific and objective facts indicating direction and control.

Article 5.2 goes on to add more depth to how the legal presumption should be constructed, finding that it must be **"effective"** and constitute **"a procedural facilitation** for the benefit of persons performing platform work." Furthermore, Recital 31 clarifies that the legal presumption must "make it easy" for a PPPW to benefit from the presumption and the evidence required "should not be burdensome", as the purpose of the presumption is to "to effectively address and correct the power imbalance between the persons performing platform work and the digital labour platform", including the imbalance in access to the facts indicating direction and control. **It follows from this that any attempt to establish a set of criteria at member-state level which makes it difficult for PPPWs to trigger the presumption would be at risk of falling foul of the Directive.**

Rebuttal: Once the legal presumption is triggered, for the DLP to rebut the presumption, according to 5.1 it will have to "prove that the contractual relationship in question is not an employment relationship" based on the same national legal definitions of employment as described above. The DLP is therefore required to provide evidence of its case which meets a judicial threshold. Recital 34 explains why the DLP has the legal burden of proof, as it is the entity with "a complete overview of all factual elements determining the legal nature of the relationship, in particular the algorithms through which they manage their operations". Recital 34 goes on to explain that even if the DLP is successful in the rebuttal, this doesn't mean the legal presumption no longer applies "in subsequent judicial proceedings or appeals".

25 European Commission (2026). 'Report: Expert Group', pg 30.
26 Ibid.
27 European Union (2000). 'Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin'.
28 Nacho Hernández Moreno (2023). 'The Court of Justice of the European Union on Ethnic and Racial Discrimination: An Analysis of the Application of Directive 2000/43/EC'. Deusto Journal of Human Rights.

Scope: 5.3 states that the legal presumption must apply to all administrative or judicial proceedings as they relate to determining employment status, but does not have to apply to proceedings which relate to tax, criminal or social security matters. It is up to each member-state to decide if they want to apply it to these matters, but where social security and tax authorities are competent to decide on employment status, they must apply the legal presumption. Of course, if the legal presumption is successful and the PPPW receives an employment contract, tax, criminal and social security law will apply to that worker at that stage in the same way as it does to any employee.

In 5.4, it makes clear that PPPWs and their representatives can initiate administrative or judicial proceedings where the legal presumption applies. The legal presumption can also be triggered by administrative bodies such as labour inspectorates without the involvement or consent of PPPWs.

In 5.5, competent authorities are legally obligated to initiate proceedings over employment misclassification when they consider "that a person performing platform work might be wrongly classified". The "prime facie evidence" of facts indicating direction and control required to trigger the legal presumption (see article 5.2 above) should therefore be sufficient for competent authorities to consider that someone might be wrongly classified..

In 5.6, it is made clear that the legal presumption does not apply retro-actively, with the date of application being 2 December 2026, the final day for the Directive to be transposed into national law. Any PPPW that began work for a DLP before that date and continues to work for said DLP will be covered by the legal presumption.

Article 6: Framework of supporting measures

This article (which should be read in conjunction with Recitals 35-37) establishes the tools which governments need to have to ensure the legal presumption is implemented in an "effective" manner and complied with, most obviously via a labour inspectorate or another administrative authority which carries out a similar role.

Specifically, member-states must: produce guidance for DLPs, PPPWs and social partners on the legal presumption (6 a); establish guidance and procedures for authorities "to proactively identify, target and pursue digital labour platforms which do not comply" with the legal presumption (6 b); establish "effective controls and inspections" by authorities, especially on DLPs which have been found to have an employment relationship (6 c); and provide "appropriate" training and technical expertise on algorithmic management for authorities to carry out these tasks (6 d).

All of these supporting measures give margin to member-states to develop them in accordance with national law and practice, but what is familiar to all of them is a requirement that they are "appropriate" and "effective". If, for example, the supporting measures are failing to prevent rampant bogus self-employment on a DLP which has had an employment relationship ascertained via an administrative and/or judicial proceeding, then the supporting measures could clearly be proven to be not effective.

It is also worth highlighting Recital 36, which states that **competent authorities "need to be adequately staffed"** to carry out these tasks. This is an important issue since under-staffing in labour inspectorates is a common problem across Europe. Recital 36 goes on to state that: "ILO Labour Inspection Convention No 81 (1947) provides indications on how to determine a sufficient number of labour inspectors for the effective discharge of their duties."

Article 10 of the ILO Convention finds that the number of inspectors should "be sufficient to secure the effective discharge of the duties of the inspectorate" and be considered with regard to the number and size of the workplaces which need to be inspected. Article 16 of the ILO Convention finds that: "Workplaces shall be inspected as often and as thoroughly as is necessary to ensure the effective application of the relevant legal provisions."[29] The ILO has more recently recommended a benchmark of on labour inspector per 10,000 workers to ensure effective workplace enforcement.[30]

As this reference to the ILO Convention is only a Recital and is not included in article 6 of PWD, compliance with this ILO Convention is not a requirement of the Directive. Nonetheless, the Convention does provide a framework for assessing whether a labour inspectorate or another administrative body is competent to carry out the supporting measures in article 6, and may be worth referencing if making the case for a strengthened labour inspectorate to enforce the legal presumption.

Chapter III: Algorithmic Management

Article 7: Limitations on the processing of personal data by means of automated monitoring systems or automated decision-making systems

This article (which should be read in conjunction with Recitals 39-42) establishes a series of prohibitions and restrictions on automated monitoring and decision-making systems (AMDMS).

29 ILO (accessed December 2025). 'C081 - Labour Inspection Convention, 1947 (No. 81)'.
30 ILO (2006). 'ILO Calls for Strengthening Labour Inspection Worldwide'.

7.1 lists the categories of data which cannot be processed on PPPWs, including: psychological or emotional state, private conversations, predicting the exercise of fundamental rights (for example using generative AI to determine if someone is likely to organise a union), inferring personal characteristics/ideas (ethnicity, migration status, philosophical beliefs etc), and biometrics if that is processed with the purposes of identification. However, biometric verification is permitted (this is further clarified in Recital 41). It is also prohibited to collect personal data on PPPWs when they are not "offering or performing platform work".

7.2 states that these prohibitions start from "the recruitment or selection procedure" and 7.3 clarifies that all AMDMS are covered, not only automated decision-making systems which have a "significant effect" on PPPWs (see article 2 on definitions above for more).

Recital 39 clarifies that **DLPs cannot get around these rules by having workers give their personal consent to the processing of this data**, for example through signing the platforms' terms & conditions of use, because of the "power imbalance" between PPPWs and DLPs, meaning PPPWs "often do not have a genuine free choice or are not able to refuse or withdraw consent without detriment to their contractual relationship". However, Recital 39 is not backed up by an Article, so it could be argued that this is more a statement of principle than a hard and fast rule.

Article 8: Data-protection impact assessment

This article (which should be read in conjunction with Recital 43) requires DLPs to carry out a data-protection impact assessment (DPIA) prior to the commencement of data processing, and if the system is already in operation, when the new law enters into force. After that, a DPIA must be conducted when there is a change of risk in data processing. All of this follows GDPR (article 35).

What article 8 adds to GDPR is that, in PWD, a DPIA is required in all instances when processing personal data via AMDMS (in GDPR, it's only required when there's deemed to be a high risk). Also, in GDPR, the data controller can decide who to consult about the DPIA, whereas in PWD they have to consult PPPWs and their representatives and share the finalised DPIA with worker representatives, which is not required in GDPR.

Article 9: Transparency with regard to automated monitoring systems and automated decision-making systems

This article (which should be read in conjunction with Recitals 44-46) establishes the information which a DLP must make available to PPPWs. This follows articles 12-15 of GDPR

on right of access, but provides more specifics on the information rights for PPPWs.[31]

9.1 a) and b) specifies the information to be made available from AMDMS systems, including their usage and the categories of data taken/decisions made. In the case of automated monitoring (9.1 a) this includes "the aim of the monitoring and how the system is to carry out that monitoring. In the case of automated decision-making (9.1 b) this includes "the main parameters" of decision-making and "the relative importance of those main parameters", including the role of PPPWs personal data in informing those parameters. PPPWs are also entitled to information on the grounds of having experienced a detrimental decision, such as the termination or restriction of an account. This needs to be provided in advance, so PPPWs know the rules for punishments before they happen. 9.1 c) clarifies that PPPWs are titled to "all categories" of decisions taken or supported by automated systems "in any manner", clarifying that DLPs cannot say that a type of monitoring or decision is not significant and thus cannot be transmitted.

9.2 states that the information must be presented to PPPWs in a way which is "transparent, intelligible and easily accessible". 9.3 states that the information must be provided on the first working day of the PPPW, prior to the "introduction of changes affecting working conditions", and "at any time upon request". 9.4 clarifies that PPPWs' worker representatives are entitled to the same information on the same basis. 9.5 states that persons going through a recruitment process at the DLP is also entitled to this information so they can be aware of how the AMDMS operates before they decide to work for the platform in question.

9.6 establishes data portability rights. The personal data which can be transferred includes "ratings and reviews", this must include "tools" to facilitate portability and this must be provided free of charge. **When the PPPW wants this data transmitted to a third party, the DLP must do so "directly"**. This extends the data portability rights in article 20 of GDPR, which is limited to the personal data that the data subject has provided to the data controller.

Article 10: Human oversight of automated monitoring systems and automated decision-making systems

This article (which should be read in conjunction with Recitals 46-48) requires DLPs to provide human oversight and evaluation of AMDMS. Human oversight should happen continually, while 10.1 establishes that evaluation should take place at least every two years, take a written form, involve worker representatives and should assess the impact of "individual decisions"

31 The hurdle which many users of GDPR come up against when trying to access information is that the data controller weaponises article 15.4 of GDPR, which states that data disclosures should "not adversely affect the rights and freedoms of others", and Recital 63, which states that data disclosures should not undermine intellectual property and trade secrecy. These provisions of GDPR will also be applicable in the case of PWD.

on PPPWs, including the impact on “working conditions” and “equal treatment at work”.

It would not be practical to evaluate every individual decision taken by an AMDMS, therefore the Commission report suggests that representative sampling could be a good methodology for evaluation.[32] As for oversight, the Report states that this approach is not ‘human-in-the-loop’, which means that a human being should control all decisions taken by AI systems, but ‘human-on-the-loop’, which means that oversight consists of pro-active monitoring and intervention where necessary.[33]

10.2 requires DLPs to dedicate “sufficient human resources” for “effective oversight and evaluation”, including that the responsible persons have “the competence, training and authority necessary” and that they have protection from dismissal for exercising their functions.

10.3 requires DLPs to act in the case that human oversight and evaluation “identifies a high risk of discrimination at work”. This action could be either the “modification” of AMDMS or its “discontinuation”.

10.4 requires DLPs to provide the evaluation to platform workers’ representatives. This does not apply for representatives of self-employed PPPWs (in section 2 d of this guide on transposition we propose that it should apply to these workers). National competent authorities and PPPWs can also receive this information upon request.

10.5 establishes that a human-being must take the decision “to restrict, suspend or terminate” a PPPWs account/contract, or any other decision of “equivalent detriment”, prohibiting fully-automated decisions in this area.

Article 11: Human Review

This article (which should be read in conjunction with Recitals 48 and 49) establishes the right to an explanation of an automated decision and the right to contest that decision via a human review by the DLP.

11.1 states that the right to an explanation is for “any decision taken or supported by” an automated decision-making system and can be delivered orally or in writing. The explanation needs to be easily understandable and there needs to be a contact person for PPPWs “to discuss and to clarify the facts, circumstances and reasons having led to the decision”. Also,

32 European Commission (2026). ‘Report: Expert Group’, pg 53.
33 European Commission (2026). ‘Report: Expert Group’, pg 54.

any grave decision, such as the termination of an account, must be accompanied by a written explanation which is transmitted at the latest on the day the decision is made.

Importantly, what constitutes a decision in 11.1 is explained in Recital 49, which states that this includes "a decision, the lack of a decision or a set of decisions taken or supported by automated decision-making systems". Therefore it is not necessarily just one decision by an automated decision-making system which can be contested, but in fact a "set of decisions" which leads to a specific consequence for a PPPW, or indeed "the lack of a decision", which could for example be a case of shadow-banning, where a PPPW is not offered any work.

11.2 establishes the right to a review of the decision, which can be pursued by a PPPW or a PPPW's representative. The DLP must provide a response to this which is "sufficiently precise and adequately substantiated" within two weeks of the review being requested.

11.3 establishes the necessity for DLPs to rectify a decision which is found to have infringed the rights of a PPPW within two weeks of the original decision being made. If it is too late to rectify the problem, the DLP must provide "adequate compensation" and take action to modify or discontinue the automated decision-making system to prevent such an infringement from happening again.

Article 12: Safety and Health

This article (which should be read in conjunction with Recitals 50 and 51) establishes occupational safety and health (OSH) obligations in respect to AMDMS, based on the OSH Framework Directive.[34]

12.1 requires DLPs to evaluate OSH risks, with particular emphasis placed upon work-related accidents, psychosocial and ergonomic risks. Based on this evaluation, DLPs must assess whether their OSH safeguards are appropriate and, if not, introduce "appropriate preventive and protective measures".

12.2 refers to articles 10 and 11 of the OSH Framework Directive which establish the right of workers and/or worker representatives to collective OSH information and consultation relating to
everything to do with OSH, including risk assessments, training and so forth.

12.3 adds further detail to OSH requirements in relation AMDMS, finding that they should not

34 European Union (1989). 'Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work'.

place “undue pressure” on platform workers or put their physical and mental health at risk.

12.4 clarifies that the scope of this applies to all aspects of AMDMS, not only those decisions that the DLP deems significant and including decisions which affect platform workers indirectly.

12.5 requires DLPs to establish channels for PPPWs to report OSH-related problems, including “violence and harassment”. Recital 51 clarifies that these reporting channels are designed specifically for “persons performing platform work who do not have an employment contract”.

