

Chapter 4

European Union Initiatives for Sustainable Growth, Digital Transformation, and the Regulation of Platform Work



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Abstract This chapter provides a structured overview of the European Union’s institutional efforts to implement the European Green Deal, with particular emphasis on strategies that foster a clean and circular economy. It is important to note that this document underscores the policy priorities delineated by the European Council and the concomitant European Commission initiatives, encompassing the European Green Deal Communication, the Circular Economy Action Plan, and the Industrial Strategy. Legislative instruments such as the Net-Zero Industry Act, the Critical Raw Materials Act, and directives supporting sustainable products and the “Right to Repair” are examined. The European Union’s commitment to climate neutrality, industrial resilience, and sustainable consumption patterns is further underscored by advancements in specific sectors, including packaging, electronics, and ICT.

In parallel, the chapter addresses the EU’s pursuit of a dual digital and green transition. It is widely acknowledged that a range of computing technologies have a pivotal role to play in facilitating sustainability objectives and serving as instruments for reducing the ecological impact of digital infrastructure. However, the 2024 assessments indicate that progress remains inadequate to achieve the 2030 targets, necessitating augmented investment and policy recalibration.

The chapter concludes with the presentation of the Platform Work Directive, a legislative response to the expansion of digital labour platforms across the EU. This directive has been developed with the intention of enhancing the social protection available to platform workers. It addresses critical challenges, including worker misclassification, the opacity of algorithmic management, and cross-border enforcement. The Platform Work Directive establishes also a presumption of employment status, mandates algorithmic transparency, safeguards personal data, and enhances enforcement capacities. This directive is indicative of the EU’s broader commitment to ensuring fair, transparent, and accountable platform work.

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The European Union is implementing a cohesive strategy to navigate the interconnected transitions in environmental sustainability, digital innovation and the labor market. Recognising the growing interdependence of these areas, EU policies aim to promote a unified approach to transformation.

Central to this strategy is the ‘twin transition’, which combines the European Green Deal and the Digital Agenda. The Green Deal sets out a path towards achieving climate neutrality by 2050 and promotes sustainable practices in sectors such as energy, transport and industry. Meanwhile, the Digital Agenda—part of Europe’s “Digital Decade” — focuses on driving economic and societal transformation through enhanced connectivity, digital skills, artificial intelligence, and cloud technologies. These two transitions are designed to reinforce each other: digital tools can improve energy efficiency and enable smart mobility, while achieving green goals requires innovative digital solutions to support sustainable development.

Effective regulation of platform work in the EU also supports broader social and environmental goals. Ensuring fair labour standards contributes to social justice in the digital economy. Thus, labour protections, digital fairness and environmental sustainability are jointly advanced as part of the EU’s integrated transition strategy.

The main factors that led to the adoption of the EUs’ “twin transition” strategy and the Platform Work Directive are outlined below.

4.1 European Union’s Actions Aimed at Implementing the European Green Deal

The European Council plays an important role in the institutional framework of the European Union, as set out in Art. 13 TEU. Pursuant to Art. 15(1) TEU, this institution duly promotes the development of the European Union and establishes the general policy guidelines and priorities. It should be noted that the European Council does not have legislative powers. Attention should be drawn to the fact that the European Commission subsequently draws up the specific action plans necessary for the implementation of the European Union’s policies and submits specific proposals to the Council of the European Union and the European Parliament. The Council of the European Union (the Council), when meeting in the various policy formations of the European Union, discusses proposed legislative and non-legislative actions and then, together with the European Parliament, during the legislative procedure, decides on the adoption of specific acts of European Union law.

On 20 June 2019, acting in the exercise of its powers to set policy guidelines and priorities for the European Union, the European Council adopted the EU strategic agenda for 2019–2024 (EU strategic agenda 2019), which sets out the priority areas on which the work of the European Council was to be focused and on which the work programmes of the other institutions of the European Union were to be based. The four priority areas included the following: protecting citizens and freedoms; developing a strong and vibrant economic base; building a climate-neutral, green,

fair and social Europe; and promoting Europe's interests and values on the global stage.

