



Addressing employment status' misclassification of persons performing platform work: legal frameworks, enforcement strategies and the new Platform Work Directive

**Output paper from the
plenary thematic discussion**

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1.0 Introduction

The thematic day of the 18th plenary meeting of the European Platform tackling undeclared work ('the Platform') aimed to enhance the Platform members' and observers' understanding of the misclassification of employment status in platform work, with a focus on national legal frameworks and enforcement strategies. Central to the discussion is the recently adopted Directive (EU) 2024/2831 (the 'Platform Work Directive')¹, which sets out the rules supporting the determination of the correct employment status of persons performing platform work, limits algorithmic control without human oversight, and improves transparency regarding automated systems used by digital labour platforms. With over 28 million people² in the European Union working through such platforms in 2021 — many classified as self-employed despite working under conditions similar to those of employees³ — the Directive represents a critical shift toward more secure and fair working conditions.

Digital labour platforms⁴ have expanded rapidly due to digitalisation and new business models, yet their growth has raised complex legal and social issues, particularly around employment classification. Previous activities of the Platform⁵ have explored undeclared work in the collaborative economy⁶ and bogus self-employment, revealing the need for continued knowledge exchange. Building on the lessons of previous experiences and Platform sessions, the current thematic day advanced the discussion and provided a space to:

- ▶ Examine the evolving legal landscape;
- ▶ Evaluate the role of employment presumptions;
- ▶ Address the challenges of tackling undeclared work and misclassification, also in cases where intermediaries between the digital labour platform and the person performing platform work are involved;
- ▶ Explore the emerging strategies of national enforcement authorities in inspecting possible misclassification, raising awareness among persons performing platform work, platforms and intermediaries, and developing cooperation strategies nationally and internationally with other public authorities;
- ▶ Discuss the approaches of organisations such as the European Commission, the European Labour Authority ('ELA'), the International Labour Organization ('ILO') and social partners regarding the implications of the Directive on tackling misclassification of employment.

75 participants, including Platform members, observers, experts, and ELA representatives, participated in the thematic day. The objectives were to provide Platform members and observers with an opportunity to exchange

¹ [Directive \(EU\) 2024/2831 of the European Parliament and of the Council of 23 October 2024 on improving working conditions in platform work](#).

² European Council of the European Union, [Spotlight on digital platform workers in the EU](#). Retrieved on 17 April 2025.

³ European Commission (2021). [Impact assessment report accompanying the proposal for a directive on improving working conditions in platform work](#) (SWD (2021) 396 final). Brussels: European Commission.

⁴ According to Article 2 (1)(a) of Directive (EU) 2024/2831 'digital labour platform' means a natural or legal person providing a service which meets all of the following requirements: (i) it is provided, at least in part, at a distance by electronic means, such as by means of a website or a mobile application; (ii) it is provided at the request of a recipient of the service; (iii) it involves, as a necessary and essential component, the organisation of work performed by individuals in return for payment, irrespective of whether that work is performed online or in a certain location; (iv) it involves the use of automated monitoring systems or automated decision-making system.

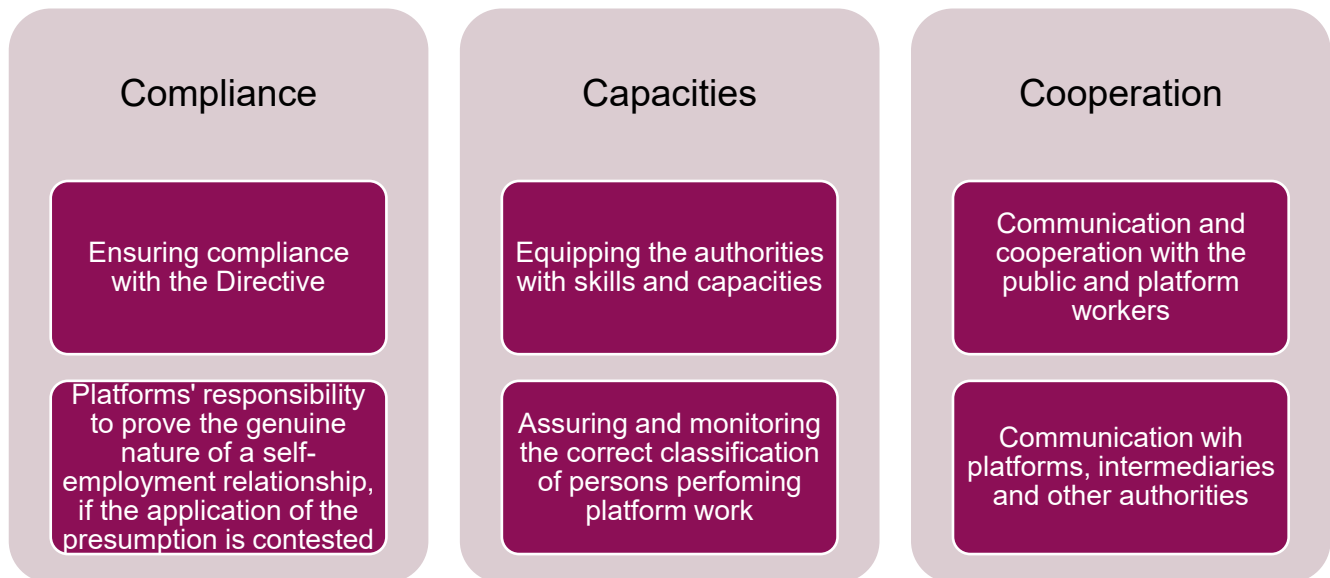
⁵ Recent activities include two peer learning dialogues on [approaches to preventing, detecting and tackling bogus self-employment \(2023 and 2024\)](#); and the thematic review workshop on [challenges and approaches for tackling undeclared work on digital labour platforms \(2024\)](#)

⁶ In its June 2016 Communication 'A European agenda for the collaborative economy', the European Commission defines the collaborative economy – sometimes called the 'sharing economy' – as 'business models where activities are facilitated by collaborative platforms that create an open marketplace for the temporary usage of goods or services.'



practices, identify inspiring aspects that could be transferred to different settings, and consider new skill requirements. The key themes, including related challenges, that emerged from the presentations and discussions are summarised in Figure 1.

Figure 1. Key insights on the future capacities and competencies required by enforcement authorities to tackle misclassification of employment status in platform work



Source: CELSI and ICF based on discussions and presentations during the Plenary Meeting.

2.0 The Platform Work Directive and employment misclassification

Representatives of the European Commission (EC) provided an overview of key provisions of the Platform Work Directive, and its importance for improving working conditions in the platform economy in the EU. The aim of the Directive is to protect workers from misclassification, bring greater transparency to algorithmic management, and ensure a more level playing field across the EU.

The Platform Work Directive introduces a **rebuttable legal presumption of employment for persons performing platform work**. 'Platform work'⁷ is defined as the organisation of work through a digital labour platform and performed in the Union by an individual on the basis of a contractual relationship between the digital labour platform or an intermediary, and the individual, irrespective of whether there is a contractual relationship between the individual or an intermediary and the recipient of the service. It typically involves a triangular relationship between the platform or an intermediary, the person performing platform work, and the client. This work can include both on-site tasks, such as food delivery or cleaning services, and online services, such as graphic design or software development.