The reporting channels are the one part of article 12 which apply to self-employed PPPWs, as points 12.1 through 12.4 are specifically designed for employed platform workers, in keeping with the OSH Framework Directive, which delineates OSH rights based on employment status (in section 2d on the transposition, we propose extending these rights to self-employed PPPWs).

Article 13: Information and consultation

This article (which should be read in conjunction with recital 52) establishes the right of platform workers (not self-employed PPPWs) to collective information and consultation via their representatives.

Article 13.1 clarifies that this is in addition to, rather than in place of, established rights for employees to collective information and consultation under EU law, most importantly Directive 2002/14/EC[35], which established the general framework for informing and consulting employees.

Furthermore, it is clarified that the “same arrangements” for information and consultation rights as in Directive 2002/14/EC should be applied in this case.

Article 13.2 extends the rights on collective information and consultation to cover “decisions likely to lead to the introduction of or to substantial changes in the use of automated monitoring systems or automated decision-making systems.” Member-states are therefore obligated to update their national laws to make it clear that platform workers’ representatives are entitled to information and consultation rights relating to AMDMS specifically.

The use of “substantial changes” in article 13.2 makes it clear that information and consultation

35 European Union (2002). ‘Directive 2002/14/EC of the European Parliament and of the Council of 11 March 2002 establishing a general framework for informing and consulting employees in the European Community’.

is required when changes are to be made to AMDMS which have a serious impact on working conditions. Also, the use of "decisions likely to lead to" makes it clear that information and consultation must happen in advance of the changes taking place.

Article 13.3 provides platform worker representatives' the right to a data expert "of their choice" to "examine the matter that is the subject of information and consultation and formulate an opinion". **This data expert must be paid for by the platform as long as they employ more than 250 workers in the Member State concerned and as long as the expenses are "proportionate"**. Member states can themselves decide on how frequently this data expert can be requested by platform worker representatives, as long as "the effectiveness of the assistance" is guaranteed.

Article 14: Provision of information to workers

Article 14 (which should be read in conjunction with Recital 53) establishes the collective information rights of platform workers in the case that they do not have worker representatives. This excludes consultation rights, which is only possible in the case of worker representation.

Platform workers without representation are entitled to be directly informed of decisions likely to lead to substantial changes in AMDMS through a written document. This document should be provided in a "transparent, intelligible and easily accessible form, using clear and plain language", following the guidelines for transparency in GDPR.

Article 15: Specific arrangements for representatives of persons performing platform work other than platform workers' representatives

This article clarifies that representatives of PPPWs who are self-employed only have the right to represent them on personal data related-issues in the Algorithmic Management chapter of PWD, which are articles: 8.2, 9.1, 9.4, 10.4 and 11.2.

That means worker representatives of self-employed PPPWs are excluded from article 10.1 on the involvement of worker representatives in an evaluation of AMDMS, article 12.2 on information and consultation of worker representatives on OSH issues, and all of article 13 on information and consultation rights of worker representatives.

Chapter IV: Transparency with regard to platform work

Article 16: Declaration of platform work

This article (which should be read in conjunction with Recitals 56-57) obliges DLP's to declare platform workers working for their platform to the member-state in which the platform work is performed. The use of 'platform worker' here, rather than Person Performing Platform Work, indicates that this declaration is only in the case that the worker is an employee.

The declaration is intended to prevent unfair competition between DLPs, especially in cases where the DLP is based in a different country to where the platform work is performed. It is not intended for declarations for tax or social security purposes, which are governed by different EU regulations and directives. As such, the declaration should be made to an administrative authority responsible for labour law, such as a labour inspectorate.

According to the Commission Report, if a worker is hired by an intermediary and if the intermediary is considered to be the real employer (see article 4.3 above for discussion of this), then the intermediary would be responsible for the declaration.[36]

Article 17: Access to relevant information on platform work

This article (which should be read in conjunction with Recitals 58-59) obligates DLP's to make information available to national authorities and the representatives of PPPWs about the platform's operations. The use of PPPW makes clear that, unlike article 16, this information is about all persons performing platform work, employed and self-employed.

The information to be made available by each DLP is as follows:

17.1 a) The number of PPPWs on their platform. This should be broken down by "level of activity", which the Commission Report makes clear means for example number of hours worked per day or per week, and whether they are employees or not.[37]

17.1 b) The "general terms and conditions" which apply to those PPPWs, for example pay rates, holiday pay, sick pay, etc. This should be broken down by type of contractual relationship.

17.1 c) The average "duration of activity", average weekly number of hours, and average income earned per PPPW. This is only to include PPPWs which are on the platform "on a regular

36 European Commission (2026). 'Report: Expert Group', pg 68.
37 European Commission (2026). 'Report: Expert Group', pg 70.

basis", so as not to include workers registered on the platform who do not or rarely ever work. This information is only provided upon request (whereas points 1 a, 1b and 1d should be pro-actively provided).

17.1 d) The intermediaries which the DLP has a contract with.

17.4 states that this information is to be provided once every six months, except when the DLP is a small or medium-sized enterprise (SME), in which case it is to be provided once a year. The information in 17.1 b) shall/must also be provided each time PPPWs' terms and conditions are updated.

17.5 states that member-states and PPPWs' representatives can also ask for "additional clarifications and details" about any of the information provided in 17.1, which must be responded to with "a substantiated reply without undue delay".

Chapter V: Remedies and Enforcement

Article 18: Right to Redress

This article (which should be read in conjunction with Recital 60) establishes that all PPPWs, including those whose contracts have ended, have a legal right to redress if their rights have been infringed, including "adequate compensation" and a "timely, effective and impartial dispute resolution" mechanism. This mechanism could be administrative, judicial or an out-of-court settlement. National laws specify how these rights can be exercised.

Article 19: Procedures on behalf or in support of persons performing platform work

This article (which should be read in conjunction with Recital 61) establishes that a representative of a PPPW can "engage in any judicial or administrative procedure to enforce any of the rights or obligations arising from this Directive". This is inclusive of both individual and collective representation.

This is important because, in many member-states, trade unions are limited to representing workers in labour courts, but data-related matters are typically handled outside of labour courts (typically by civil courts). Since, in the context of the Platform Work Directive, data issues are labour issues, it is imperative that unions can represent PPPWs in all possible legal settings.

Article 20: Communication channels for persons performing platform work

This article (which should be read in conjunction with Recital 62) obligates DLPs to establish a communication channel so that PPPWs have "the possibility to contact and communicate privately and securely with each other". The channel must also allow for the possibility for PPPWs "to contact or be contacted by representatives". DLPs must "refrain from accessing or monitoring those contacts and communications".

The channel must be set-up "by means of the DLPs' digital infrastructure or by similarly effective means". The Commission Report states that this means it would have to be a digital mechanism of some sort, but that a social media group chat, for example, is unlikely to suffice.[38]

Because of the requirements to ensure the communication channel is GDPR compliant, as well as the need for content moderation to meet equality requirements in relation to non-discrimination etc, it would be necessary for the DLP to manage the platform, but without accessing it, because article 20 strictly requires privacy for PPPWs and representatives engaging in the communication channel. The only feasible way to satisfy both requirements - GDPR and privacy - would be for DLPs to outsource the management of the communication channel.

Article 21: Access to evidence

This article (which should be read in conjunction with Recital 63) ensures that administrative and judicial bodies can order digital labour platforms to release "any relevant evidence which lies in its control", during proceedings relevant to the Directive. This includes confidential information, but this is only an obligation for member-states in the case of judicial proceedings.

Article 22: Protection against adverse treatment or consequences

This article requires member-states to establish measures to ensure PPPWs are protected from any "adverse treatment" or "adverse consequences" for lodging a complaint or proceedings initiated against a platform. It is up to member-states to define what these protection measures look like.

38 European Commission (2026). 'Report: Expert Group', pg 76.

Article 23: Protection from dismissal

This article (which should be read in conjunction with Recital 66) prohibits the dismissal of PPPWs for exercising their rights under this Directive. Recital 66 clarifies that this includes not just the sacking of employees but also any PPPW which suffers "any action with equivalent effect" to a dismissal, including "the suspension of their account". Neither can platforms undertake "preparations therefor" for a dismissal, which the European Commission Report has clarified includes searching for and finding a replacement worker or 'shadow-banning' practices.[39]

23.2 makes clear that in the case of a PPPW who feels they have been dismissed by the platform for exercising their rights under this Directive, the platform must provide their grounds for dismissal in writing.

23.3 states that in a legal or administrative proceeding, the burden of proof that the PPPW has been dismissed for a legal reason is on the platform, not the PPPW. For PPPWs, they must initially provide prima facie evidence to the court or administrative body. However, points 23.4 and 23.5 clarify that when it is for the court or other body to investigate the facts of the case (for instance in a criminal case), it does not automatically apply that the burden of proof lies with the DLP.

Article 24: Supervision and Penalties

This article (which should be read in conjunction with Recitals 37 and 64) establishes how enforcement of the law will be supervised and what penalties will be applied for non-compliance.

24.1 states that data protection authorities responsible for GDPR enforcement will also be responsible for the data-protection related provisions contained in this Directive, i.e. in articles 7 to 11. As far as these articles deal with other issues beyond data protection, it will be for a labour inspectorate or other labour-competent authority to deal with.

It also states that the level of fines which can be imposed through GDPR will also be applicable for non-compliance in relation to data-protection related provisions in this Directive. Specifically, GDPR's article 83.5 enables administrative fines of up to €20,000,000 or 4% of total worldwide annual turnover for the previous year.[40]

39 European Commission (2026). 'Report: Expert Group', pg 81.
40 GDPR. 'Art. 73 GDPR: General conditions for imposing administrative fines'. Intersoft Consulting.

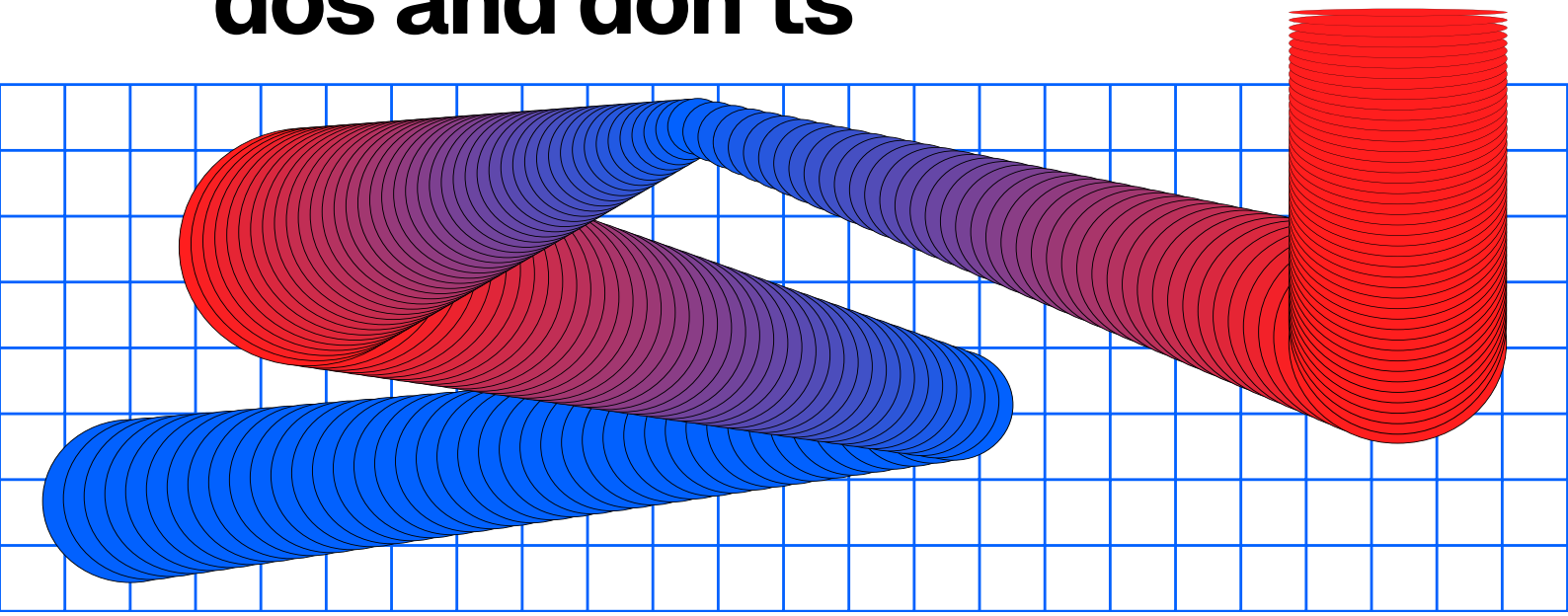
24.2 to 24.4 lay out the requirement for data protection authorities and other competent national authorities (especially labour inspectorates) to cooperate with each other in the enforcement of the Directive, as there may be some over-lap when it comes to their competences. This also includes the exchange of information between competent authorities in different member-states, especially when the DLP is based in one member-state and the PPPW in another.

24.5 explains that for non-data protection related provisions in the Directive, penalties must be established for non-compliance which are “effective, dissuasive and proportionate to the nature, gravity and duration of the undertaking’s infringement and to the number of workers affected”.

24.6 specifies that member-states must establish penalties if platforms refuse to comply with a legally binding decision by a court or an administrative body relating to determining the correct employment status.

The level and type of penalties in 24.5 and 24.6 is up to member-states to define.

2. Transposing the Platform Work Directive: dos and don'ts



a) The legal presumption of employment

Key actions in transposition:

- Propose a broad, general legal presumption of rebuttable employment
- Oppose a conditional presumption based on a hard-to-trigger set of criteria

The legal presumption of employment was the most controversial part of the Platform Work Directive's long passage through the EU's institutions, this will also provoke controversy during the transposition phase, as many of the most important details of the legal presumption have been left to member-states to decide upon.