As far as it regards the context of this research, two of the European Council's priorities should be distinguished. The first objective is to pursue the development of a strong and viable economic base, based, among other things, on the importance of a strong economic background for Europe's competitiveness, prosperity and role on the global stage, as well as for the creation of jobs. In the times where technological, security and sustainability challenges reshape the global landscape, the European Union needs to strengthen cohesion and to renew the basis for a long-term sustainable and inclusive economic growth. It also aims to ensure that Europe is digitally independent and can reap the benefits of this development in a fair way, and that European Union policies are shaped in a way that embodies societal values, promotes inclusiveness, and remains compatible with our lifestyle. It underlines the need for the European Union to work on all aspects of the digital revolution and artificial intelligence, such as infrastructure, connectivity, services, data, regulation and investment; these efforts should be complemented by the development of the service economy and the integration of digital services. The second objective is to build a climate-neutral, green, fair and social Europe which should be open to the changes brought about by the transition to the green economy, technological developments and globalisation. It should be emphasized that the European Union is able and must play a leading role in the profound transformation of its economy and society, and in counteracting climate impacts, taking into account national circumstances and social justice.

The European Council pointed out the fact that the adoption of the Strategic Agenda is the first step in a process that will be carried out by the institutions of the European Union and by the Member States, and that the Council will closely monitor the implementation of these priorities and, where appropriate, set further common policies and priorities.

On 19 December 2019, the European Commission published a Communication to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions entitled "The European Green Deal" (hereinafter referred to as the "European Green Deal", the "EC Communication"), which sets out an initial roadmap of the key policies and measures needed to implement the Green Deal for Europe, with a view to updating it in line with evolving needs and the formulation of policy options (EC Communication 2019, p. 3).

The European Commission has indicated in the above-mentioned Communication that the implementation of the European Green Deal will require a review of the policies on the supply of clean energy to the economy as a whole, on industry, on production and consumption, on large-scale infrastructure, on transport, on food, on agriculture, on construction, as well as on taxation and social benefits. In addition, it has been envisaged that achieving these goals will require a greater consideration of the protection and restoration of natural ecosystems, the sustainable use of resources and the improvement of human health. It was noted that these are the fields where the changes that can bring the greatest benefits to the EU's economy,

society and the natural environment are most needed. What is more, it has also been envisaged that the European Union should promote the necessary digital transformation; in addition, the tools that are the key drivers of change have been indicated. The European Commission pointed out that, although the above-mentioned fields of action are closely interlinked and complementary, considerable attention should be given to potential trade-offs between economic, environmental and social objectives. Finally, the implementation of the European Green Deal is intended to make a coherent use of all policy levers: regulation and standardisation, investment and innovation, national reforms, dialogue with social partners, and international cooperation. It is worth mentioning that the European Pillar of Social Rights will also be used to ensure that no one is left behind.

The EC Communication outlines a set of policies aimed at driving fundamental changes and transforming the European Union towards a sustainable future with the help of the key action lines, sometimes referred to as “individual European Green Deal Strategies”: (1) Increasing the EU’s Climate Ambition for 2030 and 2050¹; (2) Supplying clean, affordable and secure energy; (3) Mobilising industry for a clean circular economy; (4) Building and renovating in an energy and resource efficient way; (5) Accelerating the shift to sustainable and smart mobility; (6) From Farm to Fork: a fair, healthy and environmentally friendly food system; (7) Preserving and restoring ecosystems and biodiversity; (8) A Zero Pollution ambition—for a toxic-free environment (EC Communication 2019, points 2.1.1 to 2.1.8.). The European Council, having taken note of the European Commission’s Communication “The European Green Deal”, recognised the need to put in place a framework that opens up opportunities to ensure a cost-effective as well as socially balanced and fair

