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Implementing Article 20 of the EU Platform Work Directive: 'Communication channels'

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On 11 March 2024, the European co-legislators approved a Directive on improving working conditions in platform work—the ‘Platform Work Directive’ (PWD).[1] It targets two challenges in digital labour platforms: false self-employment (Chapter II) and algorithmic management (Chapter III). Additionally, it increases transparency, especially for Member States (Chapters IV–V).[2]

Some analysts called the final text ‘watered down.’[3] Whilst improvements can be identified,[4] unions and labour law scholars have generally been positive[5]—understandably, given the difficulty of trilogue negotiations (in February 2024 the entire initiative seemed dead).[6]

Challenges nonetheless remain: Member States must now transpose the Directive into national law—and enforce it.

Member States must integrate the Chapter II provisions on employment status with national employment classification and enforcement systems. Chapter III’s provisions on algorithmic management constitute ‘more specific rules’ regarding personal data processing in a work context (Art. 88 GDPR)—which Member States have struggled to implement correctly.[7] Enforcement will be similarly challenging—with labour inspectorates, courts, and data protection authorities all potentially responsible.

This blog post briefly examines one—little-discussed—piece of the Directive: Article 20, which stipulates that platforms make available ‘[c]ommunication channels for persons performing platform work’. In particular, the post summarises themes from expert workshops on the topic conducted within the project ‘*Chancengerechte Plattformarbeit.*’[8]

Article 20 Platform Work Directive: ‘Communication channels’ for platform workers

Amongst Chapter V’s provisions on ‘remedies and enforcements’, Art. 20 directs Member States to:

take the measures necessary to ensure that digital labour platforms provide persons performing platform work, by means of the digital labour platforms’ digital infrastructure or by similarly effective means, with the possibility to contact and communicate privately and securely with each other, and to contact or be contacted by representatives of persons performing platform work, while complying with Regulation (EU) 2016/679 [and] requir[ing] digital labour platforms to refrain from accessing or monitoring those contacts and communications.

Recital 62 explains these ‘channels’ are needed because persons performing platform work[9] ‘lack [a] common workplace’ where they ‘can get to know and communicate with each other and with their representatives, also with a view of defending their interests with regard to the digital labour platform.’ That is, workers should be able to connect, build trust and solidarity, and organise collective action—as in offline industrial relations.[10] Whether the channels achieve this will depend on their functionality and quality.

Open questions

Art. 20, however, specifies no functionality or quality requirements. Some platforms have demonstrated willingness to interfere—even unlawfully—in worker organising;[11] such platforms especially may be tempted to implement channels that, while apparently meeting Art. 20’s requirements, may be slow, poorly organised, not accessible to all workers (e.g., workers with disabilities, or without particular hardware or software), inadequately publicised, or otherwise ‘user-unfriendly.’ Such channels would fail effectively to meet the Directive’s aims—set out in particular in Recital 62 (see above)—and could even deter workers from using them. Pursuant to the principle of effectiveness,[12] however, Member States ‘must provide remedies sufficient to ensure effective legal protection’. They must therefore implement rules requiring platforms to provide channels that are truly useful to workers.

What will this mean practically? Experts in our workshops highlighted four themes:

- **Security and trustworthiness.** To enable meaningful information exchange and collective

action amongst workers, channels must be secure, trustworthy, and free from platform surveillance—even though platforms are ultimately responsible for providing them.