In section 1 of this guide we explored the details of article 5 on the legal presumption in-depth. Key points are summarised below:

- The PWD requires member-states to establish a rebuttable legal presumption of employment for PPPWs.
- The presumption is triggered by "facts indicating direction and control", based primarily on national definitions of an employee. The specifics of what is required to trigger the presumption is left for member-states to decide, but it must be based on prima facie evidence which is specific and objective, without needing to reach a level of evidence

which would be required in a court of law.

- The presumption must be "effective" and a "procedural facilitation" to PPPWs. It must "make it easy" for PPPWs to trigger the presumption and "should not be burdensome", given the "power imbalance" between DLPs and PPPWs.
- Once triggered, the digital labour platform has the right to rebut the presumption. As the DLP has the burden of proof, a successful rebuttal requires providing evidence to a judicial standard. The evidence will be assessed in reference to national definitions of an employee and ECJU case law.

The key issue in the transposition of the legal presumption is whether member-states should establish a specific list of criteria which dictates whether "facts indicating direction and control" are deemed to be present (what is called a 'conditional' presumption), or whether there should there be a 'general' presumption, whereby the facts are considered broadly within the context of national definitions of an employee and case law on platform work employment classification.

Our recommendation is for trade unions to push for a general presumption and to oppose the introduction of a strict criteria, for three reasons:

1) **Burdensome:** Any hard and fast set of criteria sets up another hurdle for PPPWs to jump over in order to trigger the presumption, as they have to provide evidence relating to the specific criteria which can sometimes be hard to access due to the information and power asymmetries between PPPWs and DLPs. We must be clear that there is no legal presumption if conditions for triggering the presumption are so difficult that, in reality, they place the burden of proof of employment status on the PPPW. The case should be made that a difficult criteria for triggering the presumption falls foul of the requirements in article 5.2 of PWD for a legal presumption which is "effective" and a "procedural facilitation" for PPPWs.

This view has been backed up by a number of labour law academics, including Konstantinos Zografidis, who found that the European Commission's original proposal for the Directive,[41] for a set of "traditional" criteria indicating direction and control, would have a strong chance of not being compliant with the final version of the Directive as "such presumptions seem to be at odds with the nature and function of legal presumptions in general."

Zografidis goes on: "[T]he presumption could be deemed to not actually be a procedural facilitation, but rather a burden on the person performing platform work, since, if it did not exist, proving the exact same facts would lead directly to the recognition of employment

41 European Union (2021). 'Proposal for a Directive of the European Parliament and of the Council on improving working conditions in platform work.'

status...A direct effect of this lack of distance between presumption and certainty is that the presumption may not actually be rebuttable in many cases, since proving its foundation would instantly prove the existence of an employment relationship."

While Zografidis does not rule out a transposition of the legal presumption which includes a criteria, that criteria would have to be "significantly easier to prove than the existence of an employment relationship itself" in order to be compliant with PWD. He finds that the option which would "guarantee compliance with the Directive" is an "unconditional rebuttable presumption that would place the burden of proof directly onto the platform's shoulders".[42] This is what we propose below.

2) **Makes the rebuttal easier:** The creation of a list of criteria gives DLPs, which have massive legal resources, an easier task in rebutting the presumption, as rather than having to disprove facts indicating direction and control in general, they only have to find a way to disprove a list of criteria specifically, narrowing down the possible ways in which direction and control can be identified.

As DLPs primarily manage workers algorithmically, making changes to their app to bend their forms of direction and control around the criteria is cheap and easy, and indeed there are already various examples at national level of DLPs trying to do this in order to avoid triggering legal presumptions and other judicial tests of employment, with mixed results, as we explore in case study 3.

As one recent ILO study on legal presumptions finds: "By and large, general rebuttable presumptions (i.e. those applying to more than one form or type of work) and unconditional ones (i.e. those not subject to meeting certain criteria) are more effective than sector/job specific and conditional ones [because]...the narrower the concept of 'worker', the easier it will be for a principal to rebut the presumption by claiming that the person does not, ultimately, meet the stringent tests and criteria used to define the 'worker' (or 'employee') category."[43]

3) **Not future-proof:** Platform work is a way of organising work; it's not specific to one sector or type of job. Workers from any industry could feasibly be a platform worker. As digital technologies rapidly evolve, the forms in which platform work can take are also increasingly rapidly.[44] This diverse, mutating form of work is therefore difficult to pin down, and those difficulties are likely to become entrenched in law if a strict set of criteria is used which does

42 Konstantinos Zografidis (2025). 'Implementing the Presumption of Employment of the Platform Work Directive'. Global Workplace Law & Policy: Wolters Kluwer.
43 Antonio Aloisi, Silvia Rainone and Nicola Countouris (2023). 'An unfinished task? Matching the Platform Work Directive with the EU and international "social acquis"'. ILO.
44 For instance, generative AI is becoming increasingly relevant to 'clickwork', much of which is organised via digital labour platforms. For more on this see ETUC (2025), 'Strategic Foresight: Which Workers in Europe are Vulnerable to Uberisation?'.

not reflect this diversity, nor is adaptable to how platform work may change in coming years.

As labour law academic Valerio De Stefano has pointed out in an analysis of the Commission's 2021 proposal for criteria (which we explore further in case study 2), the criteria appears to be designed with food delivery and ridehail in mind, taking little account of online platform work, and is therefore "hardly 'futureproof'". Indeed, De Stefano argues that, for a platform worker which doesn't fit into the narrow confines of the Commission's criteria, "its practical application could paradoxically make it more difficult for platform workers to challenge their employment status in some European countries".[45]

Arguments against a general presumption

When the European Parliament supported a general presumption of employment in PWD,[46] two arguments were often raised against it. The first was that a general presumption would lead to an "automatic" re-classification of platform workers.[47] This is a misunderstanding of how a rebuttable general legal presumption works: an administrative or judicial proceeding is required to trigger the presumption, which the platform has the opportunity to challenge (rebut) via an administrative or judicial proceeding. There are therefore two steps (triggering and rebuttal) which are required, meaning nothing happens automatically.[48]

Secondly, the argument has been made that a general presumption does not give DLPs, administrative bodies or PPPWs any guidance on whether a PPPW may or may not be an employee, leaving them in the dark about whether they are an employee or not. In contrast, a conditional presumption via a criteria provides clear guidance. But this is comparing apples with pears: guidance is not the same as legally-required criteria. While it is true that guidance is required (and indeed is mandated in article 6a of PWD), this should take the form of a loosely-defined set of examples and possibilities for what facts indicating direction and control could look like in different contexts, not a hard and fast set of legal hurdles that must be jumped over to trigger the presumption. In the third section of this guide on post-transposition we provide some guidance on how to identify subordination in the platform economy.

There are other proposals for conditional presumptions which are much less burdensome. The European Parliament's proposal included a criteria at the rebuttal, rather than the

45 Valerio De Stefano (2022). 'The EU Commission The EU Commission's proposal for a Directive on Platform Work: an overview.' Italian Labour Law e-Journal Issue 1, Vol. 15.
46 Committee on Employment and Social Affairs (2022). 'Report on the proposal for a directive of the European Parliament and of the Council on improving working conditions in platform work'.
47 Sara Skyttedal et al (2022). 'Digital workers prioritize flexibility — not employment'. Politico.
48 As Valerio De Stefano and Nicola Countouris (2025) find: "What is clear…is that this presumption was not designed to operate ipso jure (i.e., automatically and by law) with all platform employers having to automatically reclassify the contracts with their platform workers as contracts of subordinate employment, but will instead require somebody to initiate judicial or administrative proceedings to ascertain that status.".

triggering, stage, with separate criteria for the PPPW and the DLP. The criteria was also more loosely worded than in the Commission's proposal, applying to a wider range of PPPWs, and would have applied singularly to the PPPW (which only has to prove one of the criteria) and cumulatively to the DLP (which has to prove all of them).[49] This would have placed "the additional burden of meeting them on the platform employer, shifting it away from the worker claiming misclassification," according to labour law experts Nicola Countouris, Sylvia Rainone and Antonio Aloisi.

CASE STUDY 2: What's wrong with the Commission's 2021 proposal for criteria?

The European Commission's criteria in its 2021 proposal[50] for the legal presumption of employment did not make it into the final Directive but has inspired very similar conditional presumptions in Belgium and Portugal in 2023 (see case study 3 for details). As a 2023 ILO study found, "platforms have been mastering the art of tweaking contractual terms and conditions or slightly adjusting the business model to disguise subordination". Analysing the Commission's proposed criteria, we can see how DLPs can take advantage of a conditional presumption of this type to make rebuttal easier for them.[51]

The Commission's proposal was for five criteria, with two needed to trigger the presumption. The five criteria were:

a. effectively determining, or setting upper limits for the level of remuneration;
b. requiring the person performing platform work to respect specific binding rules with regard to appearance, conduct towards the recipient of the service or performance of the work;
c. supervising the performance of work or verifying the quality of the results of the work including by electronic means;
d. effectively restricting the freedom, including through sanctions, to organise one's work, in particular the discretion to choose one's working hours or periods of absence, to accept or to refuse tasks or to use subcontractors or substitutes;
e. effectively restricting the possibility to build a client base or to perform work for any third party.

49 Committee on Employment and Social Affairs (2022). 'Report on the proposal for a directive'.
50 European Commission (2021). 'Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on improving working conditions in platform work'.
51 Antonio Aloisi, Silvia Rainone and Nicola Countouris (2023). 'An unfinished task? Matching the Platform Work Directive with the EU and international "social acquis"'. ILO.

Out of the five criteria, only point c) clearly hits upon one of the core ways in which platforms impose direction and control over their workers. As labour law academic Valerio De Stefano has argued,[52] point c) is so obviously a case of subordination that it raises the question why this alone is not enough to trigger the presumption: why would a second criteria be necessary alongside this?

If we look at each of the four other points, they are all potentially avoidable by platforms without giving up genuine direction and control. Taking each in turn:

a. There are examples of food delivery platforms giving riders the option to increase or decrease the pay rate they are offered on the app, so as to have some limited flexibility over the upper limits for remuneration, but with the proviso that an auction-style 'bid' for the work may mean that they lose out versus another rider who offers a lower bid. Glovo, for instance, established this system in Spain after the introduction of the 'Rider Law' in 2021 (explored further in case study 3).[53] In practice, due to the over-supply of labour which platforms tend to have, an auction in pay rates simply leads to a race to the bottom, with riders offering the lowest rate in order to secure the work. However, in a court of law it could be feasibly argued that point a) is not triggered because of the use of a pay auction.

b. This is the easiest criteria for platforms to avoid since most platforms already do not have "binding rules" on appearance, conduct or work performance. What they do have is systems of algorithmically-determined customer and/or internal performance evaluation, which has a significant impact on the ability of workers to access work on the platform in the future. There are therefore strong forms of pressure which pushes workers to conform to certain expectations on appearance, conduct and work performance, without being a codified set of rules.

d. Again, this point is not difficult for platforms to avoid, whilst giving up very little by way of real direction and control. Most DLPs offer workers a 'free-login' so that they can, in theory, work whatever hours they want. In practice, for most workers, making their job economically viable means working hours when customer demand is at its highest. Platforms also provide financial incentives to work at hours of peak demand, for instance through 'surge-pricing', while some platform workers have said they have struggled to access work on platforms after they have stopped working intensively, suggesting the algorithm favours those who are regularly working.[54] As for the ability to accept or reject

52 Valerio De Stefano (2022). 'The EU Commission The EU Commission's proposal for a Directive on Platform Work: an overview.' Italian Labour Law e-Journal Issue 1, Vol. 15.
53 Food Retail & Service (2021). 'Glovo contratará 2.000 repartidores en España este 2021 para adaptarse a la Ley Rider' (In English: 'Glovo will hire 2,000 delivery drivers in Spain this year to comply with the Rider Law').
54 Jeremy Reynolds et al (2024). 'Work Schedules, Finances, and Freedom: Work Schedule Fit and Platform Dependence among Gig Workers on Amazon's Mechanical Turk Platform'. Socius: Sociological Research for a Dynamic World, 10.

tasks, this can be done on most platforms, but once again it comes with algorithmic disincentives for workers. Ridehail drivers which regularly reject trips and/or cancel trips report losing out to their colleagues in access to work, or even de-activated from the app.[55] Finally, the ability to use substitutes was a key issue for the UK Supreme Court, but nowhere else in Europe have courts considered this to be a decisive factor.[56]

e. Platforms have sought to avoid this in courts by stating that many workers 'multi-app', i.e. work via multiple digital labour platforms, and therefore have the ability to build a client base of platforms and work for whoever they want.[57] While it is true that multi-apping is a regular occurrence in the platform economy, the PPPWs do not build up a client list with the customers they are delivering to or passengers they are picking-up (who's personal data is legally required to be kept away from the worker under GDPR), and therefore they are not generating the capacity to operate autonomously: they are simply working under the direction and control of different DLPs. Nonetheless, it's feasible in a court of law that a judge could accept that the platforms are the PPPWs true clients, not the end-customer.

All in all, this is a set of criteria that does not get to the heart of how direction and control works on digital labour platforms, while establishing points which are easy for the platforms to avoid without giving up direction and control. There are various factors which have been important in legal cases in Europe on employment status in the platform economy which are entirely missed here, including: the ability of platforms to unilaterally set the contractual terms, the extent to which the platform is dependent on this labour for their core operations, the economic dependence which the platform worker has on work via the platform, and the fact that the platform owns and controls the core equipment necessary for carrying out the work, namely the app.[58] Neither is the Commission's criteria inclusive of all forms of platform work, having clearly been designed with a courier or driver in mind.

If the Commission's criteria is introduced by member-states, there is a risk that it will be neither an "effective" tool to tackle bogus self-employment nor a "procedural facilitation" for PPPWs, as the Directive requires.