¹ It should be noted that in each of the eight strategies outlined above for the implementation of the European Green Deal, the European Union has adopted both legislative measures and other specific actions. To give an example of such steps, in order to implement the “Fit for 55” initiative, the European Union institutions have adopted completely new legislation or, in most cases, amended legislation to help the existing legislation to align with the targets set out in the European Green Deal. Another example is as follows: Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999 (“European Climate Law”), OJ 2021 L 243/1. In 2023, five pieces of legislation have been adopted in the EU, which will make up the “Fit for 55” related to this initiative: Directive (EU) 2023/958 of the European Parliament and of the Council of 10 May 2023 amending Directive 2003/87/EC as regards aviation’s contribution to the Union’s economy-wide emission reduction target and the appropriate implementation of a global market-based measure, OJ 2023 L 130/115, and Directive (EU) 2023/959 of the European Parliament and of the Council of 10 May 2023 amending Directive 2003/87/EC establishing a system for greenhouse gas emission allowance trading within the Union and Decision (EU) 2015/1814 concerning the establishment and operation of a market stability reserve for the Union greenhouse gas emission trading system, OJ 2023 L 130/134; Regulation (EU) 2023/1805 of the European Parliament and of the Council of 13 September 2023 on the use of renewable and low-carbon fuels in maritime transport, and amending Directive 2009/16/EC, OJ 2023 L 234/48; Regulation (EU) 2023/955 of the European Parliament and of the Council of 10 May 2023 establishing a Social Climate Fund and amending Regulation (EU) 2021/1060, OJ 2023 L 130/1; and Regulation (EU) 2023/956 of the European Parliament and of the Council of 10 May 2023 establishing a carbon border adjustment mechanism, OJ 2023 L 130/52.

transition to climate neutrality, taking into account the different national circumstances. In its conclusion adopted on 12 December 2019, the European Council noted that all relevant European Union legal acts and policies must be compatible with the achievement of the climate neutrality objective and contribute thereto, still respecting the principle of a level playing field (EUCO 29/19, 2019). Accordingly, the Council was invited to continue its work in this area.

As the European Commission identified these European Green Deal strategies 5 years ago, it is now possible to assess what concrete actions have been taken and what results have been achieved in the EU. In the context of this research, the hereby provided detailed overview will cover the measures the European Union had identified for 2019 and the actions that have already been taken to implement the strategy “Mobilising industry for a clean and circular economy”. The wording of the title of this strategy should be taken into account in assessing the actions that the European Union had set out to take, specifically in the field of industry and, in particular, in the field of promoting the circular economy.

The 2019 EC Communication envisaged that a climate-neutral circular economy would require the full mobilisation of industry. In the view of the European Commission, it will take some 25 years (a lifespan of a generation) to transform the industrial sector as well as all value chains; in fact, to prepare for 2050, decisions and actions have to be taken within 5 years (starting with 2019). It was also noted that the transformation provides an opportunity to develop sustainable economic activities with high job creation; in addition, the European Green Deal will support and accelerate the transformation of the EU industry towards a sustainable and socially inclusive growth model.

The European Commission had envisaged that, in order to address the dual challenge of green and digital transformation, it would adopt the European Union’s Industrial Strategy to help Europe seize the opportunities offered by the digital transformation, which will play a key role in achieving the objectives of the European Green Deal. The Industrial Strategy was accompanied by the modernisation of the European Union’s economy and seizing the opportunities offered by the circular economy, both within the European Union and globally, through the adoption of an EU action plan for the Circular Economy.² The main objective of the new policy framework was supposed to foster the expansion of experimental markets for climate-neutral circular products inside and outside the EU. This will be followed by an overview of concrete European Union’s actions related to the development and implementation of the European Industrial Strategy and the new Circular Economy Action Plan.

²The first step towards a circular economy in the EU was marked by the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions “Closing the loop—An EU action plan for the Circular Economy” (COM/2015/0614 final) adopted by the European Commission on 2 December 2015). See Juškevičiūtė-Vilienė (2022).