- **Content moderation.** To ensure the channels’ usability, content exchanged in them must be comprehensible and free from disinformation, defamation, hate speech, advertising, and illegal content. Platforms will have to refrain from ‘accessing or monitoring’ the channels whilst also preventing distribution of unlawful material under regulations such as the Digital Services Act. They will furthermore need to ensure that content in the channels is moderated and organised, drawing appropriate boundaries between legitimate information—including information of general interest to workers, such as information about other platforms—and nefarious content such as irrelevant advertising (‘spam’) and fraud. (How platforms might do this without ‘accessing or monitoring’ the channels is discussed below.)
- **Worker representatives.** Access for representatives has the advantage of educating platform workers about their rights, promoting collective action, and providing essential information and resources (e.g., legal support). However, having *too many* representatives could create confusion and adversely affect channel functionality. Platforms will therefore have to give legitimate (potential) representatives access to the channels, whilst managing disputes between unions or other representatives competing for workers’ membership.
- **Linguistic and national differences.** Platforms operating across multiple countries will need to decide whether to provide one ‘channel’ for all workers, or separate channels for workers in different countries. There may be reasons to provide separate channels—e.g., language-specific content moderation and country-specific regulatory obligations and/or worker representatives. Yet there may be reasons not to: some countries may host few workers; some workers may move between countries; and configuring multiple channels may be complex or costly. Such costs could perhaps be reduced if platforms shared infrastructure, but this would require coordination.

These issues raise the fundamental question of *how the channels will be ‘governed’ and by whom*—and how they should be designed and managed *effectively* to provide digital ‘spaces’ for workers and representatives to meet, exchange information, and advance their ‘interests’ (Recital 62 PWD).

Communication channels in practice: meeting the challenge

Answering the question of how the communication channels will be governed—and by whom—will be a complex, but not unsurmountable, challenge. We can envisage at least four ways platforms could meet their proactive duty to provide effective communication channels:

- **Internal team.** Platforms could delegate operation of the channels to an internal team prohibited from sharing information with management. This could be similar to the data protection officer role under GDPR, and could be practical for platforms. However, even a ‘protected’ team within a company is still part of the company; this arrangement therefore might not satisfy the prohibition on ‘accessing or monitoring’ channel communications.
- **For-profit third party.** Platforms could outsource channel operation to a third party—e.g., a specialist company. Given appropriate contractual provisions preventing information sharing with platform management—and subject to compliance with broader data protection norms—this would likely meet the Art. 20 requirements. On one hand, platforms might resist this option, preferring not to pay to outsource work they could in theory do in-house. On the other hand, however, outsourcing channel operation would likely provide increased legal certainty: doing so would reduce platforms’ risk of violating the requirement not to access or monitor the channels.
- **Union-operated channels.** Trade unions or union confederations, including at European level,

could operate channels meeting the Art. 20 requirements. Several platform operators we spoke with were open to this possibility. Notably, Art. 29(3) PWD directs Member States to ensure ‘effective involvement of the social partners’ and ‘promote and enhance social dialogue’ in the context of implementing the PWD. Involvement in design and operation of the communication channels could be one avenue for such involvement.

- **Dedicated not-for-profit.** A special-purpose not-for-profit organisation with bilateral—union and platform—or tripartite funding could operate the channels. This arrangement could help realise the channels’ potential to enable meaningful communication between workers and representatives; mitigate platforms’ conflicts of interest; and facilitate cost-sharing.

Independent certifications, seals, or standards (e.g., from EN, ISO, or national bodies, e.g., DIN) can further clarify good channel operation practice. Member States must nonetheless set minimum standards for the functionality, usability, and accessibility of the channels for all workers—regardless of location, language, disability, or other differences. Platforms must bear ultimate responsibility for compliance with the Art. 20 requirements; if channel administration is outsourced, platforms must provide workers with simple, user-friendly access

Research at the intersection of technical design, administration, and policy should explore these scenarios. Legal research, for example, can identify whether *any* configuration in which an ‘internal team’ administers the channels can be compliant with Art. 20—and if so, what safeguards against inappropriate monitoring such configurations require. Generally, research should identify best practices for design and administration, and potential roles for certifications and standards.

Conclusion

Art. 20 PWD creates a right for platform workers to communicate with one another—and their representatives—without surveillance. This can be read as a specific expression of the freedom of association established in Art. 12(1) EU CFR. The Art. 12 CFR rights have special status in Union law due to their relevance for democratic coexistence. For this reason, and to comply with the principle of effectiveness, Member States must take care when implementing the PWD not to focus solely on the technical and legal design of the communication channels, but also ensure that emotional elements of worker communication—e.g., trust and solidarity—are appropriately facilitated.

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References

- [1] Directive (EU) 2024/2831 on improving working conditions in platform work. The final text of 23 October 2024 is available at <https://eur-lex.europa.eu/eli/dir/2024/2831/oj/eng>.

