Part II:
European Perspective

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Recent EU Developments Addressing Challenges of Platform Workers

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I. Introduction

This contribution builds on the discussion on the social protection of platform workers[1] as published in Social Law 4.0, Chapter 12 *"Building Up and Implementing the European Standards for Platform Workers"*.[2] The Chapter mainly focused on the 2019 Recommendation on access to social protection (hereinafter: the Recommendation)[3] which at the time served as one of the only EU instruments with clear potential to provide for improvements in the access to social protection for platform workers. As the Recommendation calls for an extension of social protection for all workers – including self-employed and non-standard workers – without reference to the specificities characterising platform work (e.g. marginal nature of the work, irregular working patterns, virtual mobility of the workers), the more general wording of the instrument may, however, not suffice to always adequately encompass these workers in social protection schemes. From that point of view, the Chapter highlighted a few of the shortcomings and specific challenges for the social protection of platform workers in particular. Now, a few years after the drafting of the Recommendation, the labour and social protection of platform workers came much more to the fore, both in Member States and on an EU level. It can be considered as one of the central issues in the contemporary EU social policy debate. The increased attention on this group calls for a further discussion on the

1 Under "platform worker" we understand any person performing platform work irrespective of whether the platform worker is considered an employee or self-employed worker. Where a distinction between both statuses is necessary, this is clarified in the text.

2 *Schoukens, Paul*, Building Up and Implementing the European Standards for Platform Workers, in: Becker, Ulrich/Chesalina, Olga (eds.), Social Law 4.0: New Approaches for Ensuring and Financing Social Security in the Digital Age, Baden-Baden: Nomos 2021, pp. 307-334.

3 Council of the EU, Council Recommendation of 15 November 2019 on Access to Social Protection for Workers and the Self-Employed, 12753/19, OJ, C 378/1.

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Recommendation and recently adopted EU instruments and their impact on the social protection of platform workers.

In a first part, the key challenges addressed in the previous paper are recalled. The second part starts with the follow-up procedure and latest Member State reports on the implementation of the Recommendation, specifically focusing on whether the Recommendation brought about improvements to the extension of social protection to platform workers.

We then continue with the discussion of three legal EU initiatives and their potential for the improvement of the social protection of platform workers: 1) the Directive on improving working conditions in platform work, 2) the Directive on adequate minimum wages, and 3) the Guidelines on the application of Union competition law to collective agreements regarding the working conditions of solo self-employed persons. In a final part, we reflect on whether the existing instruments are sufficient to remedy the existing challenges and truly have the potential to provide adequate social protection for platform workers or whether (and if so, which) issues remain.

II. Challenges for Platform Workers as Discussed in Previous Paper

The Recommendation was launched to provide to all professionally active persons access to an adequate level of social protection and therefore only implicitly deals with platform work (as a non-standard type of employment). Three main challenges for platform workers were highlighted by the previous discussion: 1) the ambiguity regarding employment status, 2) the often very low income earned by platform workers, and 3) the meaning of a professional activity.

The unclarity on the legal qualification of platform workers and consequences for their social protection was one of the concerns raised. In combination with the Recommendation's unbalanced approach towards employees and self-employed workers in terms of formal access (mandatory v. at least on a voluntary basis) and the fact that Member States still do not provide formal access to all social protection schemes for self-employed workers (not even on a voluntary basis), the observation that platforms often attempt to qualify platform workers as self-employed workers in order to reduce tax and social security burdens, may hamper formal access for platform workers.

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Even if Member States were fully in line with the Recommendation and provide for at least voluntary access for self-employed workers, the likeliness of self-employed platform workers to voluntarily join social protection schemes is arguably small (e.g. the contributions due may form a significant financial burden). Clarity regarding labour market status can prevent misclassification and thus lead to more comprehensive social protection. However, even with a clear employment qualification, problems of limited formal access persist for genuine self-employed platform workers. Moreover, irrespective of the employment status, problems with regard to effective access remain in place (see discussion below).[4]

Another challenge for platform workers, was the problem of low income and of how to take these workers into account for the organisation of social protection. The Recommendation calls for an "adequate" level of protection (Art. 11), but remains rather vague on the interpretation of adequate; generally speaking, benefits should be sufficient to keep workers out of poverty and should not fall below minimum subsistence levels. It remains challenging to assess what kind of social protection is to be guaranteed to persons with a structural low income, often a reality for platform workers.[5]

Finally, the more conceptual question on what is to be regarded as work and professional income, was raised.