Industrial Strategy of the European Union On 10 March 2020, the European Commission adopted a Communication to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions on “A New Industrial Strategy for Europe” (COM/2020/102 final). On 5 May 2021, a re-launch of this strategy was presented in the European Commission’s “Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions Updating the 2020 New Industrial Strategy: Building a stronger Single Market for Europe’s recovery” (COM/2021/350 final). The update of the new European Industrial Strategy for 2020 was supposed to build on the lessons learnt from the COVID-19 crisis, to increase resilience and competitiveness of Europe, and to enable European industry to take a leading role in the green and digital transformation. The European Industrial Strategy focuses on the following key areas: strengthening the resilience of the Single Market, tackling the issue of the European Union’s strategic dependence and accelerating the green and digital transformation.

On 1 February 2023, the European Commission presented the Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions “A Green Deal Industrial Plan for the Net-Zero Age” (COM/2023/62 final), with the aim of speeding up the industrial transformation linked to climate neutrality and putting Europe on a pathway towards climate neutrality. In December 2023, the Council and the European Parliament reached a preliminary agreement to reform the design of the EU electricity market (Council, 2023). The EU legislative procedure ended with the adoption of the Regulation (EU) 2024/1735 of the European Parliament and of the Council of 13 June 2024 on establishing a framework of measures for strengthening Europe’s net-zero technology manufacturing ecosystem and amending Regulation (EU) 2018/1724. The Regulation 2024/1735 aims to promote the industrial deployment of zero greenhouse gas (“GHG”) balance technologies in industry which are necessary in order to meet the European Union’s climate objectives; this would enable making use of the benefits of the Single Market and strengthening Europe’s leadership in industrial green technologies. The Regulation 2024/1735 aims at facilitating conditions of investment in green technologies by simplifying authorisation procedures, supporting strategic projects on the basis of specific criteria that contribute to decarbonisation, facilitating access to markets for zero-emission products, introducing rules on public incentives, and improving the skills of Europe’s workers. The Regulation 2024/1735 is also expected to accelerate progress towards achievement of the European Union’s 2030 climate and energy targets and the transition to climate neutrality, while at the same time boosting the competitiveness of the European Union’s industry, creating quality jobs, and supporting the European Union’s efforts to become energy independent.

Regulation (EU) 2024/1252 of the European Parliament and of the Council establishing a framework for ensuring a secure and sustainable supply of critical raw materials and amending Regulations (EU) 168/2013, (EU) 2018/858, 2018/1724

and (EU) 2019/1020, the so-called Critical Raw Materials Act was adopted on 11 April 2024; this Regulation aims at increasing and diversifying the European Union's supply of critical raw materials; strengthening circularity, including recycling; supporting research and innovation in the field of resource efficiency and the development of substitutes; and reinforcing the EU's strategic self-reliance.

It is, therefore, clear that the European Union has not only adopted the new European Industrial Strategy as planned, but has also adopted new legislation to help ensure its implementation, and is continuing the legislative procedures necessary for its effective implementation.

Circular Economy in the European Union It should be noted that an overview will be provided hereby and will cover the steps taken by the European Union to implement the circular economy strategy of the European Green Deal. To start with, it is useful to briefly overview the main initiatives or actions related to the circular economy in the European Union that have been identified in the European Green Deal. First, it was stated that the Circular Economy Action Plan will formulate a policy on sustainable products, which will support the circular design of all products using a common methodology and principles. Priority will be given to reduction of amounts of materials and to the reuse before recycling. It was noted that the Circular Economy Action Plan will contain transformational roadmaps for all sectors, but will focus on resource-intensive sectors such as textiles, construction, electronics and plastics. In addition, the European Green Deal has foreseen that the Circular Economy Action Plan would include measures to encourage companies to offer reusable, durable and repairable products; and to enable consumers to choose those particular products. Among other things, the European Green Deal called for public authorities, including those in the European Union, to set a good example and ensure that their public procurement is green. The European Commission has committed itself to developing further legislation and guidelines on green public procurement (EC Communication 2019, p. 2.1.3.).

