Chapter 4
The politics behind EU legislation on platform work: institutional synergies and a novel constellation of players

Slavina Spasova and Matteo Marenco

Introduction[1]

Often depicted as the epitome of the future of work in the digital society, working through digital platforms has triggered heated political and scientific debates in the field of labour relations and social protection. The business model of one specific type of platform, namely 'on-location' platforms such as Uber and Deliveroo, has been widely questioned (Casilli 2020; Srnicek 2017). Such platforms rely on self-employment to link the supply and demand of services (De Stefano and Aloisi 2019). The employment status of platform workers[2], i.e., whether they should be classified as self-employed or employees, has become a highly contested terrain where a wide array of players ranging from governments and social partners, platforms and platform workers to national courts have become involved. In this context, some Member States (France, Greece, Italy, Portugal and Spain) have introduced legislation tackling the issue of the status of platform workers, while others are on their way to doing so (European Commission 2021a). Moreover, there has been a spate of court rulings classifying platform workers as employees (Supreme Courts of France, Germany and Spain).

Due to their organisational structure and practices, national social partners have found it difficult to respond to the development of platform work (Doherty and Franca 2020). Employers have generally been supportive of the innovative nature of platforms, stressing the importance of flexibility in their business models (Eurofound 2018). Trade unions have warned against an overuse of flexibility that undermines protection and have called for stricter regulation (Vandaele 2018).

Due to the transnational character of platforms, the political debate surrounding platform workers' employment status and working conditions travelled rapidly from the national to the EU level. While discussions were already ongoing under the Juncker European Commission, the political guidelines of the von der Leyen European

Commission (hereafter, 'the political guidelines') signalled an official EU ambition to take action on the matter, proposing a Directive on improving working conditions in platform work (hereafter, 'the Proposal') in December 2021. While research has focused on the nature of platform work, the employment status of platform workers and their labour and social protection (Behrendt et al. 2019; Drahokoupil and Fabo 2016; Rahman and Thelen 2019), no assessment has been made of the political and policy process at EU level which led to the Proposal, i.e., how the Commission tabled an unexpectedly ambitious piece of legislation.

The purpose of this chapter is to look into this process of drafting the Proposal, focusing on three main elements: a) the issues at stake and how they became the cornerstones of the Proposal; b) the role of the EU institutions and the balance of power in the area of social policies; c) the demands of the different parties involved and the political interplay between them. The methodology is qualitative, mainly based on 12 semi-structured in-depth interviews with representatives of the interested parties: EU institutions (European Commission, European Parliament and the Council of the EU), representatives of the EU social partners and of platform workers as well as a legal scholar involved in research on the Proposal (see Annex 1 for further details). The only stakeholder not responding (at least formally) to our numerous attempts to contact them were platform companies and their umbrella organisations at EU level. This was surprising as we knew (through the interviews) that EU officials and Member States' representatives within the Council have been subject to an unprecedented number of demands for meetings by platform companies (see also the Uber files' affair[3]). As far as possible, the results of these interviews were triangulated against official institutional and stakeholder documents (including policy papers and amendments to European Parliament reports) and public statements.

The chapter is structured as follows: after a brief explanation of the building blocks of the Proposal (Section 1), we discuss the role played by the European Commission as a 'policy entrepreneur' in setting the policy agenda (Section 2). Section 3 looks at the role of the European Parliament in politicising the issue and pushing through the idea of legislation on the matter. Section 4 focuses on the role of 'traditional' social partners but also of platform workers and platform companies which emerged as a novel but essential constellation of stakeholders. Finally, Section 5 briefly describes the ongoing negotiations. We conclude by reflecting on the balance of power between EU institutions and stakeholders and more generally on the significance of the Proposal in the discussions around the future of work.

---

3. The Uber Files represent a leaked database of Uber's lobbying activities targeting national (in about 40 countries) and EU officials from 2013 to 2017. It was investigated by the International Consortium of Investigative Journalists and published by *The Guardian* in July 2022 (for more information see, ICIJ 2022 and ETUC 2022).

1.   The cornerstones of the Proposal

The 'Proposal for a Directive on improving working conditions in platform work' is made up of three pillars: 'Employment status' (chapter 2), 'Algorithmic management' (chapter 3) and 'Transparency on platform work' (chapter 4). Chapter 2 requires Member States to introduce appropriate procedures to avoid misclassification of platform workers. The Commission's starting point is that people working through a platform *are legally presumed to be in an* employment relationship if a number of conditions are met[4]. Thus, there is '*legal presumption* that an employment relationship exists between the digital labour platform and a person performing platform work, if the digital labour platform controls certain elements of the performance of work' (European Commission 2021a:15). Criteria verification would occur at national level. Moreover, the Proposal stipulates that 'the burden of proof that there is no employment relationship will be on the digital labour platform' (European Commission 2021a:16).

The Proposal's third chapter, 'algorithmic management', establishes 'human monitoring' of the effect algorithmic systems have on working conditions. Such 'monitoring' would also require information and consultation of workers and would promote social dialogue on matters related to automated algorithmic decision-making. Chapter 4 on 'transparency on platform work' provides for platforms being required to communicate essential data to Member States, such as the number of people performing work and the general terms and conditions applicable to those contractual relationships. In the following, we focus on the political and policy proposal that led to the adoption of the chapter on 'Employment status', as its provisions were clearly the most contested in the debates and it was not expected that the Commission would go so far on the matter (for an in-depth analysis of the provisions, see De Stefano and Aloisi 2021; Ponce Del Castillo and Naranjo 2022; Hooker and Antonucci 2022; Raucent 2022).

2.   The Proposal's difficult birth: the Commission as a policy entrepreneur

The European Commission has been at the heart of putting the issue of platform workers' social and labour conditions on the EU agenda. As De Stefano and Aloisi (2021) note, the Commission 'adopted a bold posture', bringing to an end the 'platform exceptionalism' in the European regulatory labour and social landscape. This is especially interesting when one considers that the Proposal concerns the sensitive area of the digital transition, the social dimension of which was previously absent in the Commission's discourse (Ponce Del Castillo 2022).

---

4.   Two of the five following criteria should always be fulfilled to trigger application of the presumption: (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; and (e) effectively restricting the possibility to build a client base or to perform work for any third party (European Commission 2021a:34).