The Directive stipulates that a 'digital labour platform' means a natural or legal person providing a service which meets all of the following requirements:

- it is provided, at least in part, at a distance by electronic means, such as by means of a website or a mobile application;

⁷ Article 2 (1)(b) of the Platform Work Directive.



- ▶ it is provided at the request of a recipient of the service;
- ▶ it involves, as a necessary and essential component, the organisation of work performed by individuals in return for payment, irrespective of whether that work is performed online or in a certain location;
- ▶ it involves the use of automated monitoring systems or automated decision-making systems.

The Directive clarifies that digital labour platforms do not include providers of a service by means of which individuals who are not professionals can resell goods or whose primary purpose is to exploit or share assets. Additionally, many platforms operate through intermediaries to outsource or subcontract work, potentially evading legal obligations. To address this issue, **Article 3** requires Member States to ensure that persons performing platform work via intermediaries enjoy the same level of protection as those who have a direct contractual relationship with the platform.

According to data from the 2021 impact assessment conducted by the Directorate-General for Employment, Social Affairs and Inclusion, an estimated 28 million people in the EU were working via digital platforms⁸. Of these, 90% were classified as self-employed, yet approximately 5.5 million were likely misclassified⁹. The use of algorithmic management systems, often referred to as the 'black box', creates significant uncertainty around earnings, working conditions, and oversight. This has led to widespread concern and over 900 legal cases in 14 Member States concerning the employment status of persons performing platform work. Alarming, 55% of persons performing platform work earn less than the minimum wage.

The **Directive** has three key objectives:

- ▶ to facilitate the determination of the correct employment status,
- ▶ to promote transparency, fairness, human oversight, safety and accountability in algorithmic management,
- ▶ to improve overall transparency within platform work.

Under Chapter II, the Directive emphasises that the determination of employment status must be guided primarily by the facts relating to the actual performance of work (principle of primacy of facts), with clear identification of which party/-ies assume/s employer obligations.

Article 4 calls for appropriate and effective national procedures to verify employment status.

Article 5 establishes a rebuttable legal presumption of employment if there are facts indicating control and direction. This presumption shifts the burden of proof to the platform, requiring it to demonstrate that a person performing platform work is genuinely self-employed.

Article 6 requires Member States to establish supporting measures, including guidance to help platforms, persons performing platform work, and social partners understand and apply the legal presumption. The article also stresses the importance of training and technical expertise in algorithmic management for labour inspectorates and calls for effective enforcement mechanisms, especially where there is a record of misclassification.

Chapter IV of the Directive addresses transparency obligations for digital platforms. It requires platforms to make available key information to competent authorities and worker representatives, including the number of workers,

⁸ European Council of the European Union, [Spotlight on digital platform workers in the EU](#). Retrieved on 17 April 2025.

⁹ European Commission (2021). [Impact assessment report accompanying the proposal for a directive on improving working conditions in platform work](#) (SWD (2021) 396 final). Brussels: European Commission.



their employment status, general terms and conditions, average working hours and income, and the use of intermediaries.

Finally, Chapter V focuses on remedies and enforcement. Representatives of persons performing platform work and entities with a legitimate interest should be able to engage in any procedure on behalf or in support of persons performing platform work to enforce the rights and obligations of the Directive. National authorities must have access to relevant evidence, and persons performing platform work must be protected from adverse treatment and consequences or dismissal/termination of contract for asserting their rights. Enforcement must be robust, with effective, dissuasive, and proportionate penalties. In areas concerning algorithmic management, General Data Protection Regulation ('GDPR') rules and fines will apply, with national data protection authorities playing a role in oversight.

In the Q&A session following the EC presentation, questions were raised regarding the evidentiary basis of the Platform Work Directive, the treatment of persons performing platform work based outside the EU/EEA, and the risks of misusing legal employment statuses. One of the questions raised concerned the source of data on the extent of platform work, with the most recent data dating from 2021. A representative from UNI Europa questioned the Directive's ability to address national legal loopholes, such as France's '*auto-entrepreneur*' status. The Commission representative responded that, while such individuals are formally self-employed, they should still benefit from the rebuttable legal presumption of employment and be able to initiate proceedings. It was also emphasised that the Directive includes provisions for intermediaries to ensure that persons performing platform work subcontracted by platforms receive equal protection.

The transnational nature of platforms and enforcement limitations across borders was highlighted as a significant challenge by the participants, calling for ELA to take a more proactive, coordinating role. One of the participants raised concerns about platforms adapting their contracts following enforcement decisions. The Commission stressed that the Directive's core principle — the primacy of facts over contractual form — helps prevent circumvention in such cases. Even if contractual terms change, indicators of direction and control remain valid. A platform's ability to modify contracts and work organisation further demonstrates employer-like control, reinforcing the case for reclassification under the Directive.

3.0 The EU concept of 'worker' and enforcement measures addressing platform workers' misclassification

Addressing the potential misclassification of persons performing platform work involves, amongst others, examining the existing and emerging national legal frameworks, as well as national authorities' enforcement strategies. This issue was explored and informed by two insights: a presentation by Prof. Adrián Todolí-Signes from the University of Valencia, Spain, thematic expert, and an online poll among the plenary meeting participants to collect their views on the key questions related to the current state of platform workers' arrangements, the improvements expected by the Directive, and expectations and practice in enforcement strategies.



3.1 The EU concept of ‘worker’ in platform work and relevant case law

The expert presentation, based on the findings from the upcoming ELA study ‘Addressing platform workers’ employment misclassification: legal frameworks, enforcement strategies and the new Platform Work Directive’,¹⁰ examined the concept of ‘worker’ in platform work, assessed how national and EU-level case law influences the classification of employment status, presented the possible impact of the Directive, and identified enforcement tools and effective practices used across Member States.

The current evidence on national case law shows that **employment status must be determined by ‘the facts of the relationship’** rather than the wording of contracts or the declared intentions of the parties. Key indicators of employment include algorithmic control, task assignment, customer rating systems, and the platform’s ownership of tools or infrastructure. For example, the Spanish Supreme Court Ruling 25/9/2020 stipulates that the platform is the main means of production (e.g., a worker would not practice this kind of work, and the business would not sell its goods and services in the same scope, territory and customers should there be no platform to enable this operation).

The Court of Justice of the European Union adopted an autonomous worker concept, stipulating that

- ▶ Member States cannot have such narrow concepts of workers that would render the EU rules ineffective.
- ▶ Member States cannot exclude by national law certain groups of workers (e.g. artists, domestic workers) from the protection provided in the EU framework for arbitrary reasons (Case C-216/15 *Betriebsrat der Ruhrländische Klinik*; see also the Order of the Court in C-692/10, *Yodel*).

