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**TRADE UNION PRIORITIES ON THE EUROPEAN COMMISSION'S  
PROPOSAL FOR A DIRECTIVE ON IMPROVING WORKING  
CONDITIONS IN PLATFORM WORK OF DECEMBER 9 2021<sup>1</sup>**

**RESOLUTION OF CESI'S STATUTORY COMMISSION  
ON EMPLOYMENT AND SOCIAL AFFAIRS**

*The European Confederation of Independent Trade Unions (CESI) is a confederation of more than 40 national and European trade union organisations from over 20 European countries, with a total of more than 5 million individual members. Founded in 1990, CESI advocates improved employment conditions for workers in Europe and a strong social dimension in the EU. CESI is a recognised European sectoral social partner and represents public and private sector workers.*

**CESI's statutory Commission on Women's Rights and Gender Equality broadly welcomes the European Commission's legislative proposal for a binding new EU directive on improving working conditions in platform work, published on December 9 2021 (COM(2021) 762 final).**

**It considers the proposal an important step to improve precarious working conditions in large parts of the platform economy,** even if a proposal for an overarching framework directive for decent work would have been a more effective tool to bring down precarious work that spans also beyond the platform economy in ever new employment models and forms of work that are constantly developing and evolving.

**The statutory Commission agrees in particular with the following foreseen provisions and calls on the European Parliament and the Council of Ministers to not water them down during their negotiations on a final directive:**

- The broad **scope of the directive** (article 1), laying down minimum rights that apply to "every person performing platform work in the Union who has, or who based on an assessment of facts may be deemed to have, an employment contract or 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."

<sup>1</sup> This resolution builds on previous CESI positions published in March and September 2021 in the context of a first- and second-phase social partner consultation on the subject matter:  
[https://www.cesi.org/wp-content/uploads/2021/04/2021-CESI-contribution-Platform-work-First-phase-social-partner-consultation-EN-20200407\\_final.pdf](https://www.cesi.org/wp-content/uploads/2021/04/2021-CESI-contribution-Platform-work-First-phase-social-partner-consultation-EN-20200407_final.pdf)  
<https://www.cesi.org/wp-content/uploads/2021/09/2021-C1.pdf>

- The **definition of platforms** (article 2) as *“any natural or legal person providing a commercial service which meets all of the following requirements: (a) it is provided, at least in part, at a distance through electronic means, such as a website or a mobile application; (b) it is provided at the request of a recipient of the service; (c) it involves, as a necessary and essential component, the organisation of work performed by individuals, irrespective of whether that work is performed online or in a certain location.”*
- The clear **assumption** (articles 4) that in principle *“the performance of work and a person performing platform work through that platform shall be legally presumed to be an employment relationship”*, which is **rebuttable** (article 5) only when platforms can 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 State in question, with consideration to the case-law of the Court of Justice.”*
- The **obligation of platforms to inform workers of “automated monitoring systems** which are used to monitor, supervise or evaluate the work performance of platform workers through electronic means” as well as of *“automated decision-making systems which are used to take or support decisions that significantly affect those platform workers’ working conditions, in particular their access to work assignments, their earnings, their occupational safety and health, their working time, their promotion and their contractual status, including the restriction, suspension or termination of their account.”* (article 6)
- **Information and consultation rights** *“of platform workers’ representatives or, where there are no such representatives, of the platform workers concerned by digital labour platform”* (article 9), as stipulated in EU Directive 2002/14/EC on a general framework for informing and consulting employees.
- The **right of trade unions** to *“engage in any judicial or administrative procedure to enforce any of the rights or obligations arising from this directive”* on behalf of one or several platform workers (article 14)

The statutory Commission calls on the European Parliament and the Council of Ministers to strengthen the proposal in the following regards:

- **Limited derogations of the legal assumption of employment relationships.** Article 4(3) specifies that the legal assumption of an employment relationship may not apply to start-ups and that it should not interfere with the “*sustainable growth of digital labour platforms*”. These provisions may represent backdoors to lever out the legal assumption of employment relationships – the core of the directive – for large parts of the platform workforce because so many platforms are some kind of a start-up. This derogation should be very restrictive in scope.
- **Wording to rule out fake worker representatives:** On multiple occasions, the proposal refers to roles for “*workers’ representatives*”. This opens the door to the possibility of fake representatives designated or installed by platforms as employers. The directive should make clear that representatives must be “designated by elections open to all workers.”
- **The right to access to trade unions and collective bargaining:** Article 14 gives platform workers the right to have trade unions represent them to enforce the directive. Article 15 provides for ways for platform workers to communicate among themselves without adverse treatment by the platform. However, the directive should stipulate clearly that platform workers have the right to access trade unions and bargain collectively, within the meaning of the legal assumption in article 4 that they are considered employees. It should also stipulate that those persons not falling under the legal assumption and are thus considered self-employed may engage in collective bargaining without being considered a cartel under EU competition law.