55 Sasha Lekach (2019). 'Uber will now kick off riders with low ratings'. Mashable.
56 Hießl (2024). 'Case Law on the Classification of Platform Workers', pg 77.
57 Roger Partridge (2025). 'Analysing Uber: The critical point the Supreme Court failed to consider.' The New Zealand Initiative.
58 For a full list of factors that have been considered in European courts on employment classification in the platform economy, see pages 58-76 of Hießl (2024), 'Case Law on the Classification of Platform Workers'.

CASE STUDY 3: Conditional and general legal presumptions in the platform economy in Belgium, Portugal and Spain

We now have some years of experience with legal presumptions in the platform economy in Europe which we can learn from for the PWD transposition. A general presumption was introduced in Spain in 2021 specifically for the food-delivery sector, which is one part of what is known as the 'Rider Law'.[59] In 2023, Belgium[60] and Portugal[61] both introduced conditional presumptions of employment in the platform economy.

The Belgian conditional presumption has clearly been the most ineffective of the three laws so far. Based on a twin set of criteria - whereby if two of five or three of eight criteria are met then the PPPW is presumed to be an employee - the Belgian law was similar to the 2021 proposal of the European Commission. As soon as the law was passed, the major food delivery platforms immediately declared that their riders did not meet the criteria and that the presumption was therefore not relevant to them.[62]

Under Belgian law, legal presumptions require a worker or a labour inspectorate to pursue a judicial proceeding before the burden of proof shifts to the company. Once they have presented their prima facie evidence and the judge believes that the criteria has been met, it is then that the presumption is triggered, and at that point the company must offer a legal defence to rebut the presumption (i.e. the burden of proof is switched). Only after a successful conclusion of the court case, which can take up to five years, can the worker access employment re-classification.

The slow pace of the Belgian conditional presumption means that the new law is only just starting to be judicially tested. The Commission for Working Relations, a judge-led administrative commission, has found that both Deliveroo[63] and Uber Eats[64] riders meet sufficient criteria to trigger the presumption. The two platforms have rebutted the presumption and there will now be a judicial process to decide on the rebuttal. It may still be years before we know if PPPWs will be re-classified under the legal presumption.

In Portugal, a conditional presumption was introduced in May 2023 with six criteria, of which two was required to trigger the presumption. The first four of the six criteria are almost identical to the first four in the Commission's proposal analysed in case study 2 above, while

59 Spanish Government (2021). 'Ley 12/2021, de 28 de septiembre (in English: 'Law 12/2021, of September 28').
60 Belgian Government (2022). 'Service public fédéral Emploi, Travail et Concertation sociale' (In English 'Federal Public Service Employment, Labour and Social Dialogue').
61 Portuguese Government (2023). 'Lei n.º 13/2023, de 3 de abril' (In English: 'Law No. 13/2023, of April 3').
62 Ben Wray (2023). 'Is Belgium's platform work law "a dead letter"?'. The Gig Economy Project.
63 CRT (2023). 'Dossier n°: 265 - FR - 2023/12/17'.
64 CRT (2023). 'Dossier n°: 267 - FR - 2023/12/28'.

the last two refer to whether platforms exercise "disciplinary power" over the PPPW and whether the "equipment and work instruments" belong to the platform. Like in Belgium, the platforms responded to the new law by immediately announcing that they did not meet the criteria. Some of them also made changes to their algorithmic management systems to 'confer more autonomy to their collaborators', i.e. bend their systems around the criteria.[65]

However, unlike in Belgium, the Portuguese law was accompanied by significant implementation measures, with the labour inspectorate mandated to carry out an 'extraordinary campaign' of inspections on bogus self-employment, focusing on the food delivery sector. This campaign led the labour inspectorate to issue orders to give out employment contracts to the Uber Eats and Glovo riders found to be bogus self-employed, but when the platforms rebutted the presumption, rather than the riders being employed while judicial proceedings took place, the judicial proceedings suspended any employment re-classification. Also, in Portugal it's not possible for a whole group of workers to be decided upon by a judge at once, each case has to be assessed one-by-one.

The result was a large number of cases going before judges across the country, with a mixed set of results for riders despite the fact that they have exactly the same working contracts and conditions. The confusion has led a Glovo case to go all the way to the Portuguese Supreme Court, which found in May 2025 that Glovo was unable to rebut the presumption and that five out of six indicators were met.[66] It is hoped that the Supreme Court case will establish a solid precedent for the legal presumption, but cases still have to be taken to court one-by-one and the Portuguese labour inspectorate's resources are limited, therefore most riders remain bogus self-employed.

In Spain, the Rider Law established a general presumption of employment for riders in August 2021. The provision introduced in the labour code states that a presumption of employment status "includes the activities of persons providing paid services consisting of the delivery or distribution of any consumer product or merchandise, by employers who exercise the business powers of organisation, direction, and control directly, indirectly, or implicitly, through algorithmic management of the service or working conditions, via a digital platform."

This wording of the general presumption "leaves very little scope for anything other than the employment of the riders," according to Spanish labour law professor Adrián Todolí.[67]

The three largest food delivery platforms all responded differently to the new law at first: Just Eat moved to an employment model, Uber Eats began employing workers via sub-contractors

65 Ben Wray (2024). 'Portugal: from Uber's test tube to a leader in platform workers' rights?'. The Gig Economy Project.
66 Isabel Patricio (2025). 'Supreme Court recognizes employment contract between deliver driver and Glovo.' Eco.
67 Ben Wray (2023). 'Spain's Elections Pit Gig Workers Against the Far Right'. Wired.

before one year later moving to a mixed model of employment and self-employment, while Glovo defied the law all together, refusing to employ its riders. After years of fines for bogus self-employment and the risk of criminal sanctions against company executives, Glovo shifted fully to an employment model in July 2025.[68] Uber Eats announced it would do the same in January 2026.[69]

The experience of the Belgian, Portuguese and Spanish legal presumptions make three things clear: 1) platforms will always resist conditional presumptions, and may even resist general presumptions, through all means they have available 2) the general presumption is a much more effective tool for employment re-classification than a presumption with a narrow set of criteria, and 3) the implementation measures which surround the presumption are critically important in determining how the presumption operates in practice.

However, the same authors add that this approach still "lends itself to the criticism of providing a list of boxes that employers could attempt to tick simply by revising their contractual arrangements and introducing sham clauses or other defeating devices."[70] Consequently, while the European Parliament proposal would have been much better than the Commission's proposal, it would still be more favourable to have a general presumption without specific conditions attached at any stage.

In a separate paper, Rainone and Aloisi make the case for "as broad a mechanism as possible" for the legal presumption, which means it should be "based on a versatile interpretation of the facts indicating control and direction" and "is not formalised in narrow lists of criteria".[71] This general presumption, without conditions at the triggering nor the rebuttal stage, is what we propose in the template wording below.

Template wording for a general, rebuttable presumption of employment

There are various options for what this general presumption could look like, many of which have been highlighted by the ETUC in a previous study.[72] In Article L7112-1 of the French Labour Code, there is a general presumption of employment for journalists which reads: "Any agreement by which a media company secures, for remuneration, the assistance of a professional journalist is presumed to be an employment contract. This presumption remains

68 Émilio Sánchez Hidalgo (2025). 'Glovo contrata 14.000 repartidores para poner fin a su modelo de falsos autónomos' (In English: 'Glovo hires 14,000 delivery drivers to end its bogus self-employment model'). El País.
69 Émilio Sánchez Hidalgo (2026). 'Uber Eats renuncia a sus repartidores autónomos para evitar la amenaza penal contra sus dirigentes' (In English: 'Uber Eats abandons its self-employed delivery drivers to avoid criminal charges against its executives'). El País.
70 Aloisi, Rainone and Countouris (2023). 'An unfinished task?', pg 15.
71 Silvia Rainone and Antonio Aloisi (2024). 'The EU Platform Work Directive: What's new, what's missing, what's next?'. ETUI Policy Brief.
72 ETUC (2021). 'Options for Legal Presumptions and Burden of Proof reversals'.

irrespective of the method and amount of remuneration, as well as the classification given to the agreement by the parties."

This has the benefit of clarity (with little room for interpretation) and breadth, as it can include all journalists as long as they are hired and paid. Adapting this to the context of platform work, we could come up with a template text as follows:

"Any agreement by which a digital labour platform secures, for remuneration, a contract with a person performing platform work, is presumed to be an employment contract. This presumption remains irrespective of the method and amount of remuneration, as well as the classification given to the agreement by the parties. The presumption is rebuttable."

This presumption does not explicitly include a reference to facts indicating direction and control, as in article 5.1 of PWD, but we do not believe that such an explicit reference is required, since article 26 of PWD states that member-states can introduce measures which are "more favourable to platform workers". This would clearly be an example of a presumption that is more favourable as its broad nature would make it easy for PPPWs, as it would not be necessary to present facts which are specifically related to direction and control at the stage of triggering the presumption, instead they could present facts which relate to subordination in the broadest possible sense.

The closest example to such a general, unconditional presumption in the platform economy currently is in Malta, where a 2022 law introduced a presumption of employment for platform work which states: "When considering the employment status of a person performing digital platform work, it shall be presumed that there is an employment relationship and that the digital labour platform for whom the platform work is provided, or the work agency who assigns such person to or places him at the disposal of any digital labour platform, as the case may be, is the employer and that the provisions of the Act and of the regulations or orders issued thereunder apply to that relationship."[73]

The Malta general presumption also benefits from its breadth and simplicity, the only issue in relation to the Platform Work Directive is that it establishes the presumption for a digital labour platform or a (temporary) work agency. In article 5.1 of the Directive, the legal presumption is clearly directed towards the digital labour platform. But if the reference to the work agency was removed from the Malta legal presumption, this proposal could also act as a strong template for transposing the legal presumption in PWD.

73 Maltese Government (2022). '268 of 2022 - Digital Platform Delivery Wages Council Wage Regulation Order, 2022'.

If it is considered necessary, for political purposes, to present a formulation with specific reference to facts indicating direction and control, this alternative wording could be feasible:

"Any agreement by which a digital labour platform secures, for remuneration, a contract with a person performing platform work, is presumed to be an employment contract, **as long as prima facie evidence indicating direction and control are present.** This presumption remains irrespective of the method and amount of remuneration, as well as the classification given to the agreement by the parties. The presumption is rebuttable."

b) The implementation measures

Key actions in transposition:

- Include an administrative (not judicial) trigger for the legal presumption
- Oppose the inclusion of a 'suspensive effect' at the rebuttal stage of the legal presumption
- Propose that presumption claims can be made on a class-action basis, rather than one-by-one
- Propose the scope of the legal presumption applies to all institutional settings (social security, tax, etc)
- Establish a standardised form for PPPWs to make claims to competent authorities as easily as possible
- Require competent authorities to initiate an extraordinary campaign to tackle bogus self-employment as soon as the law is transposed and ensure they have the additional resources for the task

The transposition of implementation measures covers two areas of the Platform Work Directive:

1. The procedural law on determination of correct employment status (Article 4 and Articles 5.3-5.5)
2. The supporting measures to aid the government, PPPWs and DLPs in identifying and eliminating employment misclassification in the platform economy (Article 6).

In section 1 we have looked in depth at the relevant articles on implementation measures. We summarise the key points below:

Procedures for determining employment status have to be "appropriate" and "effective", based on national laws and practice and in relation to ECJU case law.

- The legal presumption must apply in whichever administrative and/or judicial proceedings relate to employment classification. It is up to member-states whether it applies to tax, criminal or social security matters.
- Both PPPWs and competent authorities can initiate proceedings relating to employment misclassification. Competent authorities are obligated to do so when they have evidence that a PPPW may be miss-classified.
- As supporting measures to the legal presumption, member-states must: produce guidance on the legal presumption for PPPWs, DLPs and social partners; establish guidance and procedures for competent authorities to act "proactively"; establish "effective" controls and inspections on DLPs; and provide "appropriate" training and technical expertise on algorithmic management.

As Case Study 3 has shown, the examples of legal presumptions in the platform economy in Spain, Portugal and Belgium show that procedural law and supporting measures can vary widely from country-to-country, and lead to significantly different outcomes as a consequence. This should make it absolutely clear that implementation measures must not be an after-thought for unions when thinking about what an "effective" legal presumption looks like: **it's absolutely key to whether the legal presumption works on-the-ground or not.**

Procedural law

Procedural law varies across the EU member-states and the EU operates under the principle of "procedural autonomy" in governing the execution of EU directives. Thus, it will be necessary for unions in every member-state to identify what are the exact procedures in their country and how PWD fits into that context.

However, there may be scope for reforming procedural laws at transposition stage, on the basis that PWD requires procedures that are "effective" in determining the correct employment status. It can and should be argued that DLPs present new challenges for government when it comes to identifying employment misclassification and ensuring compliance with labour laws, and therefore new procedures are needed to confront this challenge effectively.

The effective and appropriate procedural process would include the following elements

A. An administrative process: An administrative (rather than judicial) mechanism should be in place for:
    a. 'triggering / initiating an investigaton into employment miss-classification, and
    a. applying the legal presumption to the employee(s) and company in question.

Triggering: If a PPPW or a competent authority has to go to court to trigger the presumption, then the process is slowed down immensely and PPPWs will have to spend months, and in some cases, years, before having the possibility of accessing their employment rights. Furthermore, it is highly likely that the DLP will rebut the presumption, which will then lead to a judicial proceeding: if PPPWs have to go to court once to trigger and second for rebuttal, over the same case, it is questionable whether the presumption remains a "procedural facilitation" (article 5.2) to the worker at all. It would also over-burden the courts, many of which are already under intense time pressure. PPPWs need a way to make a claim of employment misclassification which is not overly burdensome, taking into account their extremely limited resources.

