

Considérants

**(30 bis) This Directive fully respects the diversity in Member States' labour law and domestic social model of regulation of the platforms. In this regard, it also respects the reality of the contractual relationship between a person performing platform work and the concerned digital labour platform. While it seeks to facilitate the reclassification of bogus self-employed as workers through the legal presumption, it should not cover all situations of persons performing platform work, in particular where self-employment accurately reflects the reality of the contractual relationship. In this context, the legal presumption should therefore not cover situations where the persons performing platform work are genuine self-employed.**

(32) **An effective** legal presumption **constitutes an effective procedural facilitation if** national law makes it effectively easy for the person performing platform work to **benefit from have access to** the presumption. The requirements under the legal presumption should not be burdensome and should ease a person performing platform work's difficulties in providing evidence indicating the existence of an employment relationship in a situation of unbalance of power vis a vis the digital labour platform. The purpose of the presumption is to effectively address and correct the unbalance of power between the persons performing platform work and the digital labour platform. The modalities of the legal presumption should be set out by the Member States, in so far as those ensure the establishment of **an effective** a rebuttable legal presumption of employment that constitutes **an effective** procedural facilitation to the benefit of persons performing platform work, and do not have the effect of increasing the burden of requirements on persons performing platform work, or their representatives, in proceedings ascertaining their employment status, **compared to the burden that would apply in the absence of such instrument.** The application of the legal presumption should not automatically lead to the reclassification of persons performing platform work. Where the digital labour platform seeks to rebut the legal presumption, it should be for the digital labour platform to prove that the contractual relationship in question is not an employment relationship as defined by the law, collective agreements or practice in force in the Member States, with consideration to the case-law of the Court of Justice.

Dispositif législatif : article 5

§ 2. To that effect, Member States shall establish **an effective a** rebuttable legal presumption of employment that constitutes **an effective** procedural facilitation to the benefit of persons performing platform work, and Member States shall ensure that that legal presumption does not have the effect of increasing the burden of requirements on persons performing platform work, or their representatives, in proceedings ascertaining their employment status.

§ 5. **In line with the prerogatives conferred to them,** where **a** competent national authorities consider that a person performing platform work might be wrongly classified, **it they** shall initiate appropriate actions or proceedings, in accordance with national law and practice, in order to ascertain the employment status of that person.