According to our research, such a 'bold posture' became possible thanks to the social legacy of the Juncker Commission (2014-2019), the spur of the Covid-19 crisis which was crucial for spotlighting the social situation of these workers, and the political support of the European Parliament. In this context, the European Commission acted as a policy entrepreneur[5], a) displaying social acuity (i.e., 'reading the political pulse of the EU'; Copeland 2022:4); b) defining the problem; and c) building coalitions, in this case with the European Parliament. The von der Leyen Commission has continued the social ambitions of the Juncker Commission which revived the EU social dimension (Vanhercke et al. 2021; Tholoniat 2022) after years of 'debasing Social Europe' under the Barroso I and II Commissions (Crespy and Menz 2015)[6]. Among the main merits of the Juncker Commission in the social area was the elaboration of the European Pillar of Social Rights (Sabato et al. 2018; Sabato and Corti 2018). However, the Juncker Commission has been assessed to be a 'politicising bricoleur', focused on revising non-contentious policies but with few legislative and innovative initiatives, as it felt that proposing new policies was a high-risk strategy that would most likely fail and should wait until a political and policy momentum had been established (Copeland 2022). The von der Leyen Commission has proved more ambitious, putting forward legislative initiatives including the notable Minimum Wage Directive, the proposal for a Directive on Platform Work, the revision of legal provisions linked to work-related health and safety as well as innovative 'soft law' initiatives such as the Child Guarantee, a Council Recommendation on minimum income, the Gender Equality Strategy 2020-2025 and the new European Long-term Care Strategy (see Vanhercke et al. this volume).

The issue of the working conditions of platform workers was enshrined in the political guidelines of the von der Leyen Commission, which aimed at proposing policies to improve platform workers' 'labour conditions' by 'focusing on skills and education' (von der Leyen 2019). The idea, therefore, was initially approached in a rather general and uncontentious fashion, as skills and education would not give rise to strong objections. In its January 2020 Communication, 'A strong Social Europe for Just Transitions', the Commission discourse became more specific, emphasising improving the working conditions of platform workers, particularly with reference to their employment status, working conditions and access to social protection, access to collective representation and bargaining, as well as cross-border aspects of platform work. A year later the Commission launched a two-stage consultation[7] which ran between February and June 2021 (see Annex 2).

The von der Leyen Commission was, therefore, the ideational agenda-setter (alongside its statutory initiator role), displaying social acuity and defining the problem. It did that in continuity with the Juncker Commission – and especially in the context of the Covid-19 pandemic which should be highlighted as an essential element raising political

---

5. For a more in-depth discussion of the European Commission as a policy entrepreneur in the social area, see Crespy and Menz (2015) and Copeland (2022).

6. It should be noted that the social dimension was not completely absent under the Barroso I and II Commissions, as seen by the launch of the Social Investment Strategy or the first-ever EU anti-poverty target (see Vanhercke 2020).

7. Under Article 154(2) TFEU, before submitting proposals in the social policy field, the Commission must consult the social partners representative at EU level.

awareness of platform workers' social conditions throughout the EU (Interviews COM1 and 2, EP1 and 2, ETUC).

Defining the main issues, and especially the most prominent provision of the Proposal, 'the presumption of employment', was first and foremost subject to discussions within the Commission itself, as the political guidelines only provided general indications. Discussions were needed on the actual shape of the initiative. It should be noted that important work had already been performed by Directorate General (DG) for Employment, Social Affairs and Inclusion (DG EMPL) before the von der Leyen Commission took office, in parallel with the adoption of the 2019 Council Recommendation on access to social protection and the Directive on transparent and predictable working conditions. In 2020, the Commission launched a study[8] (Interview COM1) to improve understanding of the situation of platform workers. Moreover, platform work had already been identified as a growing challenge in 2019 when the Commission adopted the platform-to-business relations (P2B) Regulation[9], which defines the relationship between self-employed workers, business users and platforms (Interview COM2). At that time however, although a lot of technical work was done, there was not enough political support within the European Parliament (Interview COM1). During the establishment of the new von der Leyen Commission, the Secretariat General asked the other DGs to provide contributions on potential political priorities for the next College of Commissioners. Among the top priorities identified by DG EMPL were social issues around platform work (Interview COM1).

To understand the genesis and development of the Proposal, it is also important to consider that, while the Commission acts as a unitary player, proposals for initiatives stemmed from inter- and intra-service political discussions (Cram 1997; Hartlapp et al. 2014). While there was general support in the Commission for an initiative on platform work, various Commission's services had differing views on its form and content.

Prior to and during the consultation, several inter-service discussions took place to ensure compatibility and consistency between the future Proposal and various digital initiatives (Interviews COM1 and 2; on the various initiatives see Ponce del Castillo and Naranjo 2022), notably between services in DG EMPL but also with a) DG Internal Market, Industry, Entrepreneurship and SMEs (DG GROW) on the 'presumption of employment', the costs for employers, flexibility, and compatibility with innovation; b) DG Communications Network, Content and Technology (DG CNECT) on the links and compatibility with the Artificial Intelligence Act; and c) DG Justice and Consumers (DG JUST) on the General Data Protection Regulation (GDPR) (Interviews COM1 and 2). Importantly, contentious issues emerging during the inter- service discussions were overcome, among others, thanks to the high-level political commitment to such an initiative between the cabinets of Social Affairs Commissioner Nicolas Schmit,

---

8. See Kilhoffer et al. 2019.
9. Regulation (EU) 2019/1150 of the European Parliament and of the Council of 20 June 2019 on promoting fairness and transparency for business users of online intermediation services platform-to-business relations (P2B Regulation) is the first ever set of rules for creating a fair, transparent and predictable business environment for smaller businesses and traders on online platforms (for more information see: https://digital-strategy.ec.europa.eu/en/policies/platform-business-trading-practices).

Commissioner for Competition Margrethe Vestager, Internal Market Commissioner Thierry Breton and Executive Vice-President of the European Commission Dombrovskis (Interviews COM1, EP1, ETUC; Politico 2021, Euractiv 2022a). The Covid-19 pandemic further influenced the discussion within the Commission (Interviews COM1 and 2).

In this context, the Commission also acted as a builder of coalitions, especially with the European Parliament. As one of our interviewees put it, the drafting of the Proposal reflected a true 'symbiosis' (Interview COM1) between the two institutions. There were very frequent and fruitful exchanges between Commissioner Schmit and the Committee on Employment and Social Affairs (EMPL Committee) in the European Parliament (Interviews COM1, EP1 and 2), with the two institutions taking up each other's ideas (Interviews COM1, EP1 and 2). One of the Proposal's cornerstones, the 'presumption of employment', was proposed at an early stage by DG EMPL and the Schmit cabinet, while the European Parliament's own-initiative report helped confirm it, in turn strengthening the internal discussions within the Commission (Interview COM1).

3.   The European Parliament: raising political awareness on the social conditions of platform workers

The European Parliament (henceforth 'the Parliament') was a key player in politicising the need for an EU measure on platform work and calling for the employment status of platform workers to be addressed (Interviews COM1, EP1 and 2, ETUC). On 16 September 2021, the Parliament, in a landslide vote[10] covering all political groups (except for the far right: European Conservatives and Reformists, ECR, and Identity and Democracy, ID), voted in favour of a 'Resolution on fair working conditions, rights and social protection for platform workers – New forms of employment linked to digital development'. This broad consensus on an initially controversial topic mirrored what had already happened during the vote in the EMPL Committee on the so-called 'Brunet own-initiative report' (European Parliament 2021a). It should be mentioned that the issues of employment status and presumption of employment had already been discussed in the Radtke[11] - Jongerius[12]' own-initiative report in 2020 on a strong social Europe for Just Transitions.