III. Recent EU Actions

1. National Action Plans Following the Recommendation on Access to Social Protection

The Recommendation on access to social protection was accompanied by a follow-up procedure in which Member States were encouraged to regularly report on the implementation of the Recommendation and to implement a National Action Plan highlighting challenges, improvements, and planned initiatives with regard to the extension of social protection. The final report of 2023 which summarises the National Action Plans shows that platform

4 *Schoukens, Paul*, Building Up and Implementing the European Standards for Platform Workers (fn. 2), pp. 307-334.

5 *Schoukens, Paul*, Building Up and Implementing the European Standards for Platform Workers (fn. 2), p. 323.

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work took an important position in the debate concerning social protection for all workers.[6]

According to the final report, eleven Member States dedicated a specific discussion on platform workers' social protection, mostly highlighting the challenges in the light of the Recommendation.[7] Five Member States included specific measures to improve these workers' social protection,[8] whereas four Member States only mentioned the need to take further action without any concrete proposals.[9] Above that, possible changes in legislation and further action to improve the situation for platform workers are being discussed in several other Member States.[10] Among the measures, extensions of access to benefits for platform workers are mentioned, for instance. These actions show that – notwithstanding the absence of explicit mention of the extension of social protection to platform workers in the Recommendation – several Member States acknowledge the highly vulnerable position of platform workers and do consider them as key target in extending social protection to all workers.

2. The Directive on Improving Working Conditions in Platform Work

In 2021, the European Commission published a proposal for a Directive on improving working conditions in platform work (hereinafter: the Platform Work Directive). Following a long legislative process in which finding the necessary majority among the Member States proved very difficult,[11] a revised proposal of the initial draft finally received the Member States' approval in March 2024.[12] In April 2024, the European Parliament formally endorsed the text. The finalised act was adopted by the Council of the EU in October and in November 2024, the text was published in the Official

6 Report from the Commission to the Council on the Implementation of the Council Recommendation on Access to Social Protection for Workers and the Self-Employed, Brussels, COM(2023), 43 final.
7 Ibid., p. 14.
8 Belgium, Cyprus, Italy, Romania, Slovenia.
9 Germany, Estonia, Lithuania, Portugal.
10 Greece, Spain, France, Portugal, Germany, Croatia, Luxembourg, the Netherlands.
11 European Parliament, Legislative Train 01.2024, Initiative to Improve the Working Conditions of People Working in the Platform Economy, Q4 2021; Legislative Train 01.2024., 2A, Europe Fit for the Digital Age, 2024, pp. 1-2.
12 Council of the EU, Platform Workers: Council Confirms Agreement on New Rules to Improve their Working Conditions, Press Release, 11 March 2024.

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Journal of the EU.[13] EU Member States have two years to incorporate the minimum requirements set out in the Platform Work Directive.

This Directive is the very first EU instrument focusing on platform workers in particular.[14] Looking at the instruments' main objectives,[15] i.e. improving the working conditions and protecting personal data of persons performing platform work by 1) introducing measures to facilitate the correct determination of the employment status, 2) promoting fairness, transparency, human oversight, safety and accountability in algorithmic management in the platform work context and 3) enhancing transparency, in platform work, also in cross-border situations, the Platform Work Directive at first sight does not seem to bring about any major changes as far as the social protection of platform workers is concerned. The instrument may have an indirect impact though, at least according to the Directive itself. Reference to social protection and to the Recommendation is made throughout the proposal,[16] by which mainly the assumption prevails that a proper classification may improve the access to social protection.