It should be noted that decoupling economic growth from resource use and moving towards circular systems of production and consumption is essential to achieve climate neutrality for the EU by 2050 (Council 2024).

On 11 March 2020, the European Commission published a Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions entitled "A new Circular Economy Action Plan For a cleaner and more competitive Europe" (COM/2020/98 final). This Communication presented a Circular Economy Action Plan consisting of more than 30 different actions in the following areas: ensuring circularity in sustainable product development and production processes; consumer empowerment; action in key sectors; and waste reduction. Targeted initiatives are foreseen for key product value chains such as electronics and ICT, batteries, packaging, plastics, textiles, construction and buildings, and food. In addition, a revision of waste legislation is foreseen. Besides, strengthening actions at the international and global level makes an important component of the Action Plan.

In December 2020, the Council adopted conclusions on “Making the Recovery Circular and Green” in response to the European Commission’s Circular Economy Action Plan for a Cleaner and more Competitive Europe. Among other things, these conclusions emphasized the role of the circular economy in the post-COVID-19 recovery and established a link with digitalisation, underlining its importance in unlocking the full potential of the circular economy.

The above-mentioned EU legislation has already been adopted in order to contribute to ensuring the implementation of the circular economy strategy in the EU. Various measures have been adopted to ensure the development and production of sustainable products. The following example illustrates what has been mentioned above: the ordinary legislative procedure was launched, and on 23 April 2024 the European Parliament adopted the legislative resolution on the Proposal for a regulation of the European Parliament and of the Council establishing a framework for setting eco-design requirements for sustainable products and repealing Directive 2009/125/EC. The Regulation has the following aims: to introduce environmental sustainability requirements for almost all types of goods placed on the European Union market; to establish a digital product passport providing information on the environmental sustainability of products; and to prohibit the destruction of certain unsold consumer goods (textiles and footwear).

On 22 March 2023, the European Commission presented a Proposal for the Directive of the European Parliament and of the Council on common rules promoting the repair of goods and amending Regulation (EU) 2017/2394, Directives (EU) 2019/771 and (EU) 2020/1828 (COM/2023/155 final), i.e., what is called the “Right to Repair” Directive. The Proposal aims to encourage the repair rather than the replacement of defective or faulty goods. On 14 February 2024, the European Parliament and the Council reached a preliminary agreement on the draft Directive, providing that this new legislation will apply to all products subject to repair requirements under European Union law (i.e. washing machines, dishwashers, refrigerators or vacuum cleaners); obliging manufacturers of products subject to repair requirements to repair them; introducing a European information format to provide consumers with basic information on the repair service; and linking the national platforms on repair information to a European online platform. On 13 June 2024, the European Parliament and the Council adopted Directive (EU) 2024/1799 on common rules promoting the repair of goods and amending Regulation (EU) 2017/2394 and Directives (EU) 2019/771 and (EU) 2020/1828.

On 30 November 2022, the European Commission presented a Proposal for a revision of EU legislation on Packaging and Packaging Waste (COM/2022/677 final); Procedure 2022/0396/COD). On 24 April 2024, the European Parliament adopted a legislative resolution at first reading on the Proposal for a Regulation of the European Parliament and of the Council on packaging and packaging waste, amending Regulation (EU) 2019/1020 and Directive (EU) 2019/904, and repealing Directive 94/62/EC (Register Reference: P9_TA(2024)0318). The proposed new Regulation aims at reducing the increased amount of packaging waste generated in the EU, at the same time harmonising the rules in the internal market for packaging and promoting the circular economy.