Our evidence shows that this broad consensus was due to two factors. First, as in the case of the Commission internal discussions, Covid-19 played a key role in the progress of this dossier. Due to the pandemic, the debates in the EMPL Committee were less politically harsh. Without the crisis, the rapporteur would certainly have had more difficulty promoting this issue which initially divided the left and the right of the political spectrum but also displayed divisions within political groups (Interviews EP1 and 2; see also the amendments to the 'Brunet report', European Parliament 2021b).

---

10. European Parliament resolution of 16 September 2021 (2019/2186(INI)): For 524; Against 39; Abstentions 12. The abstentions and votes against came only from the ECR and ID groups and some non-attached (NA) MEPs. https://parltrack.org/dossier/2019/2186(INI)#/votes (https://parltrack.org/dossier/2019/2186(INI)#/ams)

11. European People's Party, EPP.

12. Socialists and Democrats, S&D.

MEP Brunet took clear advantage of the pandemic context and of a growing awareness towards protecting these workers. Indeed, this context was essential, as some Liberal and EPP MEPs saw the 'uberisation' of the economy as an opportunity for those having difficulty finding a job, without really focusing on the social issues surrounding this work (Interview EP2). Covid-19 acted thus as an eye-opener, heightening awareness within the Parliament that the issue of the social condition of platform workers should be taken seriously through a legislative initiative (Interviews EP1 and 2). Second, following the publication of the political guidelines, the Parliament was particularly active in pushing for the Schmit cabinet to be allocated the platform work dossier within the Commission (Interviews EP1 and 2). Indeed, at that time, discussions were also ongoing about the prospect that platform work would be addressed by DG GROW within the context of its initiative on collective bargaining for the self-employed (the Draft Guidelines were adopted in December 2021). Some MEPs thus feared that the issues linked to the social and the labour market conditions of platform work would be reduced to competition and internal market consideration (Interview EP1, ETUC).

A central reason why the Parliament was able to steer the Proposal in the desired direction has to do, we claim, with the crucial role played by the personality and social commitment of certain MEPs. Three main protagonists emerged from our interviews. Sylvie Brunet (the rapporteur of the own-initiative report) of Renew Europe and Dennis Radtke, the EPP shadow rapporteur, played a crucial role in uniting their respective political groups around the issue, something that was far from self-evident given the respective political positions of their groups. Within The Left[13], a group generally not committed to further EU integration (Bakker et al. 2015), MEP Leila Chaibi played a key role in pushing the issue within the group and raising general awareness among MEPs by making the voice of platform workers heard in the Parliament. It should be highlighted that the role of the S&D group was essential to put the issue on the EU agenda (also on their political agenda), particularly with regard to the 'presumption of employment' issue (European Parliament 2021b; S&D 2021a,b). The Greens too were united on this issue (European Parliament 2021b). However, the focus of the chapter is to show the role of protagonists from political groups in which a consensus on the issue of platform work was difficult to reach.

During the negotiations on the 'Brunet report', Renew Europe and the EPP were initially quite divided on the topic of regulating platform work (Interviews EP1 and 2). The report was attributed to Renew Europe mainly because this group is very much engaged in the digital transition, one of its key priorities (Interview EP2). Importantly, it is quite uncommon for the Parliament to initiate an own-initiative report while the Commission is conducting a two-stage consultation. MEP Brunet was also personally interested in heading this report as she had accumulated considerable experience in social issues through her previous career as human resources manager and as president of the Employment Committee in the French Economic Social and Environmental Council (Interview EP2).

---

13. Previously called the Confederal Group of the European United Left/Nordic Green Left (GUE/NGL), the grouping has been called The Left since 2021.

Her position at that time was not easy. She had to walk a political tightrope as her party *En Marche!* largely supported the position taken by the French government, which had long been against any regulation of the employment status of platform workers (Interview EP1, Gomes 2022, see also ETUC 2022). The draft text of the 'Brunet report' was strongly inspired by the Commission's first-stage consultation document, the 2019 Recommendation on access to social protection, the Directive on transparent working conditions and Regulation 2019/1150 on fairness and transparency of online intermediation services (Interview EP2). Presented in February 2021, the draft was quite prudent in clearly stating the issues surrounding the social protection, low pay and algorithmic dependency of platform workers, without touching on their employment status. Given the diversity of situations and sectors in the platform economy, MEP Brunet did not wish to reduce the question from the outset to the status of workers. Indeed, she would have preferred the discussion to revolve around the reversal of the burden of proof. However, the opposite happened: given the Covid-19 context and the fact that the S&D, the second-largest European Parliamentary group, had the issue on its political agenda, the question of employment status was immediately tabled in the EMPL Committee discussions, pushed also by the shadow rapporteurs from S&D, The Left, the Greens, and a good part of the EPP. On the other side, some MEPs from the EPP, part of Renew Europe as well as the far right of the ECR were diametrically opposed to it, claiming that such workers were all self-employed and should remain so (European Parliament 2021b). One point on which all disagreed from the outset was the creation of a 'third status' (Interviews EP1 and 2). From then on, given the broad consensus on the issue, rapporteur Brunet had no choice but to continue in the direction of making employment status a cornerstone of the discussions (Interviews EP1 and 2). While accepting the idea, she worked towards the rebuttable presumption not being automatic (the position of S&D) (Interview EP2).

The final text of the Resolution is, indeed, an example of compromise on the two highly topical issues: first, the 'presumption of employment' is enshrined in the final text (it was not there in the draft report) due to strong lobbying from the S&D, The Left, the Greens and part of the EPP[14]. However, second, the report states that 'an employment relationship must not lead to an automatic classification of all people working through platforms as workers', as this demand was unacceptable to some Liberals and the EPP.

Another MEP who played an important role in bringing the centre-right together on the issue was MEP Dennis Radtke who, before joining the Parliament, had had a long career as a trade unionist. Importantly, in 2020 Radtke was co-rapporteur, together with S&D MEP Agnes Jongerius, of the Parliament Report entitled 'A Strong Social Europe for Just Transitions', the first to highlight the social issues surrounding platform work and to push for a clarification of the 'employment status of platform-based workers through

---

14. The text states 'whereas a rebuttable presumption of an employment relationship would facilitate the correct classification of platform workers in combination with the reversal of the burden of proof, which means that where workers dispute the classification of their employment status in legal or administrative proceedings, it is for the party who is claimed to be the employer to prove that there is no employment relationship in accordance with national definitions as set out in the legislation or collective agreements of the respective Member State; whereas the rebuttable presumption of an employment relationship must not lead to an automatic classification of all platform workers as workers' (European Parliament 2021a).

the rebuttable assumption of an employment relationship' (European Parliament 2020). Moreover, he was one of the signatories of the European Trade Union Confederation (ETUC) Open Letter to the European Commission (see Section 4). He is, indeed, perceived to have played a strong role in the EMPL committee and in his group, and also to have conveyed within the Parliament the view of the European trade unions that there could only be two work statuses, workers or self-employed (Interviews BusinessEurope, EP1 and 2) and pushing for a presumption of employment (European Parliament 2021b).