Concerning the first objective, i.e. the correct determination of the employment status, the Platform Work Directive contains a rebuttable presumption[17] of an employment relationship, depending on the platform's degree of control and direction over the performance of the work. This is assessed according to the facts, as laid down in national law, collective agreements or practice in force in the Member States, while at the same time taking into account the case law of the Court of Justice.[18] A correct determination of employment status could indirectly improve the social security of platform workers. Although the Platform Work Directive highlights the fact that it only imposes the obligation to apply the legal presumption in all relevant administrative or judicial proceedings without imposing the obligation on Member States to apply the legal presumption in social

13 Directive EU 2024/2831 on Improving Working Conditions in Platform Work, OJ L, 2024/2831.

14 *Barrio, Alberto*, The Role of the EU in Adapting Social Law to the Digital Transformation of Work. Lessons Learned from the Proposed Directive on Improving Working Conditions in Platform Work, Hungarian Labour Law e-Journal (2023) 1, p. 21, https://www.hllj.hu/letolt/2023_1_a/02_ABarrio_hllj_uj_2023_1.pdf (accessed on 1 September 2024).

15 Art. 1 Platform Work Directive.

16 Recitals (6) and (11) Platform Work Directive.

17 With the burden of proof to rebut the presumption on the platform; Art. 5 Platform Work Directive.

18 Art. 5 Platform Work Directive.

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security proceedings (bearing in mind the limited EU power to intervene in social security matters, see Art. 153 TFEU), the latter is nevertheless encouraged.[19]

A clear framework on the application of the employment status, meets part of the abovementioned challenge on the difference between self-employment and wage labour, as platform workers who are reclassified as employees, may have better social protection (the Recommendation calls for access "on a mandatory basis"). Yet, the Platform Work Directive by no means solves all obstacles in terms of access to social protection. Even though clarity on the employment status may lead to an enlargement of formal access for misclassified platform workers, problems regarding effective access still remain irrespective of the employment status.[20] According to the Recommendation, rules governing contributions and entitlements should not hinder the possibility of accruing and accessing benefits on grounds of the type of employment relationship, but as national social security schemes traditionally implemented minimum thresholds in order to open effective access to social protection schemes (e.g. minimum qualifying periods, working periods), platform workers may still encounter significant obstacles in reaching these minimum thresholds due to the nature of their work. Hence, even if clarity on the employment status is achieved,[21] problems may arise with regard to effective access to social protection.[22]

The other objective set out by the Platform Work Directive concerns the protection of personal data in platform work, amongst other things by setting out limitations on the processing of personal data by means of decision-making systems,[23] imposing the duty on digital platforms to provide a data protection impact assessment,[24] requiring transparency on automated monitoring or decision-making systems,[25] and requiring human oversight and a review of automated systems.[26] Finally, transparency on platform

19 Art. 5 Sec. 3 Subsec. 2 and Recital (33) Platform Work Directive.
20 *Hooker, Josie/Antonucci, Lorenza*, Improving the EU Platform Work Directive Proposal: A Contribution from Emerging Research Findings, OSE Opinion Paper, no. 28, 2022, p. 9, https://www.ose.be/sites/default/files/publications/2022_Hooker_Antonucci_OpinionPaper28.pdf (accessed on 1 September 2024).
21 *Schoukens, Paul*, Building Up and Implementing the European Standards for Platform Workers (fn. 2), pp. 307-334.
22 Ibid.
23 Art. 7 Platform Work Directive.
24 Art. 8 Platform Work Directive.
25 Art. 9 Platform Work Directive.
26 Arts. 10-11 Platform Work Directive.