Electronics as well as information and communication technologies (ICT), one of the most resource-intensive and circular sectors with the highest potential for circularity and the fastest-growing waste stream, is one of the sectors where the Circular Economy Action Plan includes measures to improve the durability and recyclability of electrical and electronic equipment. The European Union has taken a number of steps in this field, either by amending existing legislation or adopting completely new legislation. On 23 November 2022, the European Parliament and the Council adopted Directive (EU) 2022/2380 of the European Parliament and of the Council of 23 November 2022 amending Directive 2014/53/EU on the harmonisation of the laws of the Member States relating to the making available on the market of radio equipment (Directive (EU) 2022/2380, which is the legislation that will allow European Union's consumers to use a common USB Type-C charger for their electronic devices. In accordance with Art. 2 of Directive (EU) 2022/2380, Member States are obliged to adopt and publish, by 28 December 2023, the laws, regulations and administrative provisions necessary to comply with this Directive. It should be noted that certain categories or classes of radio equipment³ will be subject to the provisions of Directive (EU) 2022/2380 as of 28 December 2024.

The European Union has also taken various actions in other areas where a circular economy strategy should be pursued and implemented, such as textiles,⁴ batteries and battery waste,⁵ etc.

To summarise, the European Union is implementing the European Green Deal with the aim of achieving climate neutrality, sustainable economic development and a circular economy. The 2019 strategic agenda set out the priorities that prompted the European Commission to launch the Green Deal, with the aim of transforming the energy sector, industry, transport, agriculture, and environmental protection. A key focus is transitioning industry to a clean, circular economy. The New Industrial Strategy for the EU, presented in 2020 and updated in 2021, emphasises the importance of green and digital transitions. In 2023, the Green Industry Roadmap was introduced, and the forthcoming Industrial Act for Climate Neutrality will promote green technologies and investment. The Critical Raw Materials Act, adopted in 2024, enhances supply security and strategic autonomy. Together, these actions demonstrate that the EU is taking concrete steps to implement its long-term sustainability strategies.

³ See e.g. those listed in Annex Ia, Part I, points 1.1 to 1.12 of Directive (EU) 2022/2380, such as, but not limited to, portable mobile telephones, headsets, mice, cameras, keyboards, etc.

⁴ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions "EU Strategy for Sustainable and Circular Textiles" of March 30, 2022 (COM/2022/141 final).

⁵ Regulation (EU) 2023/1542 of the European Parliament and of the Council of 12 July 2023 concerning batteries and waste batteries, amending Directive 2008/98/EC and Regulation (EU) 2019/1020 and repealing Directive 2006/66/EC (Regulation (EU) 2023/1542).

4.2 Digital Agenda for the European Union

The European Union has essentially set itself a dual challenge, i.e. the green transformation and the digital transformation; efforts to pursue the two objectives should, therefore, be made simultaneously.

Digital technologies will play a key role in achieving the sustainability objectives of the Green Deal in many different sectors. The European Commission will look for ways to ensure that digital technologies such as artificial intelligence, 5G, cloud and edge computing and the Internet of Things were able to accelerate and significantly increase the impact of policies in combating climate change and protecting the environment. In addition, digitalisation offers new opportunities of monitoring air and water pollution remotely or monitoring and optimising the use of energy and natural resources. At the same time, Europe needs a digital sector that carefully takes sustainability into account. The Commission will consider measures to improve the energy efficiency and performance of the sector—from broadband networks to data centres and ICT devices—in the context of the circular economy. The European Commission will assess whether there is a need for more transparency in disclosing the environmental impact of electronic communications services and stricter measures in the deployment of new networks; besides, the Commission will decide whether it is useful to support take-back schemes to encourage people to return unwanted devices, such as mobiles, tablets and chargers (EC Communication 2019, p. 2.1.3.).

In this respect, it should be recalled that as early as in March 2000, the Lisbon European Council set the target of “making the European Union the most competitive and dynamic knowledge-based economy in the world by 2010”; besides, the aim of enabling the implementation of the Lisbon Strategy has led to the adoption of, among other things, two Digital Agendas for Europe; one covered the period from 2010 to 2020 and the other one covered the period from 2020 to 2030, respectively. As the European Union has taken a number of actions between 2010 and now (before the end of the second period of implementation of the Digital Agenda for Europe) in order to realise the ambitions of the digital transformation, it is worth highlighting the most significant of them.