The third influential MEP was Leila Chaibi (The Left), who pushed the issue, and especially the presumption of an employment relationship, within her group but also – importantly – brought the voice of platform workers to the Parliament (see below, Interviews EP1, ETUC). After publication of the political guidelines, the main goal pursued by The Left was for the issue to be handled from the perspective of workers' rights as they feared they would otherwise 'end up doing what Macron was doing', viewing the dossier only in terms of collective bargaining for self-employed workers (Interview EP1). In this context, MEP Chaibi, together with other experts and with the support of the ETUC, promoted the drafting of a text similar to a proposal for a directive to give visibility to their political stances, a kind of a 'shadow directive' (Chaibi 2020).

Moreover, MEP Chaibi played a key role in organising the 'Transnational Forum on Alternatives to Uberisation' in December 2019 (just after the publication of the Commission's political guidelines)[15] and two consecutive events (Forum Stop Uberisation #1 and #2, see also Section 3) which took place in the European Parliament. Her idea from the beginning was to start building a 'popular lobby' as a counterforce to the interests of the platforms (Interview EP1). The forum was strongly supported by European and national trade unions (see also Section 4; Interviews EP1, NTU1 and Delivrance). A meeting with Commissioner Nicolas Schmit was also organised and, according to one of our interviewees, these events were to have an influence on the Commission, helping it in the internal balance of power, notably in the discussions with the Vestager cabinet (Interview EP1). The Left also showed its satisfaction with the Proposal, expressing its relief that the workers who had come together in Brussels had been heard by the European Commission (Interview EP1).

Finally, our interviewees from the European Parliament also confirmed the close cooperation between the Parliament and the Commission, notably the Schmit cabinet. In frequent hearings in the EMPL Committee, MEPs, especially from S&D, pushed strongly to get Commissioner Schmit to propose a directive. It should also be noted that, although Commissioners are supposed to be nationally and politically neutral, Commissioner Schmit has social-democratic credentials, having been an S&D MEP. In addition, meetings between the rapporteur and Commissioners Schmit and Vestager nurtured the process towards a legislative proposal and encouraged inclusion of the 'presumption of employment' (Interviews EP1 and 2).

---

15. Transnational forum of Alternatives to Uberisation. https://left.eu/events/transnational-forum-of-alternatives-to-uberisation/

4. EU social partners: a novel player constellation

As previous research has shown, the rise of platform work has brought challenges to in-place mechanisms of social dialogue at both national and EU level (Lenaerts et al. 2018; Haidar and Keune 2021). Because most platforms see themselves as intermediaries between demand for and supply of services, traditional social partners have had a hard time exercising their representativeness function (Vandaele 2018; Rainone and Countouris 2021). In this context, platform workers have set up independent groups to advance their interests[16], while platforms have joined together to strengthen their voice and re-state their distance from employer organisations[17]. This has given rise to a novel constellation of players whose relationships with the traditional social partners are under construction.

These developments, mostly at national level, have had inevitable repercussions on the EU social dialogue system. As soon as the political guidelines of the von der Leyen Commission were published, the traditional EU social partners and novel platform economy players started discussing whether and how the EU should take action to address the working conditions and social protection challenges stemming from platform work. In February and June 2021, these players took part in the consultation organised by the European Commission[18]. Access to the consultation process was by definition imbalanced: since the traditional social partners are recognised as formal interlocutors in the field of social policy (Articles 151-156 TFEU)[19], they had access to the formal consultation. By contrast, platforms and platform workers were involved in the process indirectly and via informal meetings when they were not part of respective trade unions or employer organisations. Such imbalances show the extent to which the current institutional European social dialogue is struggling to keep up with changes in the labour market.

In the formal consultation process, the traditional EU social partners recognised from the outset the need for an EU instrument to tackle the challenges stemming from platform work (interviews BusinessEurope, ETUC). Their positions nonetheless differed dramatically on the desired legal nature as well as on the content of such an initiative. From a legal standpoint, the discussion revolved around whether platform work would require a directive or a recommendation. Content-wise, the most heated debate centred on employment status: as had happened at national level, the question of whether platform workers ought to be classified as employed or self-employed arose as a major dividing line between EU social partners.

---

16. Numerous groups were set up in different national contexts (e.g. the Collective des Livreurs Autonomes de Paris (CLAP) in France, Riders X Derechos in Spain, the Riders' Union in Italy).

17. Some national examples are Assodelivery in Italy and Associations des plateformes d'indépendants (API) in France. At EU level, one example is Delivery Platforms Europe.

18. Eight trade union organisations and six employer associations responded to the consultation. The Commission held meetings with 20 digital labour platforms and three associations of platforms, as well as with 24 organisations representing platform workers (European Commission 2021b).

19. This was not the case in the public consultation on the Guidelines on collective bargaining (see above) as these come under the competition field. Thus, there is no formal obligation to consult the social partners. They provided their opinion as any other stakeholder taking part in the consolation process.

4.1 Traditional social partners

4.1.1 Workers' representatives

In February 2021, ahead of the launch of the two-stage consultation with the European Commission, the ETUC stated that 'we must move towards a presumption of employment status and a reversal of the burden of proof' (ETUC 2021). In so doing, the ETUC highlighted how such a move could only be done via a binding measure, namely a directive. As previously noted, the first-stage consultation document was rather general in character and only slightly touched upon the question of employment status. However, the influence of the ETUC and the European Parliament in addressing employment status could be seen in the content of the second-stage consultation document (Interview ETUC), which indicated the 'presumption of employment' as the preferred way to enhance the working conditions and protection of platform workers. Indeed, the ETUC document published after the second phase of the consultation welcomes such an approach and reiterates the urgent need to adopt a directive based on Article 153(2) TFEU, establishing a rebuttable presumption of employment with the burden of proof on companies. The status approach contrasted with an approach aiming to improve working conditions via the introduction of new rights, without interfering with the legal determination of the work relationship. In the words of the ETUC, this would have led to the *de facto* creation of a third status, ushering in further legal uncertainty and ultimately undermining working conditions and protection (Interview ETUC).

In promoting its status-centred approach, the ETUC was helped by the overall EU political and institutional context that had developed around the question of platform working conditions (see Sections 2 and 3). Despite not being expressly in favour of a presumption of employment, the Schmit cabinet expressed a 'willingness to act on the matter' that turned out to be a breeding ground for ETUC proposals (Interview ETUC). Even more importantly, the support given by the Parliament (see Section 3) to the presumption of employment solution turned out to be crucial in strengthening the political feasibility of a status-centred regulation.

The Open Letter[20] sent by the ETUC in November 2021 to Commission President von der Leyen, calling for an 'ambitious European legislative initiative on improving the working conditions in platform work', exemplifies well the broad coalition around the question of platform work. The ETUC initiative was signed by MEPs from the EPP, S&D, The Left and the Greens and by ministers of employment from Belgium, Germany, Italy, Portugal and Spain. The letter aimed to influence the debate at a moment when decisive internal discussions were ongoing in the Commission on the content of the Proposal (see Section 2). And it was meant to be a way to build a coalition of pro-presumption States with a view to the future negotiations in the Council (Interview ETUC).