A number of challenges emerge from the above stipulations. The burden of evidence often falls on authorities or persons performing platform work to prove that control exists in a platform work relationship. Procedural delays are common, particularly in countries where employment status must be established through court rulings. Enforcement is further complicated when platforms are registered outside the European Union. Additionally, cross-border regulation remains a significant gap in effectively addressing misclassification of the status of platform workers and the responsibility of demonstrating employment status.

The expert also highlighted the most important tools and strategies for assessing the workers’ status (see Figure 2).

Figure 2. Tools and strategies

Tools and strategies for assessing the employment status for the enforcement authorities

- ▶ Non-Binding Guidelines
- ▶ Manuals and Training Sessions
- ▶ Awareness Campaign
- ▶ Clear Framework
- ▶ Sharing information

¹⁰ Adrián Todolí-Signes, Study on Addressing platform workers’ employment misclassification: legal frameworks, enforcement strategies and the new Platform work Directive, European Labour Authority, forthcoming.



Source: Expert presentation, thematic day of the plenary meeting, 8 April 2025.

The expert's conclusions pointed out that the Platform Work Directive represents a significant step forward in tackling bogus self-employment in platform work. Court rulings are progressively broadening the interpretation of who qualifies as a 'worker' in platform work, reinforcing protections against misclassification. Several Member States and international examples offer valuable experience with legal presumptions that can inform implementation. To ensure effective enforcement, manuals, training sessions, and information sharing across Member States are essential.

The expert presentation led to a discussion among the participants. One of the participants highlighted the challenge of implementing the Directive in a practical manner, emphasising the need for Member States to gain a better understanding of relevant practices of the Court of Justice of the European Union. It was suggested that ELA could provide guidance or an overview of such practices, which could be helpful mainly in mapping global platforms operating in the European Union across Member States borders. From ELA, it was stressed that currently, the activities carried out are driven by Member State needs, and sharing best practices and building risk assessment capacity are ongoing priorities.

In the discussion, the case of **Italy** was highlighted, where a regulatory framework exists which allows labour inspectors to reclassify workers if they can establish the existence of an employment relationship. In the context of platform work the law states that in case of so called "collaborations", a *tertium genus* between self-employment and subordination, the employment protections are applicable, under certain circumstances. Importantly, in case of evidence of an employment relationship, and regardless of the contractual form chosen by the parties, inspectors are not required to obtain a court decision to proceed with a reclassification.

Finally, a relevant discussion point included the need for a holistic mindset and compliance culture, especially as the regulation of multinational platforms (e.g., remote work like programming or marketing) is still underdeveloped. Finally, the Commission representative clarified that the Platform Work Directive applies to work performed within the EU. Despite the fact that the Directive does not mandate that third country digital labour platform establish themselves in the EU, the GDPR -applicable to digital labour platforms given the fact that they act as controllers or processors of personal data- does require legal representation in the EU in its Article 27.

3.2 Effective enforcement measures addressing employment misclassification in platform work

Representatives of national authorities in the thematic day were asked to respond to four questions via an online Slido poll. The aim of this poll was to gather evidence on participants' experiences with platform work arrangements and effective measures for correct classification of employment in platform work.

From 25 responses received, 68% of respondents marked self-employment as the dominant form of working arrangements for individuals performing platform work in their countries in sectors like food delivery. 20% stated that platform workers are directly employed by intermediaries (e.g. fleet partners or aggregators) acting between the platform and the workers, while only 8% reported direct employment by the digital labour platforms. Except the two dominant forms – employment and self-employment, some countries also legally recognise a third category between a traditional employment relationship and self-employment. This is the case in Austria, where, according to the Austrian participant, the term "*Freie Dienstnehmer*" refers to the predominant form of work in food delivery via platforms.

The second question addressed the necessity of having a presumption of employment applicable exclusively to digital labour platforms. Approximately two thirds of the answers indicated a preference for establishing a legal



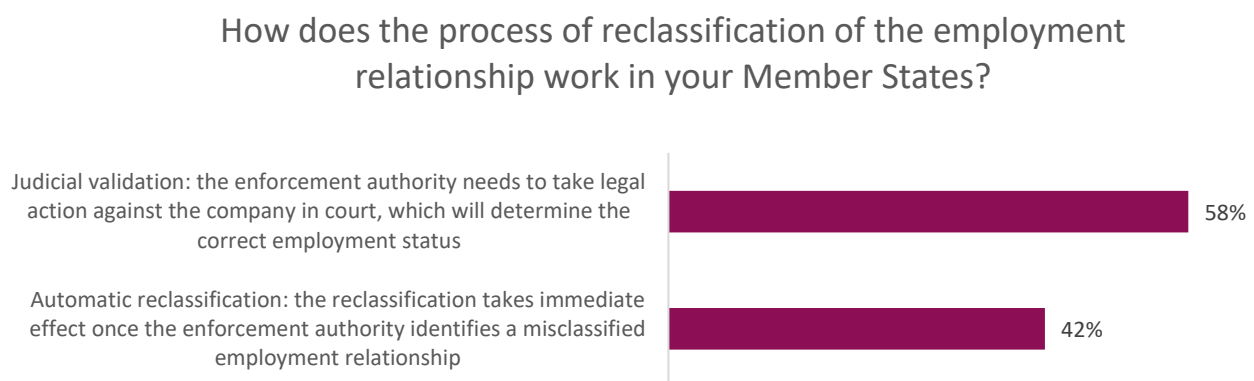
presumption specifically designed for platform work, while one third of the replies suggested that a general presumption may represent a more optimal solution.

Participants were also asked to choose the three most effective measures (besides employment presumption) for correct classification of employment in platform work. Based on measures listed and the share of responses in percent, 83% of respondents indicated the obligation of the platform to provide data on work they intermediate as the most relevant measure. The complete list of measures and the share of respondents that marked the respective measure (in percent) are indicated below:

- ▶ **Obliging the platform to provide data on work intermediated by them (83%)**
- ▶ Guidelines for inspectors, checklists, trainings (61%)
- ▶ Preventative measures – awareness raising campaigns among persons performing platform work (43%)
- ▶ Preventative measures – awareness raising campaigns among platforms and intermediaries on their obligations (22%)
- ▶ Deterrent measures – i.e., criminal offenses towards platforms (22%)
- ▶ Deterrent measures towards misclassified workers (22%)
- ▶ Systems of joint and several liability between digital labour platforms and intermediaries (17%)

National authorities representatives shared their views on a central question, highlighted also in the expert presentation as well as social partner contributions (see Section 5 below): How does the process of reclassification work in the respective Member States? Figure 3 shows that 58% of respondents reported judicial validation, requiring legal action to be taken against the company/platform in court to determine the correct employment status.

Figure 3. Automatic reclassification vs. judicial validation: the participants' views



Source: Slido poll among the Member States representatives of the Platform tackling undeclared work, 24 responses, thematic day of the plenary meeting, 8 April 2025.



4.0 National approaches to tackling bogus self-employment

The issue of correct classification, mostly focusing on tackling bogus self-employment, was discussed in a panel among enforcement authorities. Representatives from Belgium, Croatia, and Spain shared their country-specific experiences. These are summarised below and structured around to three guiding questions:

- ▶ Is the misclassification of work in digital labour platforms a significant challenge?
- ▶ What criteria can be recommended to make a legal presumption of employment effective and useful for determining the employment status of persons performing platform work?
- ▶ Is there a difference in tackling undeclared work and bogus self-employment between direct contractual relations with platforms and with intermediaries, and if so, why?