Applying: A competent authority should be able to apply the presumption following the conclusion of an investigation, issuing an enforcement order to the DLP in question which requires them to provide employment contract(s) to the PPPWs in question within maximum one week, without first having to seek judicial approval. It is crucial that competent authorities havethe power to act on their investigations without being slowed-down by judicial red-tape. They are 'competent' bodies for a reason: they have the training and skills to determine employment status, and should be able to act on their conclusions.

Additionally, article 5.5 on the **obligation of competent authorities to initiate proceedings should be strengthened** so that there is a duty to investigate a case when a PPPW and/or their representatives take an employment misclassification claim to them. This would ensure that labour inspectorates and other competent authorities could not simply ignore claims of bogus self-employment made by PPPWs on the basis that they haven't investigated them so cannot know their validity.

B. **No 'suspensive effect':** In the case of an investigation by a competent authority which leads to the presumption being applied, the competent authority must be able to issue an enforcement order to the DLP requiring them to issue employment contracts to the platform workers in question, and that order should not be suspended in the case of a rebuttal of the presumption.

Ensuring that there is no 'suspensive effect' in procedural law is crucial to prevent DLPs maliciously utilising the judicial process to delay workers being able to access their rights. Since many PPPWs work in their jobs for just a short period of time, these delays can often mean they end up never accessing their rights in the job, which de-motivates other PPPWs from pursuing employment re-classification because the judicial process is so long as to render it ineffective.

It is highly likely that the platform lobby in each member-state will make the case for a suspensive effect on the basis that they shouldn't be forced to comply with an enforcement order before they have had their day in court, but an administrative body that has conducted an investigation is competent to make a decision and issue an enforcement order, and that order should be respected in a manner which is timely.

The purpose of suspensive effects is to prevent irreversible miscarriages of justice - but that doesn't apply in the case of employment re-classification, as the decision can always be reversed if the rebuttal is successful.

Collective enforcement, not one-by-one: Competent authorities should be able to pursue a collective enforcement of the legal presumption rather than having to investigate and take action on each PPPW's case one-by-one. The purpose of this is to stop the process being delayed by needless repetition, wasting the time of courts which have to judge almost identical cases over-and-over, when the case could be dealt with in one go. PPPWs sign standardised terms & conditions, so there is no justification to the argument that each PPPW's case is different from each other and must stand-alone legally speaking. **Class-actions** should also be possible when PPPWs (usually via unions) take an employment classification claim forward.

C. **As broad a scope as possible:** The legal presumption should apply to all tax, criminal and social security proceedings. In reality, the majority of large cases on employment re-classification in the platform economy so far have come from social security institutions, with a smaller number from labour inspectorates, tax authorities and public prosecutors.[74] There is little sense in a social security or tax authority carrying out its responsibilities to apply the legal presumption, as they are required to do under the directive, and not applying the consequences of that employment re-classification to all aspects of their work. Broadening the scope as wide as possible will improve institutional coherence while also eliminating confusion for PPPWs and DLPs about the financial and legal ramifications of bogus self-employment, ensuring maximum accountability.

Supporting measures

There is broad scope for member-states to decide on the supporting measures contained in Article 6 of PWD. Unions should aim for supporting measures which put as much of the heavy-lifting of pursuing employment re-classification on competent national authorities (such as labour inspectorates) as possible, and reduce the work-load on PPPWs as much as

74 Christina Heßl (2024). 'Case law on the classification of platform workers.'

possible, given their limited capacity in terms of time, money and expertise to pursue such cases. Key measures include:

D. **Claims mechanism:** In the procedural law section above, we proposed that there should be an administrative process for the presumption which includes a way for PPPWs and their representatives to make employment misclassification claims to the administrative body in question in order to trigger the presumption. This claims mechanism should consist of a standardised online form for PPPWs and their representatives, including boxes so that PPPWs and their representatives know what categories of information should be included to potentially meet the threshold for presenting facts indicating direction and control and with this 'triggering' the presumption. A claims mechanism along these lines will make it straight-forward for both PPPWs and the competent national authorities to co-operate in tackling bogus self-employment.

E. **Extraordinary campaign:** In Case Study 3 we highlighted the case of Portugal's change to it's labour code to establish a legal presumption, which when passed in the Portuguese Parliament included the supporting measure of an 'extraordinary campaign' by the country's labour inspectorate to tackle bogus self-employment. Such an extraordinary campaign should be initiated in every member-state as soon as the law is transposed, to create momentum around employment re-classification and to ensure competent national authorities understand the significance of the new law and the importance of their role in applying it urgently.

F. **Additional resources:** Labour inspectorates are notoriously under-resourced across the European Union.[75] Efforts to tackle employment misclassification in the platform economy will be hamstrung unless their resources are boosted. Additional budgetary resources should coincide with PWD's transposition.

This can be easily justified on the basis that the platform economy in Europe was estimated by the European Commission to be 28.3 million workers in the EU in 2021,[76] 8% of the workforce: that's a significant number of workers which now fall under the scope of labour inspectorates and similar competent authorities to "pro-actively" investigate and inspect. Also, article 6 d) of PWD requires training in algorithmic management for such competent authorities. All of this needs to be funded up-front, but it's also worth bearing in mind that employment re-classification can be a fiscal boon to member-states: platform workers paying income tax and digital labour platforms paying social security contributions means government investment in their labour inspectorates could be a net fiscal gain.

75 EPSU (2024). 'Joint statement: Labour inspectors need protection, support and respect'.
76 Egidijus Barcevičius et al (2021). 'Study to support the impact assessment of an EU initiative to improve the working conditions in platform work'. European Commission.

c) Intermediaries

Key actions in transposition:

- A requirement for competent authorities and judicial bodies to actively identify the real employer
- Joint and several liability systems to apply in all cases where intermediaries are used and in all circumstances

The Platform Work Directive text on intermediaries places some important requirements on member-states, but it also leaves significant lee-way on important issues. This makes it very important for unions to have a clear idea about the optimal way of transposing this part of PWD.

In section 1 we explored the PWD text on intermediaries (Article 3 and Article 4.3) in detail. The key points are the following:

G. PPPWs hired via intermediaries must "enjoy the same level of protection" as PPPWs hired directly by DLPs.
H. Member-states must ensure "appropriate mechanisms" based on "national law and practice" are in place to ensure equal protection, including joint and several liability systems "where appropriate".
I. The company or companies "responsible for the obligations of the employer" must be "clearly identified".
J. The employer is responsible for workers' rights in relation to algorithmic management, but a joint responsibility may be necessary with the data controller which would include a legal duty of cooperation.

The role of intermediaries (or 'sub-contractors') in the platform economy in Europe has become increasingly significant in recent years. Many platforms appear to view intermediaries as the primary alternative business model when hiring platform workers on an independent contractor basis is not possible.

Since one of the main purposes of intermediaries for corporations is "the separation of powers and profit from risk and responsibility,"[77] it is vital that PWD is transposed in such a way that prevents intermediaries from becoming a loophole for DLPs to outsource risk and avoid their responsibilities as employers. Moving from bogus self-employment to what

77 Silvia Borelli, Antonio Loffredo, Claire Marzo and Manfred Walser (2025). 'Sorry we subcontracted you'. ETUI, pg 73.

researcher Valentin Niebler has called "bogus employment",[78] where sub-contracted workers have employment contracts but without being able to access employment rights, would not be genuine progress.

CASE STUDY 4: Is the platform or the intermediary the real employer?

There have been many cases ruled on by the Court of Justice of the European Union (CJEU) on the question of the definition of an employee, but just one on the question of the definition of an employer: AFMB Ltd and Others v Raad van bestuur van de Sociale verzekeringsbank.[79]

The case involved the Cypriot company AFMB, which had contracts with several lorry drivers based in the Netherlands. These drivers worked for Dutch transport companies, which AFMB had contracts with. They were contracted with AFMB with the aim of bringing them under Cypriot labour law, which has fewer social security protections and contributions than in the Netherlands, and therefore would be a cost saving measure. The drivers were in contact with the Dutch transport companies first before being put in contact with AFMB for signing their contracts. AFMB advertises itself as a means for transport companies to reduce their costs.

The CJEU found that the Dutch transport companies were the real employer and therefore Dutch social security legislation applied. In determining the real employer, they drew on the same 'primacy of facts' principle which applies in the EU Platform Work Directive to employment status.

Labour law academic Matthijs van Schadewijk finds that "the Court concluded that to identify the employer it is necessary to take account of the objective situation of the worker and of all the circumstances of the worker's employment. Though the existence of a contractual relationship has indicative value, it remains necessary to take account of how the obligations under that contract are performed in practice. Accordingly, it is necessary to identify **which entity exercises the actual authority over the worker, bears the actual wage costs and has the actual power to dismiss the worker."**[80]

Case law in many member-states has backed up this substantive notion of the employer. For example, a European Trade Union Institute study on sub-contracting finds that in Italy "the person or firm that directs and controls workers must be their employer. If a different person

78 Valentin Niebler (2023). 'Tilting at Windmills?'. Verfassungsblog.
79 European Union (2020). 'Judgment of the Court (Grand Chamber) of 16 July 2020. AFMB Ltd and Others v Raad van bestuur van de Sociale verzekeringsbank.'
80 Matthijs van Schadewijk (2021). "The notion of 'employer': Towards a uniform European concept?". European Labour Law Journal.

signed the contract of employment, a judge will deem this illicit labour supply".

Borelli goes on to argue that the use of algorithmic management makes it "easier" for workers to identify the real employer. She highlights a 2019 tribunal in Padua which found that the real employer of warehouse 'pickers' was the client, not the sub-contractor, because it was the client which used an algorithmic management system to direct and monitor the workers "in real time" and "collect information on pick-rate; duration of breaks and workers' peak efficiency; it could assess workers' performance and subsequently evaluate them".

According to the Tribunal, "the overall governance of the company's activities and the direction of work can be considered to be a computerised relationship with the apparent client, leaving the contractor with a residual function of control and disciplinary intervention, usually requested by the client."[81]

There are many comparable examples in the platform economy where workers have a "computerised relationship" with the platform and the intermediary plays a "residual function". Indeed, the Turin Civil Court in 2021 and the Paris Criminal Court in 2023 have both found that Uber Eats and Stuart respectively were the real employer, not the sub-contractors they had contracted.[82]

The three key arguments in relation to transposition on intermediaries are:

K. Actively identifying the real employer: There is a strong case that, since a core function of digital labour platforms is to co-ordinate labour input via algorithmic management, DLPs are always the real employer of PPPWs on their platform. While intermediaries may take up some of the responsibilities of an employer, such as in relation to equipment like cars or bikes, the most indispensable piece of equipment for a PPPW is the app, as without access to the app the rest of the equipment serves no purpose.

Article 4.3 on identifying the real employer should be transposed in a way which mandates competent authorities to actively identify which entity is the real employer in employment re-classification cases, based on the primacy of facts principle. Particular attention should be paid to which party is responsible for automated and semi-automated forms of monitoring and decision-making when identifying the real employer.

In support of this argument, it is worth referring to Recital 8 which emphasises the

81 Silvia Borelli et al (2025). 'Sorry we sub-contracted you'. ETUI.
82 Hießl (2024). 'Case Law on the Classification of Platform Workers', pg 67.

importance of automated monitoring and automated decision-making systems to managing PPPWs and article 4.2 on the primacy of facts principle, which states explicitly that those facts include "the use of automated monitoring systems or automated decision-making systems in the organisation of platform work".

The primary purpose of intermediaries for DLPs is to reduce labour costs by off-loading legal responsibility for working conditions onto smaller companies that are harder for unions and labour inspectorates to hold to account. If this off-loading was no longer possible for DLPs because they were identified as the real employer, not the intermediary, then the purpose of the intermediary would suddenly become redundant, and DLPs would likely stop using them as part of their business model.

There is also a case for prohibiting the use of sub-contractors in the platform economy, on the basis that the use of sub-contractors systematically undermines labour law, creating risks for workers and the public at large. In Germany, such a prohibition already exists in the meat industry and consideration is being given to extend this to the platform economy when the PWD is transposed.[83]

L. **Joint and several liability in all cases:** Where intermediaries are used, unions should push for the text of the transposition to be clear that joint and several liability systems are appropriate and must be applied based on what is called 'full chain liability', which means it applies all the way down the sub-contracting chain, not just between the principal contractor and the sub-contractor they have a contract with (known as 'direct liability').[84] Secondly, it's crucial that joint and several liability applies in all circumstances, i.e. not just for damages or for salaries, but for all aspects of the employment relationship.

   This broad coverage for joint and several liability systems is critical for ensuring that platforms can be held to account when sub-contractors breach workers' rights, as quite often these firms will shutdown before there is an opportunity to claim unpaid wages or compensation through legal routes. Also, comprehensive joint and several liability creates a strong incentive for platforms to ensure that the sub-contractors they use stay within the law.

M. Clarity on joint responsibility over algorithmic management rights: As section 1 on intermediaries explained, the mechanism by which platform workers employed by intermediaries can access their rights in Chapter III on Algorithmic Management can be

83 PressePortal (2025). 'Bundesarbeitsministerin Bärbel Bas will Subunternehmerverbot für Essenslieferdienste wie UberEats, Wolt und Lieferando' (In English: 'Federal Labor Minister Bärbel Bas wants to ban subcontracting for food delivery services like UberEats, Wolt and Lieferando').

84 See European Labour Authority (2025), 'National liability mechanisms in subcontracting chains' for more.

complex, depending on who the “data controller” is, or if there is a joint controller, or a difference between the processor of the data and the controller of the data.