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work itself is required, inter alia by a requirement to declare platform work and provide access to relevant information on platform work.[27] Most relevant in light of the connection between these objectives and the social protection of platform workers in particular would be Art. 16 and 17 of the Platform Work Directive. Art. 16, only applicable to platform workers who work as employees, sets out the obligation for digital platforms to declare work performed by platform workers (employees) to the competent (labour and social protection) authorities.[28] This would particularly be relevant in situations where digital labour platforms are established in another country than the country in which the platform work is performed.[29] Art. 17 continues with the obligation to share information on the number of persons performing platform work and their contractual or employment status, the general terms and conditions applicable to those contractual relationships, and the intermediaries the digital labour platform has a contractual relationship with. On request by the competent authority, the platform must also provide information on the average duration of activity, the average weekly number of working hours and the average income of those working on the platform on a regular basis. Competent authorities furthermore have the right to ask for additional details and clarifications of the information provided. Unlike Art. 16, Art. 17 is applicable to all persons performing platform work irrespective of whether they are classified as employees or self-employed persons. The Explanatory Memorandum acknowledges that the duty to declare basic relevant information on the number of platform workers working through digital labour platforms may facilitate the enforcement of applicable rules.[30] An example would be increased clarity on the social contributions due for platform workers. It is important to note however, that this assumes that in cross-border situations, it will always be clear which the competent country will be for social protection (in application of Regulation EU 883/2004 and/or social security coordination conventions). For platform work this may not always be the case, even if the platform worker is (assumed to be) working as wage-earner.[31]

27 Arts. 16-17 Platform Work Directive.
28 Art. 16 Platform Work Directive.
29 Recital (55) Platform Work Directive.
30 Recital (9) and (57) Platform Work Directive.
31 *Strban, Grega/Carrascosa Bermejo, Dolores/Schoukens, Paul/Vukorepa, Ivana*, Social Security Coordination and Non-Standard Forms of Employment and Self-Employment: Interrelation, Challenges and Prospects, MoveS Analytical Report 2018, Brussels 2020, pp. 30-36; *Vukorepa, Ivana*, Cross-Border Platform Work: Riddles for

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A final key provision that may indirectly improve the platform workers' social protection, is the protection from dismissal as laid down in Art. 23. Member States must take the necessary measures to prohibit dismissal or termination of the platform workers' contract merely based on the grounds that they have exercised their rights under the Platform Work Directive. Above that, platform workers will have the explicit right to ask for the grounds for the dismissal or termination of contract. This can be pivotal in light of unemployment protection in particular, given that the proof of the involuntary character of the unemployment is often a requirement in order to become entitled to unemployment benefits.

What the Platform Work Directive fails to address, however, is how to deal with unpaid labour. Research shows that unpaid labour is an inherent part of platform work (e.g. periods when platform workers have to wait when picking up a delivery, or the fact that they will often charge too little time for an assignment for fear of bad ratings).[32] The question then arises as to how unpaid work should be addressed in employment law (working hours), but in particular also in social security law: labour that is not remunerated by platforms will hardly lead to any accrual of social protection rights.

Overall, the Platform Work Directive does, strictly speaking, not deal with the challenges that platform workers face as regards their social protection. It merely addresses the issue in an indirect manner assuming that the rebuttable presumption of an employment relationship and the reporting of the work on platforms will lead to a better social protection for platform workers in the end. Yet, turning platform workers into employees does not solve the issues they face in relation to effective access to social protection. Social protection systems do apply minimum income and/or work thresholds that are ultimately detrimental for platform workers (including the ones working on the basis of an employment contract), as

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Free Movement of Workers and the Social Security Coordination, Zbornik PFZ 70 (2020) 4, pp. 481-511 and *Strban, Grega*, Social Law 4.0 and the Future of Social Security Coordination, in: Becker, Ulrich/Chesalina, Olga (eds.), Social Law 4.0: New Approaches for Ensuring and Financing Social Security in the Digital Age, Baden-Baden: Nomos 2021, pp. 335-362.

32 *Pulignano, Valeria/Piasna, Agnieszka/Domecka, Markieta/Muszyński, Karol/Vermeerbergen, Lander*, Does it Pay to Work? Unpaid Labour in the Platform Economy, ETUI Policy Brief, 2021.15, pp. 8-9, https://www.etui.org/sites/default/files/2021-11/Does%20it%20pay%20to%20work.%20Unpaid%20labour%20in%20the%20platform%20economy_2021.pdf (accessed on 1 September 2024).