4.1 The challenge of monitoring platforms and platform work

Misclassification means that a person is registered under a status that does not reflect his/her real situation. This does indeed present a challenge in the context of work on digital labour platforms. In **Belgium**, this is a matter of considerable focus, both in politics and among the inspection services. The 2025-2026 Action Plan contains a specific action aimed at conducting investigations and inspections on digital platforms that assign work. Classification is an important part of these investigations. This is also included in the Social Information and Investigation Service ('SIIS') Academic Chair on reducing social fraud and social dumping.

While in general the boundaries between an employment relationship and self-employment and between the responsibilities of employers and employees are blurring, it is increasingly difficult to determine an employee's classification, as stated by the Belgian panellist. Moreover, the distinction between employment and self-employment in platform work remains highly ambiguous, making it difficult for authorities to determine misclassification, whether it is intentional or otherwise. Inspectors compare their efforts to '*chasing squirrels in a forest*', highlighting the challenge of locating and communicating with platform workers due to language barriers and complex employment structures. As a matter of fact, most platform workers operate as self-employed, enjoying flexibility but lacking standard employment protections.

In Belgium, an administrative committee is responsible for assessing labour relations through either advisory (non-binding) or adversarial procedures, with decisions becoming final unless appealed in labour court. However, assessments can only be issued when no ongoing investigation exists and must rely on criteria such as workers' autonomy in organising work, and employers' control over working hours and managerial oversight — criteria that are often difficult to apply in practice.

Platform detection and classification are also major obstacles. Belgium has 133 officially recognised platforms, yet the true number of active platforms and workers remains unclear. Many platforms elude cooperation, making it difficult to verify compliance or conduct effective inspections. While platforms can apply for recognition by meeting specific obligations, not all do, and fake accounts, rented identities, and health and safety issues persist. The lack of a reliable, centralised database undermines enforcement efforts, though authorities hope to bring greater visibility to this sector.

The challenges mentioned in the Belgian case are also evident in **Spain**, which has been a pioneer in platform legislation, yet still faces difficulties with platforms adjusting their practices. Since 2015, Spain has been one of the first countries in Europe to conduct labour inspections within the platform economy, recognising early on that platform-based work arrangements differ significantly from traditional employment. By 2016–2017, the labour



inspectorate had identified employment relationships in various delivery platforms, particularly involving third-country nationals. These findings were later upheld by the Spanish Supreme Court in 2020, reinforcing the inspectorate's approach. The introduction of the 'Riders' Law—which includes a general presumption of employment and specific protections for delivery workers, such as legal representation and algorithmic transparency—was a legislative milestone. A legal amendment to Spanish criminal law in 2022 now allows for criminal sanctions to be imposed on companies that violate labour standards.

Despite new legislative measures, platforms have continued their practices largely unchanged. Some platforms continue to misclassify workers through intermediaries or maintain operations in the informal economy. While efforts have primarily targeted delivery services, inspections have expanded to service platforms offering domestic tasks like cleaning. Authorities have confirmed the validity of their enforcement criteria, yet significant hurdles remain. Workers often operate from private homes or undefined locations, making inspections more difficult. Moreover, inspectorates lack direct access to platform algorithms and rely solely on information provided by the companies themselves, limiting their ability to enforce the law effectively.

In contrast to the difficulty in identifying platforms and persons performing platform work in Belgium, the Croatian case shows a functioning mechanism of a data-sharing system with platforms, enabling access to detailed information on workers, earnings, and intermediaries (see Box 1).

Box 1. Croatia: Data-sharing system of enforcement authorities and digital labour platforms

Croatia introduced a data-sharing system with platforms, enabling enforcement authorities to access detailed information on workers, earnings, and intermediaries.

This system has significantly increased transparency in platform work, and it has revealed a highly complex and problematic landscape, particularly in the delivery sector, which saw EUR 45 million in transactions and over 3,000 intermediaries in 2024. The ease of starting a company and obtaining a taxi licence has contributed to widespread irregularities, with many operators frequently switching companies, sometimes on a weekly basis, complicating enforcement.

Prior to this system, authorities were unaware of many major actors. Now, with **daily coordination across six to seven institutions**, the authorities have been able to stop thousands of workers following misclassification checks, yet no complaints were received from either workers or intermediaries.

Despite a legislative advancement, where 96% of the Platform Work Directive has already been transposed, Croatian institutions face **challenges in securing convictions due to the cross-border nature of violations, with perpetrators often based in neighbouring countries**. Criminal complaints are frequently filed, but investigations are slow. A major issue is the widespread fraud involving fake documents, including ID cards and passports. Security risks are also growing, as some drivers lack valid licences, with media frequently reporting on unsafe driving incidents.

Authorities stress that training and manuals alone are not enough; **data access is critical**. It took a year to develop the current platform reporting system, but now that it exists, it could be replicated in other countries, allowing data to be cross-checked with pension, police, and tax records.



Source: Panel discussion, Croatian representative, thematic day of the plenary meeting, 8 April 2025.

4.2 Making legal presumptions effective in determining the employment status of platform workers

The discussions highlighted the complexity of implementing an effective legal presumption of employment, especially when data alone is insufficient to address irregularities. A significant issue in **Croatia** is the involvement of intermediary agencies, often subcontracted by other intermediaries, making enforcement even more challenging. Despite strong legal frameworks, gaps remain in regulating these layered structures within the platform economy.

Authorities acknowledged that the platform sector is rapidly expanding, particularly since the COVID-19 pandemic. A cultural challenge also exists, as many domestic workers in Croatia prefer informal arrangements to avoid social security contributions. To address this, there is a growing consensus that efforts should not only target regulation but also raise awareness among workers about the long-term benefits of declared work. Notably, Croatian inspectors reported strong cooperation with platforms, **emphasising the importance of adopting a collaborative rather than punitive approach to enforcement.**

In **Spain**, a general legal presumption of employment based on direction, subordination, and remuneration was already in place, and has since been extended with a clause specific to platform work. However, authorities are still working on **how to effectively regulate informal employment in the platform economy.** The situation remains highly complex. Evidence of control and subordination — such as GPS tracking, penalty systems, and employment-like contracts — was confirmed by the Spanish Supreme Court in cases involving delivery riders.

Despite this, platforms continuously adapt their terms and systems to blur these employment relationships and avoid legal responsibility. Inspectors have observed cases where platforms attempt to erase traces of control to argue that there is no direct employment. However, according to the Spanish Platform member, key indicators remain clear: platforms own the business and client relationships, not the riders. Payments are made by the platforms, not the service providers (e.g., restaurants or clients), and riders have little to no autonomy over how they perform their work. These observations **underscore the need to reassert who truly controls the employment relationship** — ultimately, the platform.