It’s critical that there is a legal duty of cooperation between the DLP and the intermediary in relation to the data rights of the PPPW, so that the PPPWcan, for example, go to the intermediary to request a human review of an automated decision and the process of contesting that decision and getting a response from the intermediary is no more difficult for that worker than one working directly for the DLP. This is legally necessary on the basis of the requirement for “equal protection” in Article 3 of the Directive. Joint and several liability systems must also apply to the algorithmic management rights in the Directive to ensure that there is a joint responsibility for guaranteeing sub-contracted PPPWsaccess to these rights.

d) Algorithmic management

Key actions in transposition:

- Extend algorithmic management rights to all workers, not just those in the platform economy
- Extend the right to a data expert for accessing information to the whole of the algorithmic management chapter
- Extend OSH rights to self-employed PPPWs for the time they are working on the platform

We have seen in the first section of this guide that chapter III on Algorithmic Management establishes a broad set of rights for PPPWs in relation to automated monitoring and decision-making systems (AMDMS). To summarise the key points on this chapter (articles 7-15):

- DLPs are prohibited from processing PPPWs personal data in a number of areas.
- A Data Protection Impact Assessment is required.
- DLPs must make a wide variety of information available to PPPWs, not just monitoring and decisions which personally affect PPPWs but also the “main parameters” of decision-making.
- PPPWs have the right to data portability.
- DLPs must provide human oversight to AMDMS on a ‘human-on-the-loop’ basis and conduct evaluations about how “individual decisions” made by automated systems affect “working conditions" and “equal treatment at work”.
- PPPWs have the right to an explanation of “any” automated decision and the right to contest it via a human review by the DLP. If after review the decision was found to be illegal, it must be rectified or compensation paid.

- Platform workers have full occupational safety and health (OSH) rights with DLPs required to place special emphasis on ensuring AMDMS' are OSH-safeguarded.
- Self-employed PPPWs have access to a reporting channel to make complaints about problems such as abuse and harassment.
- Platform worker representatives must be informed and consulted in the case of decisions likely to lead to substantial changes in AMDMS and have the right to a data expert of their choice to examine these proposed changes.

Since this chapter is based on GDPR, an EU-wide regulation, there is less room for manoeuvre in transposition than compared with other parts of the Directive, where national law and practice play a stronger role.

Nonetheless, on the basis of Article 26 of the Directive, which establishes that PWD is a minimum standards Directive and that member-states have the power to go beyond this, unions should seek **to extend the rights in Chapter III to all workers, not only PPPWs**. The number of workers affected by algorithmic management goes well beyond the platform economy, with a 2025 OECD employers' survey finding an algorithmic management adoption rate of 79% in Europe, with most firms using three to five AM tools.[85] There is no good reason why these workers should not benefit from these rights as well, and indeed the Spanish Government has already indicated it's desire to do this.[86]

Article 12 on OSH misses the opportunity to extend health and safety protections to all PPPWs for the time they are working for the DLP, not just those who are employees. This has been proposed by a number of OSH experts and could be addressed in transposition as it is a critical issue, considering DLPs tend to be high-risk environments from an OSH perspective.

Other ways to strengthen OSH in transposition of the algorithmic management chapter include:

- Specifying what sort of response is required from DLPs to complaints made on the reporting channels (PWD is silent on this);
- Adding a prohibition on the app audibly beeping while a worker's vehicle is in motion to reduce the risk of accident;
- Add the need for DLPs to provide any OSH-relevant data to PPPW representatives;
- Include a provision that DLPs must require self-employed PPPWs to take breaks after a certain number of hours of continual activity on the app, in the same way as rest time is

85 Anna Milanez, Annikka Lemmens, Carla Ruggiu (2025). 'Algorithmic management in the workplace'. OECD.
86 Ben Wray (2025). 'Spain: Still a pioneer in regulating platform work'. The Gig Economy Project newsletter.

legally required for employees;
- Require on-location DLPs to shut-down during extreme weather.[87]

Also, there are some areas where member-states could add greater clarity in transposition. For example, member-states could define what the "main parameters" of AMDMS referred to in Article 9 mean specifically. The CCOO union in Spain has helpfully defined the main parameters as all of the following: "the variables" used by an algorithm in coming to a decision, "the weight of each variable" in the decision made, and "the rules and instructions" used to guide these variables.[88]

Article 11 on a human review would be strengthened by an independent dispute resolution process in case that the conclusions of the DLP and a PPPW about the legality of the disputed decision are different. If, for example, a PPPW has to go to court to get compensation for unpaid wages because they were wrongly suspended for three days, the cost and time in going to court may outweigh the benefits of recovering three days of unpaid wages. An administrative dispute mechanism process to arbitrate on conflicts over a human review would be much more efficient.

Finally, article 10.4 on the need for platforms to evaluate their AMDMS systems and provide an evaluation to platform worker representatives should be extended to representatives of self-employed PPPWs, since there is no good reason why these workers should be excluded from this right.

e) Enforcement

Key actions in transposition:

- Ensure strong financial penalties for non-compliance
- Introduce criminal sanctions as well
- Define what "adequate" compensation looks like

In the first section of this guide we interpreted chapter IV on Remedies and Enforcement (Articles 18-24). Key points are the following:

- A right to redress, including "adequate" compensation and an "impartial" dispute mechanism process

87 See ETUC (2026), 'Platform Work is Dangerous: Addressing Occupational Health & Safety Risks in the Platform Economy' for more: https://www.etuc.org/sites/default/files/publication/file/2026-02/ETUC%20Manual%20OSH.pdf
88 CCOO (2025). 'Guía para la intervención sindical en la gestión algorítmica' (in English: 'Guide for trade union intervention in algorithmic management'), pg 28.

- A communication channel provided by the DLP for PPPWs and representatives of PPPWs to communicate with one another privately
- Administrative and judicial bodies can order DLPs to release any evidence during proceedings
- Protection from dismissal for exercising rights related to the Directive
- Establishing "effective" and "dissuasive" penalties for non-compliance

Enforcement is a very important part of any law relating to the platform economy due to the long history of non-compliance of leading digital labour platforms, most famously exposed by the 'Uber Files' scandal.[89] If compliance measures and penalties for non-compliance are weak, there is a strong chance that DLPs will wager that they will be financially better-off in breaking the law rather than applying it.

There is significant lee-way for member-states in their enforcement measures and therefore it is critical that unions push for a strong transposition in this area.

First, it's imperative that member-states do establish strong financial penalties for non-compliance with all parts of this Directive, especially those relating to employment classification as this tends to have the most significant financial repercussions for DLPs. For financial penalties to be genuinely "dissuasive", as PWD requires, they should be tied to a percentage of the DLP's global annual turnover, following the example of GDPR.[90] Each country has its own system for penalties relating to non-compliance with labour rights, but if they are weak PWD transposition may be a chance to push for strengthening them, taking into account the fact that DLPs tend to be multi-national companies with significant financial fire-power.

Furthermore, there is a strong case to supplement financial penalties with criminal responsibilities for breaching labour law. In France and Spain, criminal law has been applied to platforms for bogus self-employment, with French Deliveroo executives receiving fines, suspended prison sentences and losing their right to be company directors for "concealed work".[91] In the Spanish case, food delivery platform Glovo had continued with bogus self-employment despite racking up hundreds of millions in government fines, motivating the Spanish Government to change the law to introduce criminal proceedings for bogus self-employment. The day before Glove CEO Oscar Pierre was due to stand trial, he announced that Glovo would start employing all of its riders for the first time.[92] This demonstrates that

89 Sydney P. Freedberg et al (2022). 'How Uber won access to world leaders, deceived investigators and exploited violence against its drivers in battle for global dominance'. ICIJ.
90 GDPR. 'Art. 73 GDPR: General conditions for imposing administrative fines'.
91 Ben Wray (2022). "'The offence of concealed work': Suspended prison sentences and maximum fine for Deliveroo France". The Gig Economy Project.
92 El Salto (2024). 'Glovo anuncia que da marcha atrás en su modelo justo un día antes de que su fundador declare' (In English: 'Glovo

criminal sanctions can have a more powerful effect on the decision-making of corporate executives than financial penalties on the platforms.

On the right to redress (Article 18), it will be important to provide clarity in transposition on what "adequate" compensation and an "impartial" dispute mechanism look like. Again, this is likely to follow national law and practice in the country in question, but if there is room to push for stronger mechanisms then that opportunity should be taken.

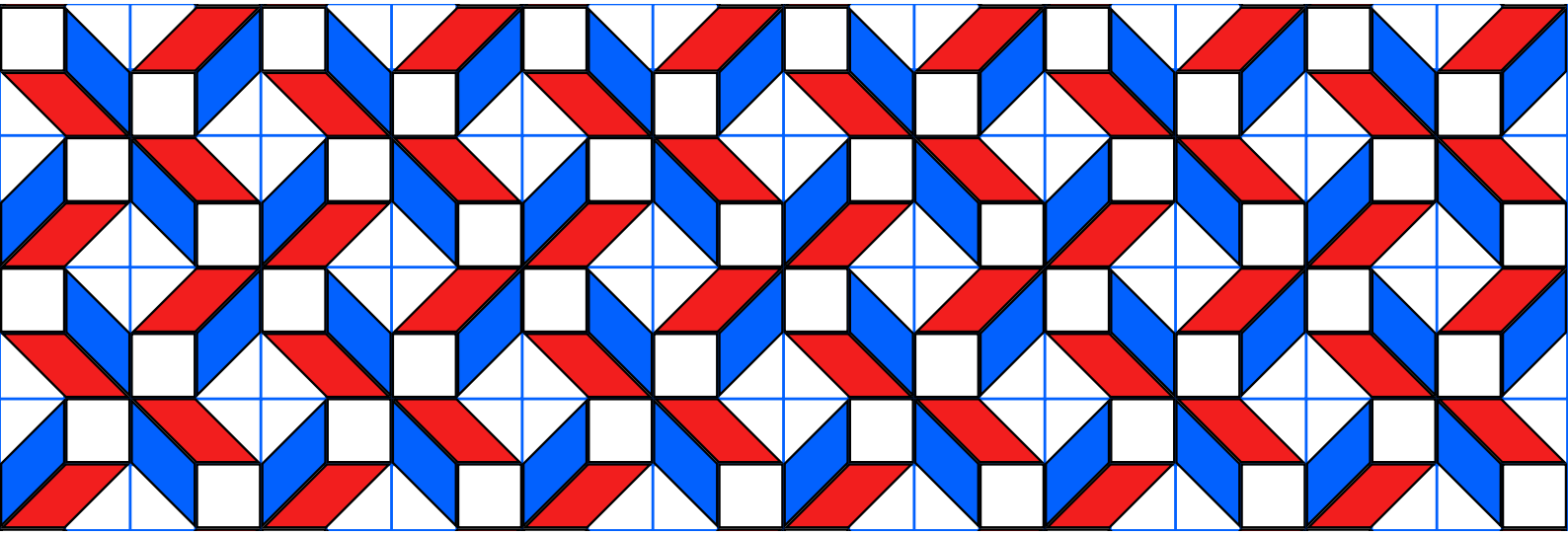
On the communication channels (Article 20), the text of the Directive is unclear about the details, which are likely to be crucial in determining whether this is a useful mechanism for workers to communicate or not. Firstly, member-states should be explicit that DLPs must outsource the running and management of the communication channel, since it will not be possible for the DLP to be GDPR-compliant in relation to the data on the communication channel while at the same time maintaining the complete privacy of PPPWs and their representatives if the channel is managed directly by the DLP. That does not necessarily mean that the communication channel would have to exist outside of the app (although this may be the case), but it would have to be operated and managed by a third-party.

Secondly, it is crucial to define in more detail how PPPWs' representatives can operate on this channel. Since the purpose of worker representatives accessing the channel is to be able to contact workers, it should be clarified in transposition that worker representatives will be given a unique profile on the communication channel so that they are easily visible to PPPWs and so that PPPWs can verify that they are authorised worker representatives. Finally, PPPWs and representatives should have some geographic demarcation on the communication channel, so they are able to communicate with one another in a way which is delineated by hub, city, regional, and national scales.

On access to evidence (Article 21), PWD only requires confidential information to be provided in the case of judicial proceedings, not administrative ones. There is a risk that this could be used by DLPs to severely restrict what information it provides to labour inspectorates and other competent bodies. It's possible in transposition to extend the requirement to provide confidential information to administrative proceedings as well, as these bodies are equally competent to handle such information.

announces it is reversing its business model just one day before its founder is due to testify').

3. After-transposition: Making best use of the new platform work law



a) Triggering the legal presumption

The optimal way in which the legal presumption of employment should be triggered post-transposition is through an administrative procedure, as we explained in section 2 b) of this guide. Competent authorities such as labour inspectorates are best placed to carry out this work as they have the capacity and authority to conduct investigations and issue enforcement orders on platforms. In the context of a labour inspectorate actively conducting administrative procedures on employment misclassification in the platform economy, the role of unions would be to bring cases to the labour inspectorate's attention, perhaps via a report providing them with prima facie evidence which could be the basis for an investigation.

However, it is unlikely to be the case that in all 27 EU member-states, there will be pro-active, well-funded labour inspectorates willing to lead the way in tackling bogus self-employment once PWD is transposed. Moreover, it may also be the case that in some member-states, the transposition of PWD has weak enforcement measures included, leading to labour inspectorates having limited mandates on the issue, and thus prioritising other activities. In this scenario, the responsabilitywill be on unions to take the initiative by seeking to organise PPPWs to trigger the legal presumption themselves, either via administrative or judicial proceedings (depending on national procedural law).

There are three main steps involved before unions can initiate proceedings to trigger the legal presumption: unionisation, identifying what evidence is needed and gathering the evidence. Let's look at each step in turn.

Unionisation

Suffice to say, for unions to act on behalf of PPPWs, they need PPPWs to be members of the union. The transposition of the Platform Work Directive is an opportunity for unions to pursue a recruitment drive in the platform economy, prioritising PPPWs which are most likely to be bogus-self employed.

This recruitment drive should focus not on being an employee per se, but on the benefits and protections which are attached to employment status: holiday pay, sick pay, pension contributions, and so forth. The case should be made that it's via the union that PPPWs can access these rights.

