

October 14th, 2022

Mr. Marian JURECKA

Deputy Prime Minister and Minister of Labour and Social Affairs
of the Czech Republic

CC

Mr. Nicolas Schmit

Commissioner for Employment and Social Rights

Dear colleague,

We are pleased with the interest shown by your Presidency in promoting the implementation of the European Pillar of Social Rights, which is now more necessary than ever. We particularly welcome your commitments to reach a General approach by December on the proposal for a Directive on improving working conditions in platform work.

One of the main objectives of the EU is the promotion of the well-being of its people and the sustainable development of Europe based on a competitive social market economy, aiming at full employment and social progress. In this sense, the right of every worker to fair and decent working conditions which respect their dignity, health, and safety, together with workers' right to information and consultation, are enshrined in the Charter of Fundamental Rights of the European Union.

Within this framework, we would like to convey our wish to adopt an EU Directive with the highest degree of ambition that strikes the right balance between achieving a real improvement of the working conditions of people performing platform work, irrespective of their employment status, and making platform work sustainable.

The ongoing negotiation offers a unique opportunity to ensure fair and decent working conditions for people working on digital platforms at EU level, including through intermediaries and in cross-border situations. We are convinced that this objective can only be achieved if the Directive contributes to a level playing-field in the EU and firmly establishes the necessary legal instruments to ensure a correct classification of workers and a full enjoyment of their rights. We call on the Presidency to fully consider these objectives when presenting its final compromise.

Therefore, an effective and strong, but rebuttable, legal presumption of the employment relationship, reflecting the actual control and direction exercised by digital labour platforms, must remain the core of the Directive. The legal presumption should be triggered according to clear and transparent rules and mechanisms, which should be shared by all member states without creating potential differences across countries.

Establishing restrictions or derogations from this legal presumption would only perpetuate the existing imbalance between platforms and people performing platform work today, which has led to the existence of thousands of bogus self-employed workers in Europe, and precarious working conditions through the abuse of atypical contracts. In addition, making the triggering of the presumption more difficult could result in greater legal uncertainty.

Moreover, it is particularly important to reaffirm the rights of representation of persons performing platform work in order to establish the right balance of power and facilitate conflict resolution against digital platforms that are often transnational companies. We need to give access to data and information to persons performing platform work and their representatives if we want to properly regulate the algorithms and spur collective bargaining.

Finally, we should establish effective and clear provisions that enable the enforcement of the protection of the personal data of people performing platform work in the Directive and more transparency in the algorithmic management performed by such platforms, taking also into consideration the competence of the enforcement authorities. Equally, clear rules and rights should be defined to ensure the accountability and transparency of monitoring and decision-making systems used for all workers affected by algorithmic management, independently from their employment status.

In conclusion, in times of economic and social uncertainty, we have a responsibility in reinforcing the European Pillar of Social Rights, by making people-centred policies that ensure that the digital and green transitions go hand in hand with workers' rights. We therefore offer our full support to work towards a fair and balanced text that rigorously addresses the social challenges raised by the digital transformation. Let us grasp this opportunity to make the EU the global leader in improving the working conditions for platform workers.

Kind regards,

Pierre-Yves DERMAGNE

Deputy Prime Minister and Minister of the Economy and Employment of Belgium

Luka MESEC

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