While generally satisfied with the adoption of the Proposal, the ETUC expresses discontent with the nature of the presumption of employment as outlined in the

---

20. https://www.etuc.org/en/document/open-letter-president-european-commission-ursula-von-der-leyen-ambitious-european

Proposal. According to the ETUC, the use of criteria (see Section 1) significantly weakens the presumption of employment. More precisely, the unions note how, instead of verifying whether a worker's activity meets certain subordination criteria, workers should be presumed employees by looking at how different platforms work in practice (Interview ETUC).

4.1.2   The position of the employers

The position of BusinessEurope diverged dramatically from the ETUC demands, which is why, early in the consultation, the parties decided not to enter into official negotiations on the matter. According to the BusinessEurope representative, 'it was clear from the beginning that negotiation would not be feasible' even though both parties acknowledged the importance of EU action on the matter (Interview BusinessEurope). From a legal standpoint, BusinessEurope warned against the use of a directive as a 'one-size-fits-all' rule that would hamper innovation and put a brake on employment creation in the digital age. It added that the most problematic all-encompassing rule would be the introduction of a rebuttable presumption of employment, which would pointlessly level out the diversity of needs of platform workers.

The urgent need to consider the variety of platform work was a point on which BusinessEurope insisted throughout the consultation. BusinessEurope was pushing for 'platforms to commit to do something themselves: a kind of code of conduct with proper reporting and oversight, so that they actually act to improve working conditions and access to social protection' (Interview BusinessEurope). Moreover, BusinessEurope, highly committed to subsidiarity, highlighted that the best way for the EU to act was to encourage those Member States where there were issues related to the classification of employment status to assess the different characteristics of workers to determine whether they were more appropriately classified as employees or self-employed (BusinessEurope 2022). This meant that the employment status was to be determined at national level. To this end, BusinessEurope suggested the establishment of a quadripartite mutual learning approach (European Commission, Member States, social partners) aimed at exchanging views and information on the question of contract classification. All in all, BusinessEurope did not consider the consultation process to be satisfactory, as it addressed too narrow a segment of platform work, thereby risking erroneous conclusions. When the Proposal was finally adopted, BusinessEurope regarded it as 'the wrong policy orientation to improve legal certainty' (BusinessEurope 2022).

4.2   New players on the ground: platforms and platform workers

Generally speaking, platforms have had stronger relationships with traditional employer organisations, while platform worker organisations are closer to traditional trade unions. This does not mean, however, that their demands are always aligned (Interviews BusinessEurope, ETUC, NTU2, Deliverance).

The relationship between traditional employer organisations and platforms emerges as ambiguous. On the one hand, platforms do not consider themselves as employers and therefore refuse to be part of existing EU social dialogue mechanisms at national level. To our knowledge, two associations of platforms – MoveEU and Delivery Platforms Europe (DPE) – exist at EU level, working as pressure groups to advance platform interests. Most importantly for platforms, regulations should not seek to impose rules on contract classification. On its website, DPE expresses its disappointment with the Proposal, stressing how rules on employment status would threaten platforms' business models but also go against the wishes of flexibility-seeking workers (DPE 2021). On the other hand, platforms are in discussion with traditional employer organisations and generally share the same opposition to employment status-centred regulation. One telling example is the relationship between BusinessEurope and Uber. While BusinessEurope has an informal relationship with Uber, the latter is not a formal member of the EU confederation. In the words of the interviewee, this is 'to make sure that whatever we are proposing does not go against them, but at the same time making it clear that we are not their representatives at the European level: we represent the whole business community' (Interview BusinessEurope). The nuances in the position between platform companies and BusinessEurope, but also among big platforms and small start-ups, (e.g., on the need for an EU framework) were also highlighted by some policymakers (Interviews COM1, EP2, NOF1).

Nevertheless, it is important to note that, despite a certain ambiguity in their relationship, BusinessEurope and the big platform companies were aligned in their opposition to regulating employment status. Platforms and employer organisations also had similar – though not always identical – positions on algorithmic management. Overall, they stressed that the regulations pertaining to the digital area (e.g., GDPR, P2B, AI) were adequate instruments to deal with algorithmic management challenges and that measures on working conditions should only take the form of guidelines (Interviews COM1, BusinessEurope).

As for platform worker organisations and their relationship with trade unions, our evidence suggests that they were aligned in stressing the need for more protection in platform work. Platform worker organisations were not necessarily always in favour of transforming the self-employment status into an employed status as this would completely rule out the flexibility inherent in platform work (Interviews NTU1 and 2). For its part, the ETUC showed more general support for the classification of platform workers as employees. This is not because the ETUC *a priori* prefers subordination to independence. Rather, it has to do with the fact that, when platform worker independence is not genuine, self-employment-based contracts should be converted into employment contracts (Interviews ETUC, NTU2).

Coalitional alignments between the trade unions and platform worker organisations were reflected in the documents detailing the outcomes of the consultation, where platform worker organisations and trade unions agreed 'that a clarification of an employment relationship is needed' (European Commission 2021b). Among trade unions and platform worker representatives, there was broad consensus around the fact that platforms should hire workers if they meet the criteria of an employment

relationship. Some pushed for applying a rebuttable presumption to all platforms, whereas others asked that such a rule be applied solely to on-location platforms, where bogus self-employment is more widespread. Like employers and platforms, platform worker organisations and trade unions also had similar – but not always identical – positions on algorithmic management, with both supporting a hard law approach via a directive (European Commission 2021b).

The interactions between the ETUC and national-level platform worker organisations or representatives within national trade unions differ depending on the country (Interviews ETUC, NTU2, Deliverance). Generally speaking, the ETUC has been active in organising platform workers at the national level via its national federations. Trade union renewal through a more structured unionisation of platform workers – and atypical workers in general – is indeed a key topic in the ETUC Action Programme 2019-2023 (ETUC 2019). Due to the nature of platform work, however, it has been challenging for national trade unions to collectively represent the interest of such workers. In this respect, a member of an Italian riders' group notes how food delivery couriers who were union members seem to have had a closer relationship with the ETUC (Interview Deliverance).

In Belgium too, contact between platform workers and the ETUC was mainly through trade unions which had created sections representing platform workers (Interview NTU1). It seems therefore that the ETUC emerged as the primary channel through which platform workers' voices are communicated to the EU, especially when such workers are union members. As for non-unionised workers, other channels emerged. For instance, the Deliverance representative stated that the group came to take part in the regulatory debate at EU level through three main channels: first, the local office of the Italian (centre-left) Democratic Party had contacted them and in turn put them into contact with an S&D MEP; second, a think tank tasked with collecting their views on the Commission's behalf reached out to them for a technical conversation; and third, MEP Leila Chaabi contacted them via the transnational networks of platform workers.

