



2021 ETUI Internet and
Platform Work Survey

The platform economy & the future of work

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today's agenda



1. Weapons of math distraction

- *Numbers, and their credibility*

2. A dual personal scope, a double standard?

- *Platform workers vs. persons performing platform work*

3. Promise and perils of legal presumptions

- *A toolkit for misclassification?*

4. Taming algorithmic bosses

- *Addressing algorithmic management*

weapons of math distraction

*“Between **1.72 million and 4.1 million people** are expected to be reclassified as workers (2.35 on location and 1.75 online), **3.8 million** would receive confirmation of self-employment status, **28 million** covered by algorithmic transparency rights”*

- Data shapes **narratives and mythologies**
 - Pin money, students, flexibility, doublespeak...
 - Words and numbers can carry considerable weight
- The issues of **methodology and replicability**
 - Partly due to lack of reporting and **transparency**
 - With some exceptions, many studies have benefited from an **endowment of data by the platforms**
 - i. data is not shared, making any verification impossible
 - ii. some papers are the result of consultancy or are directly sponsored by the companies surveyed
 - iii. the questions in these surveys are often formulated in a leading or biased manner

a dual personal scope?

Art. 2: “Persons performing platform work, **irrespective of their employment status**, albeit depending on the provisions. As a general rule the Dir. covers person who have, or who **based on an assessment of facts may be deemed to have an employment relationship** as defined by the law, collective agreements or practice” → platform workers

- **Purpose:** include unclear situations so as to allow correct determination of the status

Art. 10: “The provisions of the chapter on algorithmic management, which are related to the processing of data [legal basis of Art. 16(2) TFEU] also apply to **persons performing platform work who do not have an employment relationship**, i.e. genuine self-employment”

- **Purpose:** ensure fairness, accountability and transparency
- Algorithmic management beyond platform work

Art. 4: *“The contractual relationship between a **platform that controls** and a person performing platform work shall be legally presumed to be an employment relationship.*

Controlling means (at least 2): (a) determining remuneration; (b) imposing rules; (c) supervising the performance or results; (d) restricting freedom and imposing sanctions for refusal or substitution; (e) restricting the possibility of having clients”

□ **Some problems:**

- The worker must trigger the presumption, the employing entity can rebut it
- At the domestic level, albeit in the context of a holistic appraisal, a **less significant degree of control is enough to be recognised as an employee in court**
 - ▣ Non regression clauses are ok, let’s avoid opportunism
- Are we offering a **blueprint on how to mitigate misclassification risks?**

the risks of a
well-defined
list of factors

taming algorithmic bosses

Art. 6(2)(a): Automated monitoring systems (supervision and evaluation, including by clients)

- *Information on **adoption** and **categories of action***

Art. 6(2)(b): Automated decision making systems (decisions that significantly affect platform workers' conditions)

- *Information on adoption and **categories of decisions***
- *Main **parameters** and weights*

- Information available to workers' representatives

Art. 8: Right to **obtain an explanation for a decision taken or supported by ADMS** significantly affecting working conditions

- *Written statement for any significant decisions (account suspension or termination, remuneration)*
- **... these elements would lead to reclassification in several EU countries!**
- **Social dialogue** on algorithmic management

thank you!

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