



Proposal for a directive on platform work: algorithmic management and collective protection

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On December 9, 2021, the European Commission issued a **package of measures aimed at protecting platform workers** consisting of a [Proposal for a Directive](#) and [Guidelines](#) for the proper application of European competition law to collective agreements governing the working conditions of self-employed workers.

The reason for the adoption of these measures, described within the accompanying [Communication](#) is primarily the **rapid growth of the digital platform economy in the context of the European Union**. In fact, between 2016 and 2020, platform work saw a fivefold increase in its revenues: it is estimated that by 2025 **around 43 million workers in the European Union** will be working through digital platforms.

Currently, **9 out of 10 digital platforms classify their employees as self-employed**. The classification of the employment relationship of platform workers is one of the most discussed areas of this type of work, since, as demonstrated by some issues raised at the national level, **most of them perform their services in ways more similar to salaried employment**: one of the main objectives of the proposed Directive is precisely to protect these workers, through measures that ensure the proper qualification of their professional relationship (for more details on this point, see F Capponi, [Dalla Commissione Europea una proposta di direttiva sul lavoro tramite piattaforma digitale: il punto sulle previsioni in materia di qualificazione del rapporto di lavoro](#), Bollettino ADAPT n. 44/2021).

However, it should be noted that the proposal for a directive contains several provisions applicable to all platform workers, both employed and self-employed. Among these, those related to **so-called algorithmic management**, i.e., **the use of IT instruments to supervise and assess the work of these workers, as well as to make decisions that directly affect their employment relationship and working conditions**, are particularly relevant.

The proposal for a directive is intended first to make workers aware of the existence and functioning of these systems by compelling platforms that use them to provide **information on what is being monitored and the parameters used by the algorithm to make automated decisions** (Article 6). This obligation appears to be directly functional to the effectiveness of the provision contained in Article 8, which establishes the **right of workers to obtain explanations** from the digital platform about any decision taken by the automated systems that directly affects their working conditions. If the decision has to do with matters related to the worker's actual account (restriction, suspension or deletion), his salary or contractual status, it is also possible to obtain a written report from the platform. In case the platform's response is

not satisfactory, **the worker can challenge the decision made by the algorithm**: in this case, the decision must be reviewed by a human being within a week of the request.

Especially with regard to employed platform workers, however, the proposed directive does not only intervene on issues related to the transparency of algorithmic management systems, but it also aims to introduce a **higher level of protection with respect to the possible uses of these tools**. In this sense, it is worth noting what is contained in Article 7, paragraph 2, which, among other provisions, states that **platforms may not use algorithmic management systems in such a way as to expose workers to excessive pressure**, or put their physical and mental health at risk.

It is interesting to note, moreover, that **the need for transparency in the use of algorithmic management is not only expressed at individual level, but also at collective level**: in case of introduction or changes in the use of automated monitoring or decision-making systems, digital platforms will have to **inform the representatives of platform workers**, who may also be assisted by an expert in the matter.

The *explanatory memorandum* introducing the proposed directive, as well as the Commission's communication, make clear that **the explicit purpose of this provision is to promote social dialogue and collective bargaining in the field of algorithmic management and, more generally, directed at platform workers**. Both types of collective action, considered by the European Commission to be crucial to improve the working conditions of EU citizens, do not play a significant role among collective workers. In order to facilitate organization and collective action by platform workers, the proposed directive therefore requires digital platforms to **provide appropriate means and channels for their employees to communicate with each other**, and to be contacted by their representative associations (Article 15).

Although the mentioned measures may facilitate opportunities for contact between platform workers, it should be noted that **the problems regarding their collective representation are difficult to resolve with mere "technical" interventions**. These, in fact, can certainly be traced back to the particular way through which they perform their professional activities, characterized by the lack of a physical workplace, which may very well result in a possible reduction of interactions between the workers themselves. However, they appear to be mostly related to the increasingly widespread phenomena of **parcelling and individualization of work, which prevent or considerably limit the formation and recognition of the collective interest** (on the subject, among many, see M. Forlivesi, *In search of collective protections for digital workers: organization, representation, bargaining*, Labour and Law Issues, 2018, vol. 4, no. 1, p. 20).

Going beyond the topic of the proposed directive, it should be noted that similar considerations can be made, at least in the Italian context, for another type of digital workers, namely **'smart' workers or 'agile' workers**. Although collective bargaining on the subject has repeatedly dealt with the technical guarantee of the exercise of trade union rights in remote mode, through tools such as electronic bulletin boards and virtual rooms for meetings, the **impact of remote work on characteristic aspects of representation as we know it today, such as local roots, membership mechanisms, levels of collective bargaining has not yet been fully addressed** (on the subject, see F. Seghezzi, D. Porcheddu, *Renewing strategies of representation and workers' protections. Le sfide dei sindacati nell'epoca dello smart working*, Sviluppo&Organizzazione, October-November 2021, pp. 26-28).

If the Proposal for a Directive is not amended during the legislative process, Member States, at the time of its transposition into their national legislation, will therefore have the opportunity to deal **with this issue in terms of collective representation of the new forms of digital work**: this process, clearly, should have to involve employers' representatives and trade unions alike.

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