5.   The black box of ongoing negotiations

As this chapter focuses only on the process which led to the drafting of the Proposal, we only briefly discuss the ongoing negotiations in the Council of the EU and the European Parliament. As expected, the most difficult points are the ones on the employment status and the burden of proof (Interviews NOF1 and 2, EP1). This comes as no surprise, given the statement of one Council member that the Commission had 'kept the proposal very secret' (Interview NOF2) until 9 December 2021, with its main elements being unclear even to the Member States. Moreover, in the aftermath of the adoption of the Proposal there were fears (Interview NOF1) that the French Presidency of the Council of the EU (henceforth 'French Presidency') would slow down the negotiations as it tried to lobby the Commission in its opposition to the employment status provisions (Interview COM1; Euractiv 2022b). In hindsight, this fear was justified, given French President Macron's position on regulating platform work which was recently exposed in the Uber files affair (Interviews EP1; ETUC 2022). However, our interviewee stated that the French Presidency remained neutral, not delaying the work and working quite

actively from the beginning (Interviews NOF 1 and 2). The Proposal seems to have been generally welcomed in the Council, as the future directive is expected to harmonise the regulatory landscape across Europe (Interviews NOF1 and 2). Moreover, it should be mentioned that the Employment, Social Policy, Health and Consumer Affairs (EPSCO) Council favours tackling the social situation of platform workers at EU level (Interviews COM1, NOF1, EP1; EPSCO 2020). Finally, the 'data' aspect, i.e., requiring platforms to disclose to the Member States data on the people working through them, is motivating the Council to move forward, as Member States have little idea of the economic activity taking place on their territories (Interviews NOF1, EP2).

A first draft compromise text within the Council was presented in mid-May 2022, while the progress report on the topic was published by the French Presidency on 30 May 2022, confirming the positive reception of the Proposal in the Council: 'the majority of delegations welcomed the proposal in principle' (Council of the EU 2022: 2). Interestingly, the progress report states that the majority of delegations held no strong views on employment status and especially on the five criteria. Thus, Member States do not seem to reject the criteria and apparently, as also predicted by our interviewees (Interviews NOF1 and 2), the changes took account of more substantial requests for amendments relating to the competence of Member States. The compromise provided clarifications of a mainly technical nature, such as definitions and the types of platforms excluded from the Proposal. The French Presidency proposed focusing on the 'restriction of freedom, including through sanctions, to organise one's work and control its execution' to determine the subordination link between a worker and a platform, instead of concentrating on the 'control of the performance of work' (Council of the EU 2022: 5). The concept of restriction of freedom was added to the 'chapeau' of the amended text – and not as a criterion as initially asked – to ensure that it applies to all criteria (ibid).

On the other side, the European Parliament is trying to go much further than the Proposal, especially on the issue of employment status. In early May 2022, a draft report, the so-called 'Gualmini report' on the Proposal (named after its S&D rapporteur Elisabetta Gualmini) proposed notable amendments, *inter alia* that verification of the existence of an employment relationship would not use the five criteria initially proposed, but would use an expanded and non-exhaustive toolbox of 11 criteria (listed in the recitals), thereby giving the criteria a stronger role. Other proposed amendments pertained to strengthening the mechanism of presumption and restricting subcontracting (for a discussion of the draft report, see Hooker and Antonucci 2022; Raucent 2022). In light of these proposed changes, several MEPs from the European People's Party signed an article expressing their concerns with the 'Gualmini report', noting how it was putting the coalition underpinning the more 'balanced Brunet report […] at risk' (Politico 2022). Indeed, the possibility of uniting EPP and Renew Europe around this report seems much less plausible than during the negotiations on the 'Brunet report'. At the same time, the ETUC continues to be very active in pushing for an effective presumption of employment, ideally with no criteria. It has also warned about the progressive 'emptying' of the presumption during the negotiations. From their side, European employers and especially platform companies are also actively lobbying the Council and the Parliament, with our interviewees (Interviews NOF1 and 2) confirming

that since December 2021 they have been frequently contacted by platforms expressing discontent with the Proposal.

Conclusions

This chapter examined the politics of the Proposal for a Directive on improving the working conditions of people working through platforms. Our analysis allows us to draw three main conclusions.

First, the European Commission has played a key role as a policy entrepreneur, showing social acuity in line with the political context of the post-Juncker Commission and the social situation of platform workers exacerbated by the Covid-19 pandemic. It provided a key contribution to defining the problem, putting the issue of employment status and in particular the 'presumption of employment' at the heart of the consultation and the final Proposal. Moreover, it acted as a coalition builder in close collaboration with the European Parliament. This 'symbiosis' with the Parliament was of key importance, with both institutions fruitfully taking up each other's ideas. This joint work may also reflect the aim of the von der Leyen Commission to improve cooperation with other EU institutions (in this case with the Parliament), adopting a more inclusive and open approach by strengthening the role of the Parliament as 'the voice of citizens' (Anderson and Heinz 2020). More generally, our findings on this particular case confirm previous analyses that the von der Leyen Commission has taken the social policy momentum started by the Junker Commission to an even more ambitious level.

Second, the role of the Parliament has been essential in politicising the issue, and especially in pushing for the legal instrument of a directive and the 'presumption of employment'. This in turn put strong pressure on the Commission during its consultation with the social partners. The Parliament's role was also essential in making the voice of platform workers heard at EU level. According to our analysis, the fact that the own-initiative 'Brunet report' was endorsed by all political groups (except the far right) was especially due to the efforts of socially committed centre/right MEPs able to unify their political groups. By shedding light on the need to strengthen the protection of platform workers, the pandemic favoured such a process. This far-reaching support was not clear from the beginning of the process, particularly because it transcended political divides: the traditional left/right cleavage, or liberals versus regulators (Crespy and Gajewska 2010) as well as some more specific to the 2008 crisis, such as creditors/debtors (Vesan and Corti 2019), on a topic with economic and social implications. The only visible traditional cleavage was 'pro' versus 'contra' European integration. The Eurosceptic parties opposed further EU interference in this social policy issue, which in their view should have remained strictly in the hands of national governments. This was not true, however, for The Left which by contrast was one of the driving forces behind this directive, despite being traditionally considered as Eurosceptic (Bakker et al. 2015). Their approach, however, was not that surprising, given that the issue touches upon a vulnerable category of workers and a set of platform companies whose activities are unregulated. Such a strong commitment to social policy has also been seen

in the past in votes on the resolution relating to the European Pillar of Social Rights (see Vesan and Corti 2019).

Third, the mobilisation of stakeholders, i.e., traditional social partners and newly emerging players, was crucial in this dossier. The major dividing line between the social partners arose around the question of employment status. We found that (despite some intra-front divisions) the traditional trade unions were aligned with the representatives of platform workers in their views of the main provisions of the Proposal, as were employer organisations and platform companies. Indeed, the Proposal was deemed satisfactory by trade unions and platform worker organisations and inadequate by employer organisations and platforms. Furthermore, our findings suggest that the emergence of platforms has accentuated the contradictions stemming from the mismatch between the core interests of traditional social partners (i.e., standard employment) and an increasingly differentiated labour market structure. The novel constellation of players engaged in negotiating the Proposal represented to such contradictions. Not only has this situation shown that regulating digital work is possible, but it has also once again emphasised the extent to which social dialogue mechanisms need to be reformed.