Research has shown that employed food delivery couriers are more likely to join unions than self-employed couriers because employees are "significantly more likely to perceive unions as effective", while self-employed couriers have "less belief in unions improving their pay and working conditions".[93] This is likely to also be true for PPPWs who are self-employed but, post-transposition of PWD, perceive that they could obtain employment rights through joining the union.

Given PPPWs are generally low-paid and with a precarious income, unions should consider special membership rates for PPPWs to ease their access to the union. One option would be to offer free membership until they have secured an employment contract, which could make it a lot easier to sign-up workers en masse for an employment misclassification claim.

One way of identifying PPPWs is to use the rights in PWD relating to collective information. For instance, in the case that a DLP uses a number of intermediaries for its operations, getting the information on the names of all of these intermediaries via the rights contained in Article 17 of PWD could help unions to map out an effective recruitment strategy for PPPWs working for intermediaries.

Also, the right established in Article 20 of PWD for union representatives to access a communication channel could also be use as an important tool for unionisation efforts.

93 Leonard Geyer, Kurt Vandaele, and Nicolas Prinz (2023). 'Riding together? Why app-mediated food delivery couriers join trade unions in Austria'. Economic and Industrial Democracy, 45(3), 835-858.

CASE STUDY 5: Domestic platform work, 'minor' algorithmic management and employment mis-classification in Spain

'Clintu' is a home-cleaning platform based in Spain. In June 2023, the Labour Inspectorate in Catalonia, a region in the north-east of Spain, took Clintu to a labour court after investigating the working conditions of 505 PPPWs at Clintu, finding that they were bogus self-employed. The verdict was appealed by Clintu to the Superior Court of Justice of Catalonia, the case was heard in February 2025 and the Superior Court rejected the appeal.[94]

As with food delivery platforms in Spain like Glovo, Clintu had adapted its model to try to avoid triggering bogus-self employment claims. Clintu's argument was that it's PPPWs were not subordinates because: they are not paid by Clintu, they are paid by the client, and Clintu does not take a commission on each transaction; that the PPPW and the client organise their own schedules and Clintu does not instruct, neither does it discipline or punish the PPPWs; that the PPPW can be replaced by another PPPW so it is not a fully personalised service; and that the costs (such as PPE) and risks (financial through loss of work) are borne entirely by the PPPW, and are not shared with Clintu.

The Catalan Labour Inspectorate disagreed with Clintu, arguing that an employment relationship existed, for the following reasons:

- Clintu has insurance coverage for cleaning services, showing that this is the company's real activity, and is not simply a digital intermediary.
- Clintu has operational control because it manages incidents relating to user complaints, delays or use of substitutes centrally via the platform.
- While the PPPW and the client agree on the specific work time, Clintu limits hours to 8 a.m. to 10pm and it does take disciplinary measures against PPPWs, including sometimes account termination in case of negative reviews.
- Although the exact payment is negotiated between the PPPW and the client, Clintu recommends a per-hour figure and has a limit between €9-€25. Moreover, most payments go through Clintu's payment system on the platform, with Clintu charging users for usage of this, with direct cash payments only being used occasionally.
- Clintu conducts pre-screening of cleaners who want to work on its platform, including a telephone interview and a request for references, as well as providing instructions on how to carry out their task, all of which are typical in a hiring process.

The Superior Court found in favour of the Labour Inspectorate's case, finding "the evidence of

94 Iberley (2025). 'Sentencia Social 609/2025 Tribunal Superior de Justicia de Cataluña. Sala delo Social, Rec. 6626/2023 de 13 de febrero del 2025' (In English: 'Social Judgment 609/2025 High Court of Justice of Catalonia. Social Chamber, Appeal 6626/2023 of February 13, 2025').

sufficient elements to characterise the legal relationship in dispute as being of an employment nature". As Spanish labour law professor Adrián Todolí found commenting on the case, the judge looked past "formal freedoms" which Clintu platform workers have like being able "to agree on a schedule, a price for the service, or even establish the possibility of charging the client directly in cash", and instead placed importance on "the material reality in which the provision of services takes place."

Todolí adds: "In this sense, when work is organised through an algorithmic system designed by the platform itself, any margin of freedom is actually conditioned. The worker does not choose freely, but within the options that the company has preconfigured in the algorithm. It is this design that imposes the real limits of work, turning [the PPPW] into a subordinate."[95]

The decisiveness of the algorithmic management system as a whole to direction and control of the platform worker is very important in the case of domestic digital labour platforms. Many of these platforms share similar features to Clintu, where they do not strictly dictate all aspect of the labour process and remuneration, with some responsibilities held by the client as well as the PPPW, but nonetheless their algorithmic management systems frame the context in which this work take place. Labour law academics Antonio Aloisi and Nastazja Potocka-Sionek have conceptualised this form of DLP as "'minor' algorithmic management".[96]

Other court cases looking at cases of minor algorithmic management in the domestic platform economy have found that the PPPW is self-employed or in fact employed by the client rather than the platform, so there is no guarantees that the decision of the Superior Court of Justice of Catalonia will be a precedent that is followed in other cases and countries. But it does illustrate what arguments domestic work PPPWs could use when seeking to trigger the legal presumption and defeat a platform's rebuttal.

CASE STUDY 6: Does the freedom to reject tasks make a platform worker self-employed?

In June 2025, the Brussels Labour Court found that an Uber ride hail driver was an employee, overturning a lower court's decision in December 2022 which found the driver was self-employed.

The case began before Belgium's 2023 legal presumption of employment law (see Case Study 3 for details) was brought in, and therefore was based on a legal presumption in the

95 Adrián Todolí (2025). 'Las trabajadoras de plataformas de limpieza (CLINTU) son asalariadas y no autónomas (STSJ Cat 13/2/2025)' (In English: 'Cleaning platform workers (CLINTU) are salaried employees and not self-employed (STSJ Cat 13/2/2025)').
96 Antonio Aloisi and Nastazja Potocka-Sionek (2025). 'House of gigs. Domestic workers, algorithmic management and the Platform Work Directive'. SSRN.

transport sector which was introduced in 2013. The Court found that all but one of the criteria for triggering the presumption were met in this case.

The evidentiary burden then fell on Uber to rebut the presumption. What is really interesting about the dismissal of Uber's rebuttal is the clarity of argument deployed on the issue of working time, one of the key arguments made by Uber and other platforms in making their case for drivers being independent contractors.

The Labour Court quoted approvingly from the legal precedent established by Belgium's Court of Cassation: "The fact that the person performing the work has the freedom to accept or reject a job offer from their employer and that they can, if necessary, refuse it **does not therefore prevent the employer from having control over their workforce once they have accepted the work** and assigning it in accordance with the provisions of the contract. The mere fact that he has complete freedom to follow up or not on the job offer **does not imply that the person performing the work is also free to organise his working time once the assignment has been accepted.**"

This clearly places the focus on whether subordination exists or not on the working relationship once the driver is connected to the app. The Labour Court found that, in this context, the driver has: "no control over determining when work will be offered"; "no way to influence the ride proposal allocation process"; "no choice" but to wait for ride proposals from the platform if he wants to access work; has "no view" of the trip offers to drivers while connected to the app; can only work at times when the app is offering trips; has "no ability" to increase the volume of his trips; and his or her "entrepreneurial skills have zero influence". Moreover, the driver has "no real freedom" to accept or reject trips as the acceptance rates are measured and have consequences for the drivers ability to access work.

Equally, the court found that the lack of exclusivity in the driver's work, i.e. being able to work for other ride-hail platforms, "is not relevant, since it **says nothing about the driver's freedom when providing services within the framework determined by [Uber]"**.

All of this led the Labour Court to conclude that Uber "have not established the absence of a relationship of authority and therefore do not rebut the legal presumption of employment".[97]

This sharp focus on the work relationship between Uber and PPPW during the labour process itself is critical to making a convincing case of employment status.

97 Cour du travail de Bruxelles (2025). 'Décision dont appel tribunal du travail francophone de Bruxelles 21 décembre 2022 21/632/A' (In English: 'Decision under appeal Francophone Labour Court ofBrussels December 21, 2022 21/632/A').

Identifying the evidence

As we have demonstrated in section 1, triggering the legal presumption requires providing prima facie evidence to either an administrative body or a court. This evidence has to be specific and objective, without necessarily reaching the level of evidence required to win a court case (hence 'prima facie', a Latin expression meaning 'based on the first impression').

What sort of evidence is needed to trigger the legal presumption? If we look at some previous employment misclassification cases in the platform economy, we can get an idea of what "facts indicating direction and control" may look like.

The Dutch Supreme Court found in 2023 that Deliveroo riders are employees.[98] In considering the decision, it listed the following as potential factors to consider in determining the correct employment status:

- "The nature and duration of the work"
- "The manner in which the work and working hours are determined"
- "The integration of the work and the person performing the work into the organisation and business operations of the person for whom the work is performed"
- "the existence of an obligation to perform the work personally"
- "the manner in which the contractual arrangement of the parties' relationship was established"
- "the manner in which remuneration is determined and paid"
- "the amount of this remuneration"
- "whether the person performing the work bears any commercial risk"

What the Dutch Supreme Court judges were looking to grasp is whether these factors indicate that a relationship of subordination exists between Deliveroo and its riders. It was not necessary to prove subordination existed in all of these factors, indeed the judges found that some factors pointed away from an employment relationship. However, this was overridden by other factors which indicated that, on balance, an employment relationship did exist.

In the case of the Finnish Supreme Administrative Court, which found in 2025 that Wolt food delivery couriers are employees, the key evidence of subordination was the role of the digital platform "to direct and monitor the work performance of couriers". The Finnish judges found that the power Wolt held over couriers through its algorithmic management

98 Dutch Supreme Court (2023). 'Arrest in de zaak van Deliveroo Netherlands BV tegen FNV' (In English: 'Judgement in the case of Deliveroo Netherlands BV and FNV').

practices, including the ability to "unilaterally decide on essential matters concerning the legal relationship between it and the courier", were "typical of an employment relationship".[99]

Given this, what unions and PPPWs should be looking to identify is as many demonstrable cases of subordination in the relationship between the PPPW and the platform as possible, especially focusing on the aspects of the relationship which go to the heart of the labour process itself.

Also, careful consideration should be given to the national definition of employee in the member-state in question, as it has been defined either in case law, in statute or both. The evidence should use the language of this definition and speak to the meaning embedded within it.

Gathering the evidence

How can this prima facie evidence be collected? Some of the evidence will be accessible directly by the PPPW. For example, pay slips (which the platforms will often call 'invoices' even though they are issued by the platform not the PPPW) will demonstrate the remuneration and the manner in which remuneration is determined and paid, two of the factors indicated above by the Dutch Supreme Court judges.

Also, the platform's terms & conditions, while usually written deliberately to avoid the appearance of an employment relationship, typically have rules which demonstrate specific aspects of direction and control, and thus can be quoted from directly. For instance, in the Finnish Supreme Court case mentioned above, the judges pointed to Wolt's service agreement with the riders as evidence of algorithmic performance evaluation and punishments.[100]

E-mails and other communications from the platform on the app to the PPPW can also contain useful information and should be archived, as the platform may delete it at a later stage. Also, noting down how the platform presents itself in official communications and finding evidence which directly contradicts that presentation can be a useful way of demonstrating the difference between the platform's rhetoric and the facts.

The PPPW can also take screenshots of the app while working to demonstrate automated and

99 Finnish Supreme Administrative Court (2025). 'KHO:2025:41'.

100 The ruling states that: "According to the terms of the service agreement, [Wolt] has the right to reduce the courier's fee if his work performance does not meet the set quality requirements or if other users of the platform provide negative feedback on the courier's activities. According to the agreement, [Wolt] also has the right to immediately terminate the agreement, among other things, if the courier has received frequent negative feedback from platform users, including restaurants. [Wolt] thus monitors not only the timely implementation of the assignment received by the courier, but also the implementation of the quality requirements it has set when performing the assignment."

semi-automated monitoring and decision-making while completing tasks, to demonstrate that pay rates are unilaterally dictated by the platform, and so forth.

Then there are forms of data gathering which require a greater level of work to gather the information. Once PWD is transposed, PPPWs will immediately have access to new rights to information from the platform relating to algorithmic management, regardless of their employment status. Already under GDPR rights, PPPWs can submit a Subject Access Request or a Data Portability Request to the platform and ask for specific information which can illuminate a subordination relationship, such as all the performance evaluation (internal and customer) on that PPPW for the past six months, and the weightings for how that performance evaluation affects pay rates and work allocation.

Other data recovery methods, such as data download portals and 'adversarial' data tools, can be used for the same purpose and are explained in detail in the ETUC's 'Negotiating the Algorithm' trade union manual.[101]

b) Using the algorithmic management rights

The rights in relation to algorithmic management in the Platform Work Directive offer opportunities for workers to: a) better understand how they are managed by platforms and, b) to hold platforms to account for exploitative algorithmic management practices. Let's look at each of these aims - information and accountability - in turn.

Accessing information

The most fundamental aspects of a PPPW's terms and conditions - including how their pay is determined, how their work performance is evaluated and why they have been subject to punishments or sanction - can and often are hidden behind a 'black-box' algorithm. The algorithmic management rights in PWD provides tools to open up this black box.

