

Political roadmap for the upcoming Second phase consultation of social partners on possible action addressing the challenges related to working conditions in platform work

Adopted at the Executive Committee Meeting of 3-4 June 2021

This resolution aims at informing ETUC affiliates about the upcoming calendar of the consultation of social partners, under Article 154 TFEU, on possible action addressing the challenges related to working conditions of platform work and the upcoming own-initiative report on “Fair working conditions, rights and social protection for platform workers - New forms of employment linked to digital development (INI)” in the European Parliament.

This document, therefore, provides an update of the roadmap that was discussed at the Extraordinary meeting of the Executive Committee of February 2021 ([Political roadmap of the upcoming European initiative on “Improving the working conditions of platform workers”](#)).

Political developments

Recent developments (court cases in France and Spain, law in Spain, collective agreement in Italy...) show more and more that the classification of workers as employees and of platform companies as employers has to be resolved and that trade union efforts bear fruit. On 26 May, the Supreme Court of Spain has rejected the appeal brought by Deliveroo against the judgment declaring 500 delivery drivers to be falsely self-employed. It considers that the appeal does not have a legal interest. The same day, the Paris Court of Appeal recognised the existence of a relationship of subordination between a VTC driver and the Uber platform and therefore reclassified the driver's service contract as an employment contract. In Spain, the “Ley Riders” was passed on 11 May 2021 following an agreement with the social partners. The Ministry of Labour has approved the decree for the 'Protection of the labour rights of people dedicated to delivery through digital platforms', this being its official name. A series of measures determine the "presumption of employment" and the obligation to "inform workers about algorithms or artificial intelligence systems that affect working conditions". On 29 March 2021, the Italian trade union confederations CGIL, CISL and UIL signed an important agreement with Just Eat. Thanks to this, the Logistics National Collective Bargaining Agreement will apply to Just Eat's workers. This company's riders will thus have access to a fair wage, labour rights, as well as social protection and health and safety protections. The agreement also includes measures on the pay scale of the up to 4000 workers, that Just Eat plans to progressively involve in the process and recruit. However, workers all over Europe cannot wait for years of court procedures anymore, the following European initiative has to give a boost to win rights for non-standard workers whether they work online or offline (including those in platform companies) and to make the digitalisation of the economy compatible with the employment relationship and the respect of fundamental workers' rights.

Second phase consultation of the social partners

On 1 April, ETUC submitted its [reply to the first phase consultation of social partners under Article 154 TFEU on possible action addressing the challenges related to working conditions in platform work](#). The reply was adopted by the ETUC Executive Committee at its meeting of 22-23 March 2021.

ETUC's answer was articulated around the following priorities:

- The presumption of employment status in general, complemented by a reversal of the burden of proof by platforms.
- The need for platforms to be recognised as 'companies' endowed with a vast range of managerial prerogatives and powers and should therefore shoulder all the obligations that this status entails, including the function of employer when it applies.
- The opposition to the creation of a third status between workers and self-employed.
- The need for the European initiative to cover all non-standard workers and workers in platform companies (including the self-employed) in their access to collective and individual rights and not only those in platform companies, in order not to create a *de facto* third category
- The scope of an initiative on platform work should cover both on-location and online labour platforms.
- The need for a joint and coherent European action in full respect of national industrial relation systems.

The European Commission has announced the publication of the second stage of the social partners' consultation on 16 June. The initial information received is that social partners would be given 10 weeks to submit their answers, which means the deadline would be 25 August. Considering the holiday period and the need to respect the internal decision-making procedures of the social partners, ETUC and the European employer's organisations have requested the European Commission to extend the deadline until End September. This would allow us to adopt our reply at our next Statutory meeting, the ETUC Steering Committee on 9 September. We therefore ask the Executive Committee to agree on the calendar proposed hereunder. If this demand of delay to the Commission is not accepted, we will have to go for a vote by written procedure, with tighter deadlines.

Similarly to the first phase consultation, ETUC will ensure a close involvement of its affiliates and send, in due time, a proposal for the second phase response, giving a deadline for modification proposals and schedule a meeting to discuss the modifications proposed by affiliates. Below is the proposed calendar to coordinate the reply with ETUC affiliates:

| Proposed Calendar | If extension is accepted by the EC | Without extension |
|--|------------------------------------|-------------------|
| Publication of the second stage of the social partners' consultation | 16 June | 16 June |
| Submission of the proposal of draft reply by ETUC to its affiliated member organisations | 30 June | 23 June |
| Deadline for ETUC member organisations to submit amendments to the draft reply | 13 August | 30 June |

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| Meeting of the ad-hoc group on non-standard workers to discuss the draft reply | 23 August | 30 June |
| Submission of the new proposal of draft reply by ETUC to its affiliated member organisations, considering the amendments submitted. | 31 August | 5 July |
| Vote of the ETUC reply | 9 September (by vote at ETUC Steering Committee) | 19 August (deadline for votes by written procedure) |

ETUC will concentrate its answer in identifying the aspects of the initiative that should be dealt at national level and those for which European action is needed. To this aim, a research on the feasibility of the ETUC Resolution on the protection of the rights of non-standard workers and workers in platform companies (including the self-employed) has been commissioned to a team of legal professors from Germany, France, and Spain. The report will be published by the end of June.

European Parliament INI report

The Parliamentary own-initiative report on “Fair working conditions, rights and social protection for platform workers - New forms of employment linked to digital development (INI)” was published on 12 February. ETUC contributed with proposals for amendments related to ETUC key positions, these were shared with the rapporteur and the shadow rapporteurs and tabled as amendments by several political groups. ETUC also engaged in the Committee on Transport and Tourism where this opinion was discussed. At the time of discussion of this resolution, ETUC is involved in influencing the negotiation of the compromise amendments in EMPL in favour of the ETUC adopted position [[ETUC Resolution on the protection of the rights of non-standard workers and workers in platform companies \(including the self-employed\)](#)].

The Parliamentary calendar of this report has been subject to some changes due to health-related issues of the rapporteur. The upcoming stages are expected to take place on the following dates:

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| Consideration of AMs | 27 May 2021 |
| Shadow Rapporteurs meetings | Weeks 21-26 |
| Vote in EMPL | 14/15 July 2021 |
| Vote in Plenary | Tbc |

ETUC Communication Strategy

ETUC has also engaged with its affiliates via the ad-hoc group on non-standard workers and platform companies with the aim of devising a communication strategy, which will give visibility to the demands of trade unions in relation to workers in platform companies and, also, show that trade unions are, and will be, relevant actors that cannot be circumvented. Two meetings have been held in this regard: on 3 February and on 27 April. ETUC’s communications strategy includes a mixture of pre-planned and reactive communication using a combination of social media and traditional media through its strong online presence.