In **Belgium**, the legal presumption of employment¹¹ is based on four main criteria used to assess the existence of an authority relationship between the parties:

Will of the parties: The type of relationship is determined by the parties' declared intent, provided it aligns with how the agreement is implemented in practice.

Freedom to organise working time: Indicators of employment include the worker's lack of control over their schedule, the obligation to follow fixed hours, and the need to justify absences.

Freedom to organise work: A requirement to follow specific task-related instructions points to an employment relationship.

¹¹

https://www.ejustice.just.fgov.be/cgi_loi/article.pl?language=fr&lg_txt=f&type=&sort=&numac_search=&cn_search=2022100306&caller=eli&&view_numac=2022100306n1



Possibility of hierarchical control: The existence of supervision or subordination, whether constant or occasional, supports the presumption of employment, even if the control is not exercised in practice.

These criteria are designed to ensure that the nature of the working relationship reflects its factual reality rather than just the formal terms of a contract. Importantly, the legal presumption of employment in Belgium may be rebutted using any lawful evidence, including the general criteria outlined in the legislation. However, the actual conditions under which the work is performed, especially the role of algorithms in organising work, must take precedence over the formal agreement between the parties. If these conditions contradict the stated legal status in the contract, the factual reality prevails. In cases where the law establishes an irrebuttable presumption, it applies automatically and should not be contested.

4.3 Platforms vs. intermediaries – differences in tackling undeclared work and bogus self-employment

Participants in the panel discussion highlighted important differences when tackling undeclared work and bogus self-employment, contingent upon whether the contractual relationship is direct with the platform or through intermediaries. In Spain, intermediaries frequently declare work. However, investigations into the ultimate controlling platforms have led the Labour and Social Security Inspectorate to impose sanctions for illegal labour assignments, a decision that has been confirmed by the courts, particularly in passenger transport. It should be noted that these rulings could be contested by the companies involved in the appeals process.

Croatia reports no issues with declared self-employed individuals but raises concerns over intermediaries prioritising profit over worker welfare. A stronger liability system for platforms is suggested, making them accountable for intermediary misconduct.

According to the **Belgian** panellist, there should be no difference in tackling undeclared work and bogus self-employment between direct platform relationships and those involving intermediaries. Belgian law defines a platform operator as the entity issuing orders, even if done through an intermediary, and the presumption of employment applies if control is established. Courts may also consider joint liability if the platform exerts significant influence over working conditions. In practice, however, enforcement is more challenging. Authorities often struggle to identify digital platforms, and locating or engaging intermediaries, especially those based outside the country, is difficult. Even when found, intermediaries are frequently uncooperative, making inspections and enforcement less effective. Gathering digital evidence and worker data is time-consuming, and the need for more resources and staffing is highlighted to ensure proper enforcement, proposing a European Council of Labour Inspectors.

During the Q&A session after the panel discussion, the ETUC representative supported increasing the number of labour inspections and emphasised the importance of focusing on factual evidence (i.e., control and direction) instead of using fixed criteria, which platforms could easily circumvent. It was stressed that if platforms disagree with the employment presumption, they should assume full responsibility and prove the absence of an employment relationship through legal proceedings.

Another contribution in the discussion highlighted that the Croatian law requires platforms to submit data in order to operate, allowing authorities to collect information through an online system. In contrast, German authorities face resistance, as platforms often refuse to provide data voluntarily, making inspections difficult. The Belgian participant endorsed Croatia's system and suggested considering a unified EU approach, similar to the Belgium's Limosa registration, to streamline cross-border data collection.



5.0 Emerging practices of national enforcement authorities

During the parallel workshops, the in-person participants were divided into smaller groups, and each group took a deeper look at an assigned question. When reporting the key points from the discussion within the smaller group to other participants, everyone had a chance to reflect also on questions not assigned to their group. This method provided valuable insights into country-specific perspectives on several relevant issues, including 1) the necessary training and capacities of authorities to assess automated monitoring and decision-making systems, 2) cooperation of enforcement authorities with digital labour platforms and their intermediaries, 3) communication strategies for awareness raising, 4) country-specific legal criteria to determine the status of digital labour platforms, 5) cooperation between public authorities in case of cross-border provision of platform work, and 6) how authorities can check compliance with the Directive's provisions on the transparency of automated monitoring or decision-making systems. The findings of these discussions are summarised below, organised by each addressed question.

5.1 Training to assess automated monitoring and decision-making systems

The first question focused on whether inspectors are trained to assess the automated monitoring or decision-making systems used by digital labour platforms. Training should focus on gathering evidence and proof to determine whether these platforms are employers based on the control, direction and organisation of work.

Participants from France, Slovenia, Spain, Germany, and Italy, involved in this discussion, argued that generally inspectors receive broad training but lack specific technical preparation for addressing platform work, which is still a new and complex area.

In **Spain**, labour inspectors follow more general trainings on effectively detecting bogus self-employment, with modules that also touch on algorithmic management.

Access to company data on how algorithms function is limited, and cooperation with companies is often weak, unlike in **Croatia**, hindering more in-depth training development. Inspectors, however, possess strong foundational skills that allow them to ask probing questions and uncover potential misclassification cases.

In **France**, inspectors are not trained to assess the automated monitoring systems, but data from these systems may be necessary in order to establish the correct employment status. These data and information are currently obtained by the inspectors by interviewing the persons performing platform work. The questions asked regard the existence of monitoring systems, if, in the cases of food delivery, couriers are free to choose the route and how they interact with the platform. According to the French representative, the key issue is establishing subordination rather than understanding the algorithm itself. One major challenge is collecting sufficient evidence to meet legal standards in court.

A case mentioned by the participant from **Estonia** illustrated the need for specialised expertise: a complaint involving data protection and discriminatory algorithmic practices required external technical knowledge. This highlighted the need for labour inspectors to have access to IT experts when necessary.



5.2 Cooperation of enforcement authorities with digital labour platforms and their intermediaries

The second question addressed whether national authorities cooperate, or plan to cooperate, with digital labour platforms and their intermediaries. Such cooperation presumes the correct classification of workers' employment status by the platforms and their intermediaries.

A typical scenario illustrates the problem: a worker joins a platform by simply downloading an app, bypassing traditional hiring processes like contracts or document exchanges. If the worker later on finds himself for any reason unable to log in, this could be read as a dismissal, without the protections guaranteed by labour law.

The key issue here is **whether the authorities focus on scrutinising the algorithms or use more traditional labour inspection techniques**, such as interviewing platform representatives. A major shared concern across countries is the limited expertise of labour inspectorates in algorithmic management. As the European Commission highlighted, technical knowledge of algorithmic management is essential, since algorithms now often perform employer-like functions, managing subordination and direction of workers without human oversight. Currently, most authorities lack sufficient understanding of these systems, as the workshop participants stated.

Italy acknowledges the need for enhanced knowledge also towards analysing algorithms. Italy has launched a broad campaign targeting platform work, involving several phases: comprehensive mapping of platforms, targeted inspections, and outreach to intermediaries and platforms to clarify the legal framework around employment. The system functions reasonably well in practice and the legal framework can be used as a benchmark also when applied to the classification of platform workers after the recent update of this legislation (especially Art. 2, and Art 47-*bis* to 47-*octies*)[12].