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their work is characterised by short term part-time contracts and limited revenues. In line with the suggestions made by the Recommendation this asks for a more comprehensive regulation of the minimum protection to be guaranteed to persons whose work is characterized by short time assignments; as a large share of these persons are hired as self-employed workers, it is doubtful whether the EU has been given the competence to implement such regulation.[33]

3. Directive (EU) of the European Parliament and of the Council of 19 October 2022 on Adequate Minimum Wages in the European Union

Another challenge that remains completely unaddressed by the Recommendation is the often very low income earned by platform workers and the question of how to take this into account for the organisation of social protection. As the previous discussion noted: "*The Recommendation calls for guaranteeing an effective social protection and thus for organizing the system so that scattered insurance records should not be disproportionally sanctioned in social protection systems, yet remains silent as to what should be guaranteed in terms of decent levels of social protection and what when the income basis was too low during his or her working life to justify a decent minimum protection.*"[34]

In this regard, another recently adopted EU-instrument could indirectly contribute to extended social protection for platform workers on low income: the Directive on adequate minimum wages in the European Union (hereinafter: the Minimum Wage Directive). The Minimum Wage Directive remains general in its wording and targets all persons under an employment contract. Nevertheless, the importance of a framework on adequate minimum wages in view of the structural trends reshaping the labour market and the increase of e.g. platform work, is mentioned in the recitals.[35]

Two core elements prevail: 1) setting adequate minimum wages and 2) promoting collective bargaining.[36] Both serve the overarching goal of

33 *Barrio, Alberto,* The Role of the EU in Adapting Social Law to the Digital Transformation of Work (fn. 14), p. 34.
34 *Schoukens, Paul*, Building Up and Implementing the European Standards for Platform Workers (fn. 2), p. 326.
35 Recital (11) Directive on Adequate Minimum Wages.
36 Arts. 4 and 5 Directive on Adequate Minimum Wages.

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reducing in-work poverty.[37] Bearing in mind the lack of competence for the EU to intervene on the level of pay, as set out in Art. 153(5) TFEU, the Minimum Wage Directive does not establish the level of pay as such but serves as a *framework* for setting adequate minimum wages,[38] including several criteria to be taken into account by the Member States.[39] According to the Minimum Wage Directive, these elements are not infringing the lack of EU competence as they fall under "working conditions", enshrined in Art. 153(1)(b) TFEU, which is invoked as legal basis. This reasoning, however, has been highly controversial and continues to cause uncertainty: at the time of writing this paper, an action for annulment of the Directive brought by Denmark is pending.[40]

An adequate minimum wage is described as a wage that is fair in relation to the national wage distribution and at the same time provides a decent standard of living, which, suggested by the Minimum Wage Directive, corresponds to national reference values of 60% of the gross median wage or 50% of the gross average.[41] There is no obligation for Member States guaranteeing minimum wage protection by means of collective agreements to implement a statutory minimum wage.[42] With respect to the promotion of collective bargaining, the Minimum Wage Directive obliges Member States in which the collective bargaining coverage rate is below 80% to establish an action plan promoting collective bargaining, as collective bargaining is considered an important element in achieving adequate wages.[43]

For platform workers in particular, it is acknowledged that they often operate in low-paid occupations and have more difficulties organising and negotiating collective agreements.[44] Moreover, research has shown

37 *Ratti, Luca*, The Sword and the Shield: The Directive on Adequate Minimum Wages in the EU, Industrial Law Journal 52 (2023) 2, p. 485.
38 Art. 1 Directive on Adequate Minimum Wages.
39 *Di Marco, Antonio*, Minimum Wages Directive and Beyond: Workers' Dignity Taken (Almost) Seriously, Human Rights Law Review 23 (2023) 3, p. 5.
40 Action brought on 18 January 2023 – Kingdom of Denmark v. European Parliament and Council of the European Union, Case C-19/23, 2023/C 104/22.
41 Recital (28) Directive on Adequate Minimum Wages.
42 Art. 1 (4)(a) Directive on Adequate Minimum Wages.
43 Art. 4 (2) Directive on Adequate Minimum Wages; Recital (16) Directive on Adequate Minimum Wages; *Di Marco, Antonio*, Minimum Wages Directive and Beyond: Workers' Dignity Taken (Almost) Seriously (fn. 39), p. 6.
44 Recital (11) Directive on Adequate Minimum Wages.