Workers should submit data Subject Access Requests (SARs) to access key information, as they can do today using GDPR, but with the type and breadth of information that is available expanded by article 9 of PWD (see section 1 chapter III for details). As mentioned in section 2 d), the CCOO union in Spain has highlighted the key categories of information that workers should be looking for from platforms about their algorithms: "the variables" used by an algorithm in coming to a decision, "the weight of each variable" in the decision made, and "the rules and instructions" used to guide these variables.[102]

101 Access the manual here: https://www.etuc.org/sites/default/files/publication/file/2025-09/Negotiating%20the%20Algorithm%20-%20Trade%20Union%20Manual_ETUC%20%28updated%29.pdf
102 CCOO (2025), 'Guide for trade union intervention in algorithmic management'

Workers may find that responses from the platform to a SAR are incomplete or incomprehensible, despite article 9 being very clear about the need for information to be "transparent, intelligible and easily accessible". Unions should seek to provide technical support to workers in making SARs, as well as supporting them with appealing any inadequate SAR responses from platforms by writing appeals to the company and/or to a data protection authority. Finally, to get a full picture of working conditions, workers may need to supplement the information received through SARs through other data recovery tools. These tools are explored in full in the ETUC's 'Negotiating the Algorithm' trade union manual.[103]

Holding platforms to account

Workers' data can be used in a variety of ways to hold platforms to account: to evidence a bogus self-employment claim, to aid collective bargaining efforts, to support legal actions, for political lobbying, as part of information that can be used in a recruitment drive, or simply for analysis purposes. The more unions are informed about the reality of working conditions, the better decisions they can take.

Also, article 11 establishes the right to an explanation and a human review of a specific automated decision. This can be an aid for unions in conducting individual case work on behalf of PPPWs who have been 'de-activated' (i.e. fired) from the platform or believe they have been treated unfairly by the platform in relation to a specific assignment.

If the explanation and human review of an automated decision is deemed to be unsatisfactory by the worker, the transparency rights contained in article 9 can be used to recover data about what happened in that specific incident and challenge the platform's interpretation.

c) Worker representation

One of the key strengths of the Platform Work Directive for unions is that it strengthens the rights of PPPWs to worker representation. This provides a strong basis from which to significantly strengthen union density and collective bargaining coverage in the platform economy.

Some articles worth highlighting (see section 1 for details) in respect to this include:

Article 10 on human oversight and evaluation of automated monitoring and decision-making systems requires that worker representatives are consulted on the evaluation and are provided with a copy of the evaluation.

103 Access the manual here: https://www.etuc.org/sites/default/files/publication/file/2025-09/Negotiating%20the%20Algorithm%20-%20Trade%20Union%20Manual_ETUC%20%28updated%29.pdf

Article 13 requires workers representatives to be informed and consulted before significant changes are made to algorithmic management systems.
Article 17 on the right to relevant information obligates platforms to provide data on their operations, such as the general terms and conditions of platform workers and the intermediaries which the DLP has contracts with.
Article 19 on the right to represent PPPWs in all judicial and administrative settings.
Article 20 on communication channels, which requires platforms to establish private and secure channels for PPPWs and worker representatives to be able to contact each other.

All of these articles provide opportunities for unions to strengthen their links to PPPWs and to be able to offer PPPWs more by way of information and representation. For example, article 20 is a chance for unions to potentially have a means of contacting all PPPWs at a platform. But to make use of this opportunity, it will be necessary for unions to apply pressure onto platforms about the accessibility of this communication channel for workers and for representatives. In other words, the initiative of trade-unionists to maximise these opportunities will be key to whether they are seized upon.

Article 13 gives platform workers the possibility to be prepared for changes to how platforms algorithmically manage them and to challenge those changes before they happen. Additionally, the ability of platform worker representatives to make use of a data expert of their choice to analyse these changes could be a very important organising aid, whether that be in helping to develop new collective bargaining provisions, strike demands, for political lobbying or media outreach purposes, or simply to be able to get a better understanding of how the platform's algorithm works.

Article 17 opens up the prospect of unions being able to develop a broad understanding of a platform's operations, which could be extremely useful for organising purposes. Again, platform's are likely to provide as limited information as they can get away with, so unions will have to be alert about pushing platforms and (if needs be) regulators to have a comprehensive release of this information.

Annex 1:
Transposition red flags

Unions will not be the only organisation looking to influence the transposition of the Platform Work Directive. The platform lobby, which consists of digital labour platforms, the lobby groups they operate within and the ex-politicians and civil servants they pay as 'advisors', are seeking to influence PWD in all 27 member-states, and they have the money and the reach to do it effectively.

If you see politicians or civil servants in your country using these words, it's a red flag that the platform lobby's influence is bearing fruit:

'A general presumption of employment would lead to automatic re-classification of the genuinely self-employed.'

Response: This is not true. Legal presumptions are a tool for administrative and/or judicial bodies to ascertain the correct employment status of workers. They do not lead to workers automatically having their contracts changed, as there has to be an investigation of the real facts about the working relationship before a decision is made. Moreover, because the Platform Work Directive mandates a rebuttal presumption of employment, the platform will always have the opportunity to present their own evidence in an administrative and/or judicial setting if they do not believe the legal presumption should have been triggered.

The benefit of a general presumption of employment, as opposed to a conditional presumption of employment, is that it allows for flexibility in the facts which trigger a presumption of employment, which is necessary because the forms of working relationships in the platform economy are as diverse as in the economy as a whole. A rigid set of conditions is likely to act as a block on some types of platform work from triggering the legal presumption, even if the real facts do indicate direction and control from an employer.

'There must be a criteria for triggering the legal presumption, because if not, how will persons performing platform work (PPPWs), digital labour platforms, competent authorities and judges have any idea whether a PPPW might be an employee or not?'

Response: Every member-state has their own laws, practices and case law on what constitutes an employee. Collectively, this amounts to a national definition of employee. There is also the Court of Justice of the European Union case law on employment status. The Directive also mandates consideration of "facts indicating direction and control".

Furthermore, there is a difference between a hard and fast set of criteria which acts as a series of hurdles which PPPWs have to jump over before they can trigger the presumption, and general guidance for the relevant parties to consider, which could include examples of what previous case law on different types of PPPWs have found. Article 6 a) of the Platform Work Directive requires member-states to "develop appropriate guidance, including in the form of concrete and practical recommendations" for the relevant parties. Criteria is not needed for further guidance and wouldn't play that role in any case.

'We must avoid gold plating in the transposition of the Directive. Excessive regulatory burdens is bad for companies and workers.'

Response: The Platform Work Directive is clear that it is a floor of rights for persons performing platform work (PPPW), not a ceiling. Article 28 states that the Directive sets minimum standards, "without prejudice to the Member States capacity to define higher levels of protection". There are provisions in the Directive for smaller digital labour platforms to have lower cost requirements, such as Article 13 on Information and Consultation, where the cost of data experts is only borne by the platform if they have more than 250 workers in the member-state concerned.

It is vitally important that PPPWs can access all of their rights, and costs cannot be used as a mechanism for platforms to avoid their responsibilities to their workers. Also, platforms already collect the data in which PPPWs and their representatives will be asking for, so costs are unlikely to be excessive.

'Every person performing platform work has a bespoke working relationship with the digital labour platform they are partners with. It will be necessary for administrative/judicial bodies to investigate and prosecute each case individually to ensure that no PPPW is wrongly re-classified.'

Response: The rules governing the relationship between the PPPW and the digital labour platform are typically the same for all: they all sign the one set of terms & conditions. The use of algorithms to personally profile workers and give them individualised wages and conditions based on that profiling does not mean that there is any fundamental difference in the power dynamics between different PPPWs and the platform, just as in standard work settings. For

example, the use of bonuses in the financial sector does not mean that some bankers work for the bank while others do not.

Requiring every case to be investigated and prosecuted individually is wasting the time and resources of administrative bodies and courts, many of which are already over-worked and under-resourced. If one considers that there is, according to the European Commission estimates, 43 million PPPWs in the European Union as of 2025, the idea every one of these workers must go through an individual hearing to obtain their rights is entirely unrealistic. Collective enforcement exists as a practice in labour law for a reason and it should be respected.

'There must be a suspensive effect at the rebuttal stage, so that both digital labour platforms and PPPWs do not have a wrongful employment re-classification thrust upon them before they have their day in court.'

Response: A suspensive effect could delay platform workers accessing their rights for years, as not only would they have to wait for a judicial hearing to be concluded, they would then almost certainly have to wait for the platform to appeal that ruling to higher courts. Given the huge legal resources the biggest platforms have available to them, this could take much longer than the time a platform worker works at one platform, which is often counted in months rather than years.

Suspensive effects are appropriate in the context of highly sensitive cases where the consequences of not applying the suspensive effect could lead to irreversible harm, such as in the case of a migrant deportation order. In the case of employment re-classification, there is no justification for suspending the decision of an administrative or judicial body which is fully qualified to investigate the facts and come to a decision. If the rebuttal is successful, the decision can be reversed.

"Under EU law, the self-employed are entitled to sign collective agreements with unions. Collective agreements which clearly state that PPPWs are self-employed must be respected in national law."

Response: Sham agreements with unions hand-picked, and often funded, by the platforms cannot be used to undermine platform workers' rights. Article 4.2 of the Platform Work Directive is clear that that 'primacy of facts principle' must be in force, meaning that the actual facts governing the working relationship is given primacy in determining the correct employment status, regardless of what is agreed in a collective agreement, the terms & conditions or even national law.

Moreover, the Directive is clear that employment misclassification proceedings can be pursued by an administrative and/or judicial body without the consent of PPPWs: no one has the right to be misclassified.

Annex 2:
Transposition check-list

These are practical activities that all unions can try to complete well in advance of the Platform Work Directive being transposed. Print this out and tick them off when they are complete.

- [ ] Organise a union internal meeting to discuss the transposition and develop a strategy.

- [ ] Use this guide to develop a briefing document which can be given to civil servants, politicians and the media outlining the key priorities and red lines for trade unions in transposition.

- [ ] Organise meetings with PPPWs to inform them about the transpositions and the new rights that will be applied for them after it becomes national law.

- [ ] Collect information from PPPWs about their working conditions, including the main problems they face and concrete challenges. Use those to back up your arguments in negotiations and in the transposition process. The use of personal stories and the social media campaigns can be very effective in campaigning as well.

- [ ] Collect data on the scope of platform work in your country. Look beyond the riders and ride-hailing. The ETUC report 'Strategic Foresight - Which workers are vulnerable to Uberisation? 'can be useful for assessing which industries platform work might be relevant in. Make alliances with researchers in your countries, who can back you up with arguments.

- [ ] Find out what is the competent authority responsible for the transposition. Arrange a meeting with them and discuss the practicalities and possible procedures that need to be established.

- [ ] Ensure the union has a consultation meeting with the competent authority responsible.
- [ ] Find out the timetable for transposition.
- [ ] Find out how the Directive is going to be transposed, i.e. via a reform of a pre-existing labour law/code or through a new Act of parliament.
- [ ] Organise a meeting with the relevant minister (presumably the labour minister) and consider what other politicians should be lobbied. Try to involve platform workers in the lobbying .
- [ ] Be vigilant about the influence of the platform lobby on politicians and on the public debate about transposition, and try to counter that influence using all means available (the media, social media, strike, protests etc)
- [ ] Think creatively about what alliances could be built to influence the transposition. Businesses and politicians which may not typically be favourable towards unions may see the importance of having a level-playing field of employment rights for all companies .
  Labour inspectorates or other competent authorities can be allies as well.
- [ ] On the day the Directive is transposed into national law, be prepared with a strategy to make use of the new law and to engage unionised and non-unionised platform workers so they know their rights and how to access them.

Annex 3:
‘Think you might be bogus self-employed?’: Template promotional text for a unionisation drive post-transposition

Is your work managed via an app or an online platform? Are you only paid for the time spent completing a task, rather than your whole time at work? Do you not get holiday pay, sick pay or protection against unfair dismissal?

If the answer is ‘Yes’ to these questions, you might be bogus self-employed and entitled to better pay and working conditions.

A new law has been introduced to eradicate bogus self-employment for workers on apps and online platforms, what is sometimes called the ‘gig economy’.

Bogus self-employment means that your contract says you are a freelancer but the reality of your working relationship is that you are controlled and directed by a digital boss.

Under the new law, workers in the gig economy who think they might be bogus self-employed can make a complaint and, if found to be bogus self-employed, the company can be legally required to provide them with an employment contract.

With an employment contract, you can access a whole set of rights and protections which are not available if you are self-employed, including:

- The right to be paid at least the hourly minimum wage for your full time spent at work
- The right to protection from unfair dismissal, including no app de-activation

- The right to paid holidays, paid sick leave and paid parental leave
- The company pays contributions towards your state pension
- Company health & safety protections for workers, including protective equipment if needed
- If you are made unemployed, the right to a notice period and unemployment benefit
- Employment status makes it easier to access credit at a bank, for example for a mortgage

The union can help you pursue a bogus self-employment claim: it's easier to do than you might think. Join us.

Frequently Asked Questions

Q: "I choose my own work schedule - could I still be bogus self-employed?"

A: Yes. Courts all around Europe have found that workers like food delivery couriers and ridehail drivers are bogus self-employed because despite having the power to set their own work schedules, their work is closely controlled and directed by the platform for the time they are working on the app.

Q: "Do I have to pay for a lawyer to make a bogus self-employment claim?

A: Not if you join the union. Our union has labour lawyers who are experts in helping workers make bogus self-employment claims. Before joining, you can discuss with us your situation so you are aware of what your options are and the ways we can help.

Q: "If the company finds out I'm pursuing a bogus self-employment claim, can they de-activate me from the app?"

A: If they did, they would be breaking the law. It is illegal to retaliate against a worker for trying to claim their rights. The union can also help protect you from illegal retaliatory measures.

Q: "I work on an online platform from my computer at home - could I still be bogus self-employed?"

A: Yes. As long as you work on a digital labour platform - whether at home or on-location - you have what is known as a 'legal presumption of employment', meaning once you have made your claim it will be up to the platform to either accept it and give you an employment contract or to prove that you are genuinely self-employed. The union can help guide you through whether you might be bogus self-employed or not.

Q: “I’m not sure if I work on a digital labour platform or not: how do I find out?”

A: For the purposes of the new law, a digital labour platform has to have four features: 1) at least part of the service is organised at a distance by electronic means. 2) The service is provided on request. 3) The worker providing the service gets paid, even if payment is organised off-line. 4) Automated monitoring and decision-making systems are used.

Have more questions? Contact us to discuss.

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