In contrast, **Belgium** focuses more on traditional labour inspection techniques — interviewing workers and employers to understand the employment relationship. Still, the authorities here have faced difficulties obtaining information from major platforms.

The representative from Cyprus provided a good example of how cooperation between the authorities and platforms can be facilitated via certification (see Box 2).

Box 2. Good practice example: cooperation between the authorities and platforms via certification in Cyprus

Cyprus has adopted a cooperative approach between authorities and platforms, offering certifications to companies and intermediaries who attend official seminars. While participation in seminars and certifications is not meant as an incentive in terms of whitelisting for the platforms, the cooperative approach builds trust and serves as a useful model.

Approximately ten major intermediary companies were identified as operating on behalf of the main digital platforms in Cyprus. Labour inspections primarily focused on these intermediaries, with whom authorities reported good cooperation. As a result, there were no significant difficulties in identifying cases of self-employment or bogus self-employment within this segment.

12 Source: <https://www.normattiva.it/atto/caricaDettaglioAtto?atto.dataPubblicazioneGazzetta=2015-06-24&atto.codiceRedazionale=15G00095&atto.articolo.numero=0&atto.articolo.sottoArticolo=1&atto.articolo.sottoArticolo=1&qId=9bb74f19-af9a-4a66-8476-757047a4071b&tab1> (in Italian)



However, the main challenge lay in addressing illegal employment on platforms. Specifically, fleet partners were found to employ individuals from third countries and, in some cases, asylum seekers. Under certain conditions, both groups were at risk of becoming unlawfully resident in Cyprus.

Another challenge is that many platforms lack a legal seat in the national territory (i.e., they are not established nor have secondary branches), which complicates cooperation with them and the enforcement of the legal presumption of employment. However, platforms that do have own employees (e.g. administrative employees) must have registered premises according to legislation. This means that these platforms can be inspected and interviewed by the authorities.

Strengthening cooperation via certification may increase the due diligence on the side of platforms and intermediaries and help mitigating the above challenges.

Source: parallel workshop, Cypriot representative, thematic day of the plenary meeting, 8 April 2025.

5.3 Communication strategies for awareness raising

The third question addressed whether national authorities have already developed or have any communication plans to raise awareness among people performing platform work about the correct determination of their employment status.

According to the workshop participants, there are currently no specific campaigns or communication strategies dedicated to platform work in their countries, but general information is provided across all sectors on identifying employment relationships. **Estonia** has run information campaigns addressing bogus self-employment, and in **Czechia**, platform work will be included in an upcoming ministerial-level employment forum.

In **Croatia**, many platform workers are legally considered employees but are unaware of their rights and benefits. Therefore, raising awareness is crucial.

Most importantly, the participants agreed that there is a **need to shift the public mindset** — both platforms and workers in Estonia and Croatia often avoid formal employment relationships. Information campaigns could help explain the characteristics of an employment relationship, the consequences of bogus self-employment, and what happens in events like workplace accidents.

To support the needs of national stakeholders, ETUC offers multilingual materials and training for trade unions and persons performing platform work, some of which are publicly accessible and can be used by labour inspectorates. These include resources on algorithmic data and how to retrieve them and what tool to use to interpret them, an area where inspectorates currently face knowledge gaps.

5.4 Country-specific legal criteria to determine the status of digital labour platforms

The fourth question focused on country-specific legal criteria to determine the status of digital labour platforms. The group discussion revealed that country-specific examples range from experience in Portugal (inspection of bogus self-employment) and Greece (legal presumption of employment), through challenges of existing interpretation of self-employment (Iceland) to cases where specific criteria to determine the status of digital platforms were not yet set (Lithuania and Slovakia).

In **Iceland**, the Tax Authority is responsible for defining self-employment. In general, self-employment in Iceland is considered low-skilled work. However, platform work presents a challenge to this definition, as it can encompass



a wide range of skill levels — from IT consultants to call centre workers. The authorities in Iceland are thus concerned with the fact that the general classification based on low-skilled work is unsuitable for all self-employed individuals engaged in platform work.

In **Portugal**, legislation was implemented in 2023 to identify whether digital platform workers are bogus self-employed. The legislation outlines six criteria that must be met for a worker to be considered an employee. If these criteria are met, the company can be fined a minimum of approximately EUR 200. Once a decision is made confirming that a worker is employed, the relevant authority is notified so that they can collect the appropriate contributions, such as social security or tax. Regarding cross-border platform work, it is challenging to take action if the work is performed outside of the EU. However, Portugal has established cooperative agreements with countries like Estonia and others, which they consider essential for regulating such work.

In **Greece**, a law addresses employment presumption. If four specific criteria are met, the individual is considered self-employed. This reflects a unique approach to the classification of platform workers.

In **Slovakia**, there are currently no specific criteria for assessing employment status in platform work. Inspections only occur following complaints.

Similarly, in **Lithuania**, no set criteria are currently in force. However, the government is actively working on transposing the Platform Work Directive as soon as possible.

5.5 Cooperation between public authorities in the case of cross-border provision of platform work

The fifth question focussed on cooperation between public authorities when tackling the misclassification of the employment status cross-border. First, the discussion revolved around the question on **how to differentiate between employed and self-employed individuals**, not specifically in relation to platform work, as the concept is relatively new. In response, the discussion turned to whether authorities have plans for domestic and international cooperation with other authorities in case of cross-border provision of platform work, including the identification of best tools to ensure correct classification.

All countries represented in the group reported good cooperation among their respective authorities, and overall collaboration appears to function effectively. While **Finland** does not currently devote specific attention to platform work, in **Bulgaria**, cooperation evolves between authorities that control financial resources and those that hold institutional power.

It was emphasised that GDPR rules should not act as a barrier to progress. Enforcement mechanisms are seen as potential solutions to these challenges, particularly due to the economic and societal imperatives behind regulating platform work.

At present, authorities hold general information, but not data specifically related to platform work. Access to detailed and relevant data is critical—similar to how access is structured in **Croatia**.

In 2018, two court cases dealt with the classification of self-employment in **Sweden**. In one case, the court recognised the existence of an employment relationship, while in the other, despite similarities, the court reached the opposite conclusions. Case law reveals contradictory verdicts, which creates complications because precedents exist on both sides of the debate.

Some countries, such as the United Kingdom, have adopted a three-category system that includes employees, workers, and self-employed individuals. However, this model is not always a comprehensive solution.



Finally, **Bulgaria** indicated a need to cooperate with— the Data Protection Authority. While there has previously been cooperation with tax and social security authorities, collaboration with the data protection authority is a new development.

5.6 Ensuring compliance with the Directive's provisions

Workshop participants also discussed how do authorities plan to check compliance with the Directive's provisions on the transparency of automated monitoring or decision-making systems, including human oversight, and on the information and consultation of the rights of workers and their representatives. At the workshop discussions, several important challenges and considerations have been raised regarding automated monitoring, data usage, and the capacity of labour authorities.