The Digital Agenda for Europe published by the European Commission on 19 May 2010 (EC Communication 2010) highlighted the key role of information and communication technologies (ICT) in achieving the objectives of the European Union, where the overall objective of the Digital Agenda is to ensure that the digital single market, based on high-speed and ultra-high-speed Internet access and interoperable applications, delivers sustainable economic and social benefits.⁶ The

⁶It is important to note that the “Digital Agenda for Europe” was one of the priority issues identified in the Communication from the European Commission of 3 March 2010 on “Europe 2020”. The Strategy for Smart, Sustainable and Inclusive Growth” (COM/2010/2020 final). In identifying this as a priority issue, the European Commission has set out the objective to accelerate the roll-out of high-speed internet and to ensure that households and businesses can benefit from the Digital Single Market.

implementation of this first Digital Agenda has achieved several key objectives, such as lowering the cost of electronic communications services,⁷ abolishing roaming charges and strengthening consumer protection in telecoms through privacy⁸ and general data protection measures (Regulation (EU) 2016/679).⁹

On 6 May 2015, the European Commission in its Communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions presented “The Digital Single Market Strategy for Europe” (EC Communication 2015) the aim of which was to ensure better access to digital goods and services across Europe, to foster an optimal environment for digital networks and services, and to increase the growth potential of the digital economy. The strategy stresses, among other things, that the completion of the implementation of the Digital Single Market will allow Europe to remain a global leader in the digital economy, helping European companies to expand their global presence.

“The White Paper on the Future of Europe. Reflections and Scenarios for the EU27 by 2025” (European Commission 2017) was published on 1 March 2017; in this publication the European Commission reiterated the need to strengthen the Single Market, especially in the digital sector, and to increase investment in the infrastructure of this sector. In addition, the European Commission’s ongoing monitoring of the implementation of the adopted strategies helps to establish what actions should be taken to ensure an actual efficient implementation of the above-mentioned strategies. In its Communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions of 10 May 2017 titled “Mid-term Review on the Implementation of the Digital Single Market Strategy. A Connected Digital Single Market for All” (EC Communication 2017), the European Commission emphasized that a timely and effective Digital Single Market for the European Union requires a clear and stable legal environment which would help stimulate innovation, address market fragmentation and open up access to the new dynamic market to all market players under fair and balanced conditions. What is more, the document pointed out the need to take into account new trends and related challenges, such as those related to online platforms, and to

⁷Regulation (EU) 2022/612 of the European Parliament and of the Council of 6 April 2022 on roaming on public mobile networks within the Union, OJ 2022 L 115, pp. 1–37).

⁸Directive 2009/136/EC of the European Parliament and of the Council of 25 November 2009 amending Directive 2002/22/EC on universal service and users’ rights relating to electronic communications networks and services, Directive 2002/58/EC concerning the processing of personal data and the protection of privacy in the electronic communications sector, and Regulation (EC) No 2006/2004 on co-operation between national authorities responsible for the enforcement of consumer protection laws, OJ 2009 L 337, pp. 11–36).

⁹Regulation (EU) 2016/679 and Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA (OJ 2016 L 119, p. 89).

provide for actions that will contribute to the development of fair and transparent trading practices on the above-mentioned platforms.

The second Digital Agenda for Europe covering the period from 2020 to 2030, essentially consisted of two Communications published by the European Commission: The Communication on Shaping Europe's Digital Future¹⁰ of 19 February 2020, and the Communication on a Digital Agenda for Europe (2030 Digital Compass: the European way for the Digital Decade) of 9 March 2021.¹¹

The European strategy for data,¹² published on 19 February 2020, focused on technology for people, promoted a competitive economy and supported an open, democratic society, with three main lines of action: technology for people; a fair and competitive economy; and an open, democratic and sustainable society. This strategy recalls that the dual challenge set by the European Union—the green transformation and the digital transformation—must be pursued simultaneously. It also highlights the digital component and digital solutions' importance for key sectors such as precision agriculture, transport and energy, in their efforts to achieve the ambitious sustainability goals under the Green Deal for Europe.