In conclusion, our chapter shows that the initial Commission text proved quite robust and that the broad political coalitions built up during the process of drafting the Proposal continue to play a key role in the negotiations between the Council and the European Parliament. We see clearly that the 'platformised' future of work' described by platforms and their supporters has triggered political and policy action. The same coalitions have again been mobilised, with even more fervour, demonstrating that the ideational effect of the arguments in favour of regulating this area has grown deep roots. While it would be imprudent to make predictions on the final content of the Directive, one important question remains open: whether and to what extent an unexpected Uber files scandal will influence it. Just like the pandemic served as an accelerator for the Proposal's adoption, the Uber files may impact the political equilibria underlying the negotiations.

Lastly, and more generally, the social situation of platform workers has triggered broad support for the labour and social protection acquis in the EU. Indeed, this question extends well beyond platform work, touching on such issues as the unravelling of labour law, the expansion of various forms of non-standard work, and the fragmentation of labour markets.

References

Anderson K. and Heins E. (2020) After the European elections and Covid-19: prospects for EU social policymaking, in Vanhercke B., Spasova S. and Fronteddu B. (eds.) Social policy in the European Union: State of Play 2020, ETUI and OSE, 13-32.

Bakker R., de Vries C., Edwards E., Hooghe L., Jolly S., Marks G. and Vachudova M.A. (2015) Measuring Party Positions in Europe, Party Politics, 21 (1), 143-52.

Behrendt C., Nguyen Q. A. and Rani U. (2019) Social protection systems and the future of work: Ensuring social security for digital platform workers, International Social Security Review, 72 (3), 17-41.

BusinessEurope (2022) Commission proposal for a directive on improving working conditions in platform work, Position Paper, 20.06.2022.

Casilli A. (2020) Schiavi del Clic: Perchè Lavoriamo Tutti per il Nuovo Capitalismo?, Feltrinelli Editore.

Chaibi L. (2020) Proposition de directive relative aux travailleurs des plateformes numériques. https://leilachaibi.fr/wp-content/uploads/2020/11/Directive-travailleurs-des-plateformes-WEB.pdf.

Copeland P. (2022) The Juncker Commission as a Politicising Bricoleur and the Renewed Momentum in Social Europe, Journal of Common Market Studies, 1-16.

Council of the European Union (2022) Progress report on the Proposal for a Directive of the European Parliament and of the Council on improving working conditions in platform work, Interinstitutional File: 2021/0414(COD), 30.05.2022.

Cram L. (1997) Policy making in the European Union, London and New York, Routledge, 51-54.

Crespy A. and Gajewska K. (2010) New Parliament, New Cleavages after the Eastern Enlargement? The Conflict over the Services Directive as an Opposition between the Liberals and the Regulators, Journal of Common Market Studies, 48 (5), 1185-1208. https://doi.org/10.1111/j.1468-5965.2010.02109.x

Crespy A. and Menz G. (2015) Commission Entrepreneurship and the Debasing of Social Europe before and after the Eurocrisis, Journal of Common Market Studies, 53 (4), 753-768.

Delivery Platforms Europe (2021) Statement on the European Commission's proposal on platform work. https://deliveryplatforms.eu/news/

De Stefano V. D. and Aloisi A. (2019) Fundamental labour rights, platform work and human rights protection of non-standard workers, in Bellace J.R. and ter Haar B. (eds.) Handbook on Labour, Business and Human Rights Law, Edward Elgar Publishing.

De Stefano V. et Aloisi A. (2021) European Commission takes the lead in regulating platform work. https://socialeurope.eu/european-commission-takes-the-lead-in-regulating-platform-work

Doherty M. and Franca V. (2020) Solving the 'Gig-saw'? Collective Rights and Platform Work, Industrial Law Journal, 49 (3), 352-376.

Drahokoupil J. and Fabo B. (2016) The platform economy and the disruption of the employment relationship, Policy Brief 2016.05, ETUI.

EPSCO (2020) Meeting EPSCO 3 December 2020. https://www.consilium.europa.eu/en/meetings/epsco/2020/12/03/

ETUC (2019) Action Programme 2019 -2023, European Trade Union Confederation.

ETUC (2022) Uber Files: MEPs must investigate anti-worker EU lobbying, Press Release, 11.07.2022.

Euractiv (2022a) EU lawmakers push for better protection of bogus self-employed, 30.03.2022. https://www.euractiv.com/section/economy-jobs/news/eu-lawmakers-push-for-better-protection-of-bogus-self-employed/

Euractiv (2022b) How France lobbied against Commission's proposal on platform workers' rights. https://www.euractiv.com/section/sharing-economy/news/how-france-lobbied-against-commission-for-presumption-of-employment-for-platform-workers/

Eurofound (2018) Employment and working conditions of selected types of platform work, Publications Office of the European Union.

European Commission (2021a) Proposal for a Directive of the European Parliament and of the Council on improving working conditions in platform work, COM(2021) 762 final, 09.12.2021.

European Commission (2021b) Commission staff working document analytical document, Accompanying the document Consultation document Second phase consultation of social partners under Article 154 TFEU on a possible action addressing the challenges related to working conditions in platform work {C(2021) 4230 final}, SWD(2021) 143 final, 15.06.2021.

European Commission (2021c) Consultation document, First phase consultation of social partners under Article 154 TFEU on possible action addressing the challenges related to working conditions in platform work, C(2021) 1127 final, 24.02.2021.

European Commission (2021d) Consultation document, Second-phase consultation of social partners under Article 154 TFEU on possible action addressing the challenges related to working conditions in platform work {SWD(2021) 143 final}.

European Parliament (2020) Report on a strong social Europe for Just Transitions (2020/2084(INI)), Committee on Employment and Social Affairs, Rapporteurs: Dennis Radtke, Agnes Jongerius, 24.11.2020.

European Parliament (2021a) Resolution on fair working conditions, rights and social protection for platform workers – New forms of employment linked to digital development, 2019/2186(INI).

European Parliament (2021b) Fair working conditions, rights and social protection for platform workers - New forms of employment linked to digital development 2019/2186(INI), Amendments to Draft report, Sylvie Brunet, 25.03.2021.

European Trade Union Confederation (ETUC) (2021) ETUC Statement before 1st stage consultation on Platform Work, 22.02.2021.

Gomes B. (2022) The French Platform Workers: A Thwarted Path to the Third Status, Italian Labour Law e-Journal, 15 (1), 143-149.

Haidar J. and Keune M. (eds.) (2021) Work and Labour Relations in Global Platform Capitalism, Edward Elgar Publishing.

Hartlapp M., Metz M. and Rauh C. (2014) Which Policy for Europe? Power and conflict inside the European Commission, Oxford University Press.

Hooker J. and Antonucci L. (2022) Improving the EU Platform Work Directive proposal: a contribution from emerging research findings, OSE Paper Series, Opinion Paper No. 28, OSE.