Scope of the Directive and Automated Monitoring

One of the core issues is that if a platform does not use automated monitoring systems, it will not be classified as a 'digital labour platform' under the Directive, however such platforms may still fall within its scope in other ways, depending on how they provide services and manage data. This raises the need to assess how services are being provided, not just in operational terms, but also in how platforms use data to deliver services or terminate user accounts. These processes are increasingly automated and data-driven, posing significant challenges for labour inspectorates.

Labour Inspectors and New Skills

Labour inspectors traditionally deal with issues such as collective rights and salaries. However, assessing algorithmic decision-making and data use demands technical expertise. Labour inspectors are not typically trained in algorithmic analysis and costs for the recruitment or training of IT specialists represents a potential barrier. It's crucial to consider how the need for new skills fits within current structural and financial constraints.

Data Access and Strategy

Within two years, authorities are expected to be able to collect comprehensive data from platforms. This raises questions:

How will this data be received and used?

Will enforcement rely primarily on responding to complaints, or will authorities take a more proactive approach through targeted campaigns? Authorities need a clear strategy for processing, interpreting, and acting on platform-generated data to enforce employment standards effectively.

Current Capacity Limitations

While inspectors are experienced in traditional labour issues, many are not currently involved in monitoring systems or high-level decision-making processes. Bridging this gap will be essential to ensure compliance with the new Directive.

Cooperation from Platforms

The participants discussed that platforms should designate staff members to liaise with authorities and provide the necessary information. Establishing these communication channels would greatly enhance the ability of regulators to access and interpret relevant data.



Skills Development and Peer Learning

According to the workshop participants, there is a strong need to improve the technical and analytical skills of enforcement personnel. Sharing best practices and learning from other countries' experiences could prove valuable in this regard.

Perceived Potential Role for ELA

Finally, the participants affirmed that ELA may play a supportive role by coordinating training initiatives or facilitating peer learning across the Member States. This could be key to equipping labour inspectors with the competencies required to handle digital and data-intensive employment models.

6.0 Perspectives from the social partners

6.1 BusinessEurope

BusinessEurope emphasised how self-employed persons drive innovation, support consumers and businesses, and contribute to economic growth in the EU. They called for transparent platform work arrangements while cautioning against undermining new business models, including platform work, that offer flexibility and opportunities to people often excluded from traditional employment.

Digital platforms are credited with stimulating local commerce, helping small businesses grow and expanding their customer base. Digital platform should also be credited because of their enabling role in formalising previously undeclared work and integrating undeclared work into formal structures. BusinessEurope argued that maintaining a healthy environment for both digital labour platforms and independent contractors is essential for curbing informal employment and encouraging entrepreneurship.

A critical concern raised is the **lack of inclusion of those directly affected – the workers' voices – in current policy debates**. According to a study conducted by a consultancy Copenhagen Economics for Delivery Platforms Europe on behalf of Bolt, Deliveroo, Delivery Hero, Uber, and Wolt in 2021, nearly 70 percent of surveyed couriers value flexibility over fixed schedules, even at the cost of an approximately 15 percent lower income.¹³ Many feel unheard by EU and local policymakers. This highlights a lacking connection between legislation and the lived experiences of platform workers.

BusinessEurope acknowledges that the Directive does not seek to reclassify all platform workers but rather to correct clearly erroneous classifications. It supports the principle of legal clarity and the respect for genuine self-employment. The organisation stresses the importance of clear and narrowly defined criteria for triggering the presumption of employment at the national level to avoid overreach. A degree of control or direction should not automatically equate to employment, as it can result from necessary administrative or sectoral regulations.

Finally, BusinessEurope urged that 'appropriate and effective procedures' target only the most probable cases of bogus self-employment, ensuring that genuine freelancers are not wrongly affected. The goal should be to enhance the accuracy of employment classification while preserving autonomy and flexibility for self-employed individuals operating through platforms.

¹³ Copenhagen Economics, (2021). [The value of flexible work for local delivery couriers. Evidence from a novel, large-scale pan-European courier survey. Study for Delivery Platforms Europe](#). Retrieved on 17 April 2025.



6.2 European Trade Union Confederation

The contributions by the European Trade Union Confederation (ETUC) emphasised that the correct classification of employment status is crucial and very welcome. The current model of the platform economy has created a grey zone between employees and self-employed individuals, often leading to bogus self-employment, where workers receive neither the protections of employment nor the freedoms of true entrepreneurship. ETUC argued that the persistence of this issue hinges on how effectively EU Member States transpose the Platform Work Directive, particularly Articles 4, 5, and 6.

Article 4 mandates Member States to adopt procedures that ensure appropriate and effective implementation of this presumption, including swift and cost-effective processes that do not overload judicial systems. **Article 5** of the Directive introduces a rebuttable legal presumption of employment for platform workers when indicators of employer control and direction are present. ETUC highlighted the critical shift introduced: **the burden of proof lies with the platform, not the worker**. This procedural facilitation aims to empower platform workers to claim their rights without facing excessive legal barriers. **Article 6** calls for supportive measures such as targeted inspections, technical training for authorities, and collective solutions where appropriate.

To meet goal of correct classification, ETUC advocated for administrative over judicial procedures to handle the correct classification of the workers' employment status, arguing that administrative procedures are more accessible for workers, reduce court backlogs, and bring faster decisions. The presentation emphasised the need for clear guidance and training for all parties involved — workers, platforms, and authorities alike.

Finally, ETUC stressed that the real measure of success will be whether these procedures function as genuine facilitators for workers seeking reclassification rather than just formally existing. Also, ETUC called for these measures to be practically accessible and efficient. The goal is a platform economy where correct employment status is accurately recognised, workers are protected, and legal certainty is maintained.

7.0 Perspective from the International Labour Organization

The ILO's presentation on the classification of employment in the platform economy at the plenary meeting addressed the measures adopted by the ILO relating to classification, and more recently a standard setting process concerning decent work in the platform economy that also deals with classification.

The presentation drew extensively from the **ILO Employment Relationship Recommendation, 2006 (No. 198)**, which provides guidance for national governments in determining the correct classification of employment relationships. Recommendation No. 198 emphasises the **primacy of facts**, meaning that the actual conditions of work should determine whether an employment relationship exists. It calls on member states to periodically review and, if necessary, update their legal frameworks in consultation with employers' and workers' organisations. It recommends the establishment of a national policy that includes such measures:

- (a) providing guidance for the parties concerned, in particular employers and workers
- (b) combating disguised employment
- (c) ensuring standards applicable to all forms of contractual arrangements

The ILO intervention also provided insights on national and regional approaches to ensure the correct determination of the employment status and how this differs in different countries. It specifically considered classification in the context of digital platform work. For instance, some jurisdictions have introduced rebuttable