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that platform workers are prone to in-work poverty.[45] In that sense, the aims of the Minimum Wage Directive of safeguarding at least a minimum wage for platform workers and increasing the possibility to negotiate better wages sound promising. In terms of the social protection of these workers however, most of the abovementioned problems are not remedied. Higher wages in theory have an effect on the rights accrual and in the end lead to higher benefits, but the actual effect can be questioned. First of all, even when the income is fixed at a certain minimum, the risk of labour instability prevails amongst platform workers. Scattered insurance records and insufficient working hours may still lead to difficulties reaching certain minimum (income) thresholds or building up enough rights to receive appropriate benefits especially bearing in mind the traditional design of social security systems based on a less fragmented work record and the fact that the minimum wages as set out in the Minimum Wage Directive also refer to full-time employment as a starting point.[46] Moreover, we can question whether mere protection against poverty is sufficient in light of the philosophy of professional social security schemes, which in the end aim to appropriately protect against the loss of income from work. Finally, here, too, unremunerated waiting periods remain problematic.

Another important limitation is the scope of application. The Minimum Wage Directive only applies to those working under an employment contract.[47] Hence, self-employed workers are excluded. Even if more clarity around the employment relationship was created under the Platform Work Directive, a large part of the platform workers would still be considered self-employed workers and therefore excluded from the Minimum Wage Directive. In order to enjoy minimum guarantees for their remuneration, self-employed platform workers will need to find recourse to other legal means, such as the possibility to conclude collective "labour" agreements with their principals. As will be addressed below, the recent EU Commission guidelines on collective agreements by solo self-employed workers have provided an outcome of sorts in this respect (see 4.). Similarly, the information duty which the Platform Work Directive refers to in Art. 17 (see above under 2.) could be helpful, too, if it covered the remuneration (levels) provided to self-employed platform workers.

45 *De Becker, Eleni/Schoukens, Paul/Bruynseraede, Charlotte/Dockx, Alexander*, Working Yet Poor Project. Comparative Report on Social Security, Horizon 2020, 2022, p. 247.

46 Recital (28) Directive on Adequate Minimum Wages.

47 Art. 2 Directive on Adequate Minimum Wages.

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4. Guidelines on the Application of Union Competition Law to Collective Agreements Regarding the Working Conditions of Solo Self-Employed Persons

Platform workers who qualify as self-employed persons thus do not fall within the scope of the Minimum Wage Directive. Moreover, until very recently, their rights to collective bargaining and entering into collective agreements were virtually non-existent, as the EU for many years took a reluctant stance on collective bargaining power among the self-employed because of the anti-competitive effect of such agreements.[48]

Art. 101 TFEU enshrines a prohibition to conclude anti-competitive agreements between undertakings. Quite soon, the Court of Justice of the EU ruled in *Albany*[49] that collective bargaining between employees and employers with the intention to improve the working conditions of the employees are excluded from the scope of application of Art. 101 TFEU. For self-employed workers, however, the prohibition remained in effect, although more recent case law caused a shift. In *FNV Kunsten*[50] the ECJ ruled that false self-employed and self-employed workers in a situation comparable to that of employees, are excluded from the prohibition of Art. 101 TFEU. The ambiguity of the judgment raised several questions regarding the extent of the application of the prohibition to conclude collective agreements.

In order to create clarity, the Commission set out Guidelines on the application of Union competition law to collective agreements regarding the working conditions of solo self-employed persons[51] (hereinafter: the Guidelines). It becomes apparent that, in the light of creating a level playing field between economic and social objectives and the increasingly blurred boundaries between employees and self-employed workers, the EU is quiet-

48 *Countouris, Nicola/De Stefano, Valerio*, The Labour Law Framework: Self-Employed and Their Right to Bargain Collectively", in: Waas, Bernd/Hießl, Christina (eds.), Collective Bargaining for Self-Employed Workers in Europe: Approaches to Reconcile Competition Law and Labour Rights, Alphen aan de Rijn: Wolters Kluwer 2021, p. 10 ff.

