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NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee

Subject: Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on improving working conditions in platform work
- *Analysis of the final compromise text with a view to agreement*

I. INTRODUCTION

The Commission presented its proposal for a Directive on improving working conditions in platform work on 9 December 2021. Building on the work of the Slovenian and French Presidencies and after a first attempt under the Czech Presidency in December 2022, a general approach (doc. 10107/23) was reached by the Council under the Swedish Presidency on 7 June 2023.

The European Parliament voted to start inter-institutional negotiations on 2 February 2023.

II. STATE OF PLAY

The proposal was subject to eight trilogues, the first having taken place on 11 July 2023. At the seventh trilogue on 12/13 December 2023 the co-legislators managed to reach a provisional agreement of the text¹. However, this proposal did not find the necessary support at the Coreper meeting on 22 December 2023.

¹ Doc. 16187/23 + ADD 1 and ADD 2.

The Belgian Presidency resumed the negotiations on the file with the aim of reaching an agreement still under this legislature. At the Coreper meeting on 26 January 2024² it obtained a revised mandate that is largely based on the provisional agreement reached in December.

At the 7th trilogue on 30 January, the Parliament informed the Presidency that an agreement could not be found on the suggested basis due to very divergent views related to the legal presumption set out in Chapter II. While chapter III of the Directive remained untouched, an alternative approach on the legal presumption, which leaves to Member States the setting of modalities for the introduction of an effective legal presumption in their national law, was drawn up by the technical teams of the co-legislators. Based on this text, the Presidency sought a second revised mandate at the level of Coreper³.

Although in the Coreper meeting of 7 February no sufficient support for this proposal was found, partly due to the lack of time for delegations to examine the text, the Presidency was authorised by the Committee to continue negotiations with the Parliament. In the 8th trilogue on 8 February 2024, following difficult negotiations, the co-legislators agreed on a provisional compromise text. The main elements of this second provisional agreement are laid out in document 6289/24. The text of the provisional agreement is set out in Addendum 1 to this Note.

However, in its meeting of 16 February 2024, Coreper was not able to approve the second provisional agreement. The Presidency remained determined to continue its work with those few Member States that were not able to support the text, by clarifying and explaining the provisional agreement. The Commission supported the Presidency in its endeavour, notably by presenting statements made in Coreper, both orally and attached to the minutes of Coreper, clarifying the notion of an effective legal presumption and the expected impact of the directive on the traditional tax sector.

IV. CONCLUSION

The Presidency still considers that the provisional agreement, as set out in Addendum 1 to this Note, represents the best possible compromise between the co-legislators. It respects the spirit of the general approach as updated by the revised mandate of 26 January and takes into account the guidance provided by the Committee on 7 February 2024.

² Doc. 5816/24 + COR1

³ Doc. 6002/24.

The Presidency would like to call on the delegations to show additional flexibility and to agree on the current compromise text, which is the result of the intensive work over several Presidencies, taking into account the risk of missing the chance to adopt under the current legislative term this key piece of legislation that would considerably improve the rights of persons performing platform work and the working conditions of platform workers while supporting the development and sustainable growth of the platform economy.

In case the Committee, in its meeting of 6 March 2024, will not be able to agree on the compromise text as set out in Addendum 1 to this Note, the Presidency considers that the issue should be brought to the ministerial level. Therefore, as a last resort, the analysis of the final compromise text with a view to reaching an agreement will be referred to the Council (EPSCO), where ministers will debate the issue and indicate whether they can agree with the provisional agreement of 8 February 2024.

The Committee of Permanent Representatives is invited to:

1. agree on the text of the final compromise, as set out in Addendum 1 to this Note, and to
 - a. mandate the Presidency to send a letter to the President of the EMPL Committee of the European Parliament confirming that, should the European Parliament adopt its position at first reading, in accordance with Article 294(3) of TFEU, in the exact same form as set out in the compromise text set out in the Addendum to this document (subject to finalisation by the lawyer-linguists of the two institutions), the Council would, in accordance with Article 294(4) of TFEU, approve the position of the European Parliament and the act shall be adopted in the wording which corresponds to the European Parliament's position; and
 - b. agree that the agenda point "Directive on improving working conditions in platform work *Analysis of the final compromise text with a view to agreement*" currently inscribed on the agenda of the Council (EPSCO) of 11 March is transformed into an AoB point;

or
2. in case the Committee of Permanent Representatives is not able to agree on the aforementioned point 1, to submit the compromise text as set out in the Addendum to this

Note to the Council (EPSCO) with a view to reaching an agreement on this text at its session on 11 March 2024.

Agence Europe