[2] See e.g. the European Commission's original 2021 Proposal, <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A52021PC0762>, Explanatory Memorandum, Section 1.

[3] Bourgery-Gonse, T. 2024. 'Gig-gling at last: EU adopts gig work directive.' *Euractiv*, 24 Apr 2024.

<https://www.euractiv.com/section/economy-jobs/news/gig-gling-at-last-eu-adopts-gig-work-directive>.

[4] See e.g. Rainone, S. and Aloisi, A., 2024, 'The EU Platform Work Directive: What's New, What's Missing, What's Next?' European Trade Union Institute Policy Brief 2024.06 (esp. p. 3); Kocher, E., 2023, 'A timid proposal,' *Verfassungsblog*, 18 July 2023; Barrio, A., 2023, 'A hidden battlefield: the social security impact of the proposed Directive on Improving Working Conditions in Platform Work,' *Verfassungsblog*, 20 Jul 2023.

[5] See e.g. Voet, L. [Confederal Secretary, European Trade Union Confederation], 2024, 'Platform work directive—delivering rights for all,' *Social Europe*, 29 Mar 2024; and Aloisi, A. and De Stefano, V., 2024, "'Gig" workers in Europe: the new platform of rights,' *Social Europe*, 16 Mar 2024.

[6] See e.g. Bourgery-Gonse, T., 2024, 'Member states slam door shut on gig work directive,' *Euractiv*, 16 Feb 2024; Adams-Prassl, J. and Barnard, C., 2024, 'The Making of the EU Platform Work Directive,' Working Paper (24 pp.), 1 Oct 2024, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4977701.

[7] See especially Abraha, H. H., 2023, 'Hauptpersonalrat der Lehrerinnen: Article 88 GDPR and the Interplay between EU and Member State Employee Data Protection Rules,' *Modern Law Review* 87(2), 484–496.

[8] The project was funded by the Stiftung Mercator. A detailed German-language report of the project activities and findings is available on the project website: <https://minor-kontor.de/kommunikationskanaele-fuer-plattformarbeiterinnen>.

[9] For ease of reading and comprehension, we refer to all 'persons performing platform work' simply as 'workers' or 'platform workers.'

[10] On (platform) worker organising through digital technologies, see e.g. Salehi, N., Irani, L. C., Bernstein, M. S., Alkhatib, A., Ogbe, E., Milland, K., and 'clickhappier,' 2015, 'We are Dynamo: Overcoming stalling and friction in collective action for crowd workers,' *Proc. 2015 ACM Conference on Human Factors in Computing Systems*: 1621–1630; LaPlante, R. and Silberman, M. S., 2016, 'Building trust in crowd worker forums: worker ownership, governance, and work outcomes,' *Weaving Relations of Trust in Crowd Work*, 22–25 May 2016, Hannover, Germany; Cini, L., 2023, 'Resisting algorithmic control: Understanding the rise and variety of platform worker mobilisations,' *New Technology, Work and Employment* 38, 125–144; and Wood, A. J., Martindale, N., and Lehdonvirta, V., 2023, 'Dynamics of contention in the gig economy: Rage against the platform, customer or state?', *New Technology, Work and Employment* 38, 330–350.

[11] See e.g. Digital Platform Observatory, 2018, 'Deliveroo Works Council in Cologne and other German cities,' <https://digitalplatformobservatory.org/initiative/deliveroo-works-council-in-cologne-and-other-ger>

man-cities; Johnston, H., Caia, A., Silberman, M. S., Ceremigna, M., Hernández, D., and Dumitrescu, V., 2021, *Working on Digital Labour Platforms: A Trade Union Guide for Trainers on Crowd-, App- and Platform-Based Work*, European Trade Union Institute, pp. 9-10; Meaker, M., 2021, 'Europe Went Bananas for Gorillas. Then Its Workers Rose Up,' *Wired*, 30 Nov 2021, <https://www.wired.com/story/gorillas-gig-economy-unions-germany>.

[12] Art. 19(1) TEU.

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