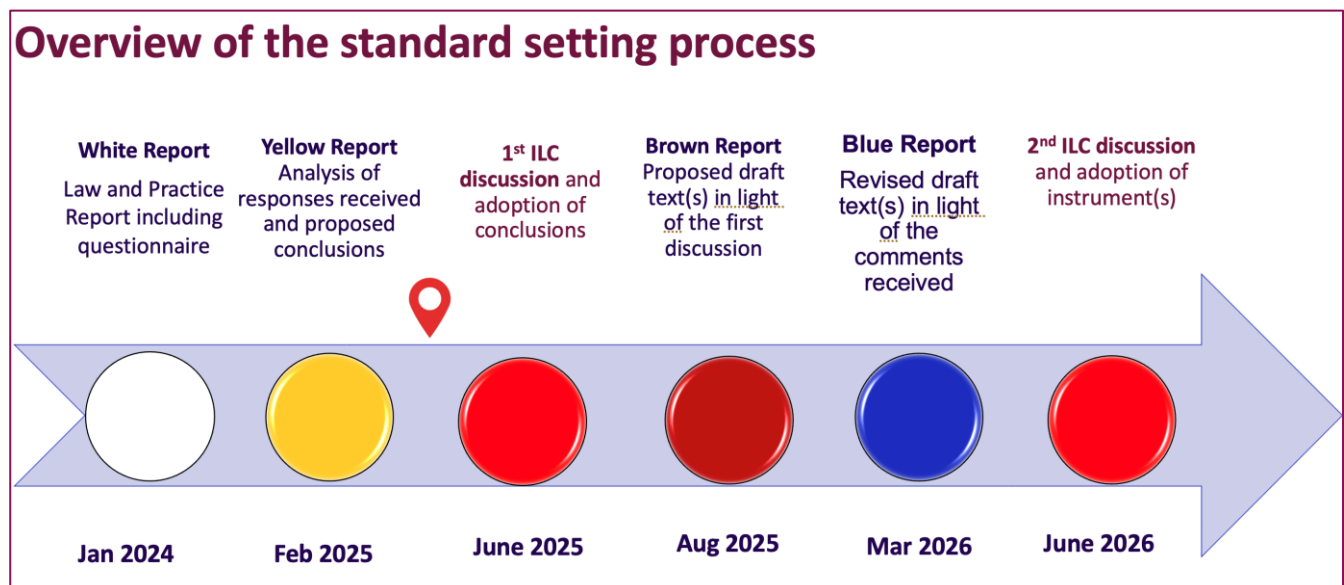
presumptions of employment and in other cases a presumption of independent contractor status. In some countries matters on classification to be determined by the courts, and other countries have specifically legislated to apply certain protections to some self-employed platform workers without entering into the question of classification.

The ILO Governing Body in March 2023 decided to include a standard-setting item on the agenda of the International Labour Conference on decent work in the platform economy. The Office published a **Law and Practice Report**¹⁴ and a questionnaire for Member States to respond to concerning the form, scope and content of possible new standards on this topic. Based on responses to the questionnaire, the Office published proposed conclusions concerning a Convention accompanied by a Recommendation contained in a subsequent **Yellow Report**¹⁵ published in February 2025 for consideration by the International Labour Conference in 2025 and 2026. These proposed conclusions include reference to the correct classification of platform workers. The proposed conclusions do not propose reclassification of platform workers.

The trajectory of the standard setting process is showcased in Figure 4 below.

The proposed conclusions focus on both employment promotion in the platform economy and protections. With regard to protections, they address not only employment classification but also occupational safety and health (OSH), protection against violence and harassment, the promotion of decent work, and the use of intermediaries. The proposed conclusions also refer to contemporary challenges, such as the use of algorithms, workers' data privacy, as well as the conditions under which digital platform workers operate, including their terms and conditions, social security, and safeguards relating to the suspension or deactivation of accounts.

Figure 4. ILO trajectory towards the adoption of international standards in platform work



Source: ILO presentation, thematic day of the plenary meeting, 8 April 2025.

If the proposed conclusions relating to a Convention provide that Member States should take measures to ensure the correct classification of platform workers. Further, such measures must not interfere with true civil or commercial business relationships while at the same time should ensure workers in an employment relationship have the protection they are due. Proposed conclusions for an accompanying Recommendation encourage

¹⁴ International Labour Organization, (2025). [Decent work in the platform economy: law and practice update](#).

¹⁵ International Labour Organization, (2025). [Realizing decent work in the platform economy International Labour Conference 113th Session, 2025](#).



periodic reviews of national laws to keep pace with technological and labour market changes regarding platform work.

8.0 Conclusions and ways forward

This paper summarises the key presentations and discussions on tackling the misclassification of platform workers' employment status within the EU, anchored by the newly adopted Platform Work Directive. The Directive introduces a rebuttable presumption of employment, emphasises algorithmic transparency, and mandates correct employment classification based on the primacy of facts. National experiences (for example, from Spain, Croatia, Belgium, Cyprus but also other countries) revealed varying degrees of progress, with Croatia standing out for its robust data-sharing system and Spain for its legislative and enforcement milestones.

Participants also identified a list of persisting challenges, including

- cross-border enforcement gaps,
- lack of inspector training on algorithmic management,
- limited data access,
- evolving platform strategies blurring employment relationships,
- inconsistent judicial outcomes,
- inadequate communication campaigns,
- difficulty of regulating intermediary structures.

Beyond challenges, promising practices and suggested ways forward were shared. Some good examples include platform certification schemes in Cyprus, a proposed Limosa-like registration system in Belgium to be expanded at EU level, a data-sharing obligation by platforms in Croatia, and joint liability models under exploration. Based on these suggestions, actionable steps forward are proposed below.

Actionable steps forward –proposals emerging from ideas of the Platform members

► Enhancing data access and sharing

- ▷ Mandate platform reporting systems like Croatia's data sharing model across all Member States to enable real-time monitoring and enforcement.
- ▷ Create a centralised EU registry for platforms, workers, and intermediaries to support cross-border oversight.

► Strengthening enforcement capacities

- ▷ Fund and implement EU-wide training programmes on algorithmic management and employment classification for labour inspectorates.

► Improving legal clarity and presumptions

- ▷ Encourage administrative procedures for reclassification over lengthy court routes, ensuring quick and affordable access to justice.



- ▷ Adopt common interpretive guidelines based on EU case law and the Platform Work Directive to ensure uniform application of the presumption of employment.

► **Fostering cooperation of enforcement authorities with platforms and intermediaries**

- ▷ Promote voluntary certification schemes, linking participation with legal incentives and regulatory goodwill.
- ▷ Extend joint liability to platforms for the actions of intermediaries, especially when significant control is exercised.

► **Promoting awareness among platform workers and a mindset change**

- ▷ Launch multilingual awareness campaigns targeting platform workers, intermediaries, and the general public on employment rights and the risks of bogus self-employment.
- ▷ Partnerships of enforcement authorities with social partners to disseminate training materials and legal guides.

► **Supporting transposition and monitoring of the Platform Work Directive**

- ▷ An EU-level oversight on Member States' transposition efforts and offering technical assistance.
- ▷ Align GDPR enforcement mechanisms with the Platform Work Directive requirements to strengthen oversight of platforms not established in the EU.

Source: Expert's own elaboration based on the inputs during the thematic day of the plenary meeting, 8 April 2025.



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