ILO (2016) Non-standard Employment around the World: Understanding Challenges, Shaping Prospects, Geneva, International Labour Office (ILO).

International Consortium of Investigative Journalists (ICIJ) (2022), The Uber Files. https://www.icij.org/investigations/uber-files/

Kilhoffer Z. et al. (2019) Study to gather evidence on the working conditions of platform workers (Final report), Brussels, European Commission – Directorate-General for Employment, Social Affairs and Inclusion, Publications Office.

Lenaerts K., Kilhoffer Z. and Akgüç M. (2018) Traditional and new forms of organisation and representation in the platform economy, Work Organisation, Labour and Globalisation, 12 (2), 60-78. https://doi.org/10.13169/workorgalaboglob.12.2.0060

Politico (2021) Commission launches consultation on platform workers, 24.02.2021. https://www.politico.eu/article/commission-launches-consultation-on-platform-workers-rights/

Politico (2022) Digital workers prioritize flexibility — not employment, 06.06.2022. https://www.politico.eu/article/digital-platforms-workers-economy-challenges/

Ponce Del Castillo A. (2022) Europe's digital agenda: people-centric, data-centric or both? in Vanhercke B. and Spasova S. (eds.) Social policy in the European Union: state of play 2021, ETUI and OSE, 145-170.

Ponce Del Castillo A. and Naranjo D. (2022) Regulating algorithmic management. An assessment of the EC's draft Directive on improving working conditions in platform work, Policy Brief 2022.08, ETUI.

Rahman K. S. and Thelen K. (2019) The Rise of the Platform Business Model and the Transformation of Twenty-First-Century Capitalism, Politics and Society, 47 (2), 1-28.

Raucent E. (2022) Quel statut social pour les travailleurs de plateforme ? Les (potentielles) avancées en droit social européen et belge, OSE Paper Series, Research Paper No. 50, OSE.

Rainone S. and Countouris N. (2021) Collective bargaining and self-employed workers: The need for a paradigm shift, Policy Brief 2021.11, ETUI.

Sabato S. and Corti F. (2018) The times they are A-Changin'? The European Pillar of social rights from debates to reality check, in Vanhercke B, Ghailani D. and Sabato S. (eds.) Social Policy in the European Union: State of the play 2018, ETUI and OSE, 51-70.

Progressive Alliance of Socialists and Democrats (S&D) (2021a), A social agenda for digital work, Shaping the platform economy in Europe. https://socialistsanddemocrats.eu/sites/default/files/2021-02/sd_a_social_agenda_for_digital_work.pdf

Progressive Alliance of Socialists and Democrats (S&D) (2021b)Consider platform workers as employees and reverse the burden of proof, S&Ds demand of Commission. https://socialistsanddemocrats.eu/newsroom/consider-platform-workers-employees-and-reverse-burden-proof-sds-demand-commission

Sabato S., Ghailani D., Peña-Casas R., Spasova S., Corti F. and Vanhercke B. (2018) Implementing the European Pillar of Social Rights: what is needed to guarantee a positive social impact, European Economic and Social Committee.

Srnicek N. (2017) Platform Capitalism, John Wiley & Sons.

Tholoniat L. (2022) Les années Juncker : un bilan économique et social de la Commission européenne 2014-2019, Revue française d'administration publique, 4 (180), 961-978.

Vandaele K. (2018) Will trade unions survive in the platform economy? Emerging patterns of PWTP' collective voice and representation in Europe, Working Paper 2018.06, ETUI.

Vanhercke B. (2020) From the Lisbon strategy to the European Pillar of Social Rights: the many lives of the Social Open Method of Coordination, in Vanhercke et al. (eds.) Social policy in the European Union 1999-2019: the long and winding road, ETUI and OSE, 99-123.

Vanhercke B. and Spasova S. (2022) Conclusions. Dealing with the pandemic: re-emerging social ambitions as the EU recovers, in Vanhercke B. and Spasova S. (eds.) Social policy in the European Union: state of play 2021, ETUI and OSE, 145-170.

Vanhercke B., Spasova S. and Fronteddu B. (2021) Conclusions Facing the economic and social consequences of the pandemic: domestic and EU responses, in Vanhercke B., Spasova S. and Fronteddu B. (eds) Social policy in the European Union: state of play 2020, ETUI and OSE, 155-184.

Vesan P. and Corti F. (2019) New Tensions over Social Europe? The European Pillar of Social Rights and the Debate within the European Parliament, Journal of Common Market Studies, 57 (5), 977-994.

von der Leyen U. (2019) A Union that strives for more. My agenda for Europe: Political guidelines for the next European Commission 2019-2024, Publications Office of the European Union.

Quoting this chapter: Spasova S. and Marenco M. (2022) The politics behind EU legislation on platform work: institutional synergies and a novel constellation of players, in Vanhercke B., Sabato S. and Spasova S. (eds.) Social policy in the European Union: state of play 2022, Policymaking in a permacrisis, ETUI and OSE.

Annex 1 Interview details (in chronological order)

Interview code	Institutional affiliation	Date
COM1	European Commission	18/03/2022
BusinessEurope	BusinessEurope	21/3/2022
COM2	European Commission official	22/03/2022
NOF1	Member State delegate in the Council	23/03/2022
NOF2	Member State delegate in the Council	11/4/2022
EP1	European Parliament	13/04/2022
EXP	Research Institute	13/04/2022
EP2*	European Parliament	22/04/2022
ETUC	European Trade Union Confederation	28/04/2022
NTU1	National trade union	2/05/2022
NTU2	National trade union	12/5/2022
Deliverance	Platform workers' independent organisation	30/05/2022

* Two people (MEP and assistant) were present at this interview.

Annex 2 The two-stage consultation process

Section 2 stated that the European Commission launched a two-stage consultation process regarding the Directive on improving working conditions in platform work, which ran between February and June 2021. This Annex briefly describes the main contents of the two- stage consultation documents.

As is usually the case, the first-stage document was quite broad and general, with its boundaries consisting of what the Commission 'definitely would not do' (Interview COM1). Indeed, the Commission identified a wide array of issues. Nevertheless 'employment status' was a key issue (topping the list) and was discussed in the context of misclassification and an increasing number of national court cases reclassifying platform workers as employees (the options of legal presumption and the burden of proof were mentioned but not developed). Further issues identified included working conditions, access to social protection, access to collective representation, skills, training and professional development, the cross-border dimension of platform work (including social security contributions and tax collection) and algorithmic management.

The question of employment status remained central and was reinforced in the second-phase consultation document, which stated clearly that '[t]he key challenge in platform work relates to employment status. It is a key determinant of the access of people working through platforms to existing labour rights and protection' (European Commission 2021d: 6). In order to correctly establish a classification of employment status in line with national definitions, the Commission considered two options: a) a rebuttable presumption of an employment relationship incumbent on the platform company; or b) a shift in the burden of proof or a lowering of the standard of proof required for people engaged in platform work or for their representatives in legal proceedings.