49 ECJ 21 September 1999, C-67/96, Albany International BV v. Stichting Bedrijfspensioenfonds Textielindustrie, EU:C:1999:430.

50 ECJ 4 December 2014, C-413/13, FNV Kunsten Informatie en Media v. Staat der Nederlanden, EU:C:2014:2411.

51 Communication from the Commission. Guidelines on the Application of Union Competition Law to Collective Agreements Regarding Working Conditions of Solo Self-Employed Persons, (2022/C 374/02).

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ly moving away from the stringent interpretation in favour of competition law.[52]

The Guidelines provide clarity as to situations in which collective agreements concluded by solo self-employed workers will not be considered as violating Art. 101 TFEU, as well as to situations which are as such excluded from the prohibition set out in the article. Especially the latter is of interest for the discussion on platform workers. According to the Guidelines and in line with the jurisprudence of the ECJ, two categories are entirely excluded from the scope of application of Art. 101 TFEU: false self-employed and solo self-employed persons in a situation comparable to workers. Section 3 of the Guidelines clarifies that *"Collective agreements by solo self-employed persons comparable to workers [fall] outside the scope of article 101 TFEU"*, and are hence allowed (if it concerns the improvement of their working conditions at least). Solo self-employed persons comparable to workers include three types of solo self-employed workers: 1) economically dependent solo self-employed workers, 2) solo self-employed persons working "side-by-side" with workers, and 3) solo self-employed persons working through digital labour platforms.[53]

According to point 15 of the Guidelines, working conditions "include matters such as remuneration, rewards and bonuses, working time and working patterns, holiday, leave physical spaces where work takes place, health and safety, insurance and social security, and conditions under which solo self-employed persons are entitled to cease providing their services or under which the counterparty is entitled to cease using their services." In terms of social protection for platform workers, the previous would mean that collective agreements can be concluded (whether by the social partners or not) that relate to additional social protection, for example in the event of illness or unemployment. Wage settlements can also have an impact on social protection because it can lead to higher pension accrual (as mentioned above).

52 *Hoekstra, R.F.*, Het grondrecht op collectief onderhandelen van zelfstandigen versus het Europese mededingingsrecht, Arbeidsrechtelijke Annotaties 12 (2018) 3, pp. 43-44.

53 Point 2(d) of the Guidelines defines "digital labour platform" as follows: "any natural or legal person providing a commercial service which meets all of the following requirements: 1) it is provided, at least in part, at a distance through electronic means, such as a website or a mobile application, 2) it is provided at the request of a recipient of the service and 3) it involves, as a necessary and essential component, the organization of work performed by individuals, irrespective of whether that work is performed online or in a certain location."

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IV. Conclusion

Several new EU initiatives have been launched to protect the working conditions of platform workers. The major limitation of the initiatives is to be found in the scope of protection: they address mainly labour law protection and leave aside the field of social protection. Although it is assumed that some of the measures will have an indirect effect on the eventual social protection of platform workers – such as the rebuttable assumption that platform work is performed on the basis of a labour contract when facts indicate control and direction, and the fact that the contractual relations will need to be reported to the competent authorities – the main problem in relation to social security remains at the end of the day: due to irregular work patterns and scarce revenues, platform workers struggle with an effective and adequate access to social protection. The main remedies to address these problematic issues have been suggested in the EU Recommendation on access to social protection, however they are stipulated in a general fashion and need to be fine-tuned to the specific case of platform work. In other words, notwithstanding the recent initiatives that have been taken at EU level to protect (platform) work better, the essentials for what is needed in the field of social security are still to be found in the EU Recommendation. What now remains is the challenge to have these social security recommendations translated into a more (legally) enforceable EU instrument.

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