On 9 March 2021, the European Commission presented its vision and objectives for a successful digital transformation of Europe by 2030, where it highlighted four key axes that will give a concrete expression to the digital ambition: (1) a digitally-skilled population and highly-skilled digital professionals; (2) a secure, high-performance, and sustainable digital infrastructure; (3) the digital transformation of businesses; and (4) the digitalisation of public services. First, the document points out, among other things, that persons' use of digital technologies and services must comply with applicable legal standards and respect the rights and values inherent in the European model. Second, there is an indication that a safe, open and people-centred digital environment should not only respect the law, but also enable people to better assert their rights, such as the right to privacy and data protection, freedom of expression, children's rights and consumer rights. In addition, the European Commission, mindful of its role as guardian of the Treaties, recalled that digital principles are enshrined in the primary EU law, notably the Treaty on European Union, the Treaty on the Functioning of the European Union, the Charter of Fundamental Rights and the case-law of the Court of Justice of the European Union, as well as in the secondary legal acts.

¹⁰ Communication from the European Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions "Shaping Europe's Digital Future" of 19 February 2020 (COM/2020/67 final).

¹¹ Communication from the European Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions of 9 March 2021, "2030 Digital Compass: The European Way for the Digital Decade" (COM/2021/118 final).

¹² At the same time (19 February 2020), the European Commission published two more documents of major importance for the European Union's digital sector: the White Paper "On Artificial Intelligence. A European approach to competence and trust" (COM/2020/65 final), and Communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions "A European Strategy for Data" (COM/2020/66 final).

The European Union takes specific legal measures to ensure adequate protection of fundamental rights in the digital sector. The European Declaration on Digital Rights and Principles (European Declaration 2022) for the Digital Decade of 26 January 2022 sets out commitments, in line with the European Union's fundamental values and rights, to ensure a safe, secure, sustainable and, what is of utmost importance, human-centred digital transformation. The above-mentioned declaration has been issued jointly by the European Parliament, the Council and the European Commission. It is important to note that this Declaration aims at explaining shared political intentions not only by recalling the most relevant rights in the context of the digital transformation but also by making the declaration serve as a reference point for businesses and other relevant actors when developing and deploying new technologies (Part 5 of the Recitals). For this reason, in the European Declaration on the Digital Decade where it refers to Digital Rights and Principles launched by the European Institutions, several key objectives and even concrete commitments have been identified with the aim to contribute to the achievement of the following goals: human-centeredness¹³ of the digital transformation; solidarity and inclusion¹⁴; freedom of choice¹⁵; participation in the digital public sphere¹⁶; safety, security and empowerment,¹⁷ as well as sustainability.¹⁸

On 2 July 2024, the European Commission published the second Report on the State of the Digital Decade (EC Second report, 2024), providing a comprehensive overview of the progress made in the quest to achieve the digital objectives and targets set for 2030 by the Digital Decade Policy Programme for the European Union. The report analyses, among other things, the national Digital Decade Strategic Roadmaps presented by the EU Member States which detail the planned national measures, actions and funding committed to contribute to the EU's digital transformation. The European Commission's analysis shows that the collective

¹³ For example, a commitment has been made to take the necessary measures to ensure that the values of the Union and the rights of individuals recognised under the Union law are respected in real life and online, etc.

¹⁴ A commitment is made to ensure that technological solutions respect people's rights, enable their access thereto and increase inclusiveness; to ensure that no one is left behind in the transformation process (elderly people, people with disabilities, etc.); to ensure that all Europeans have access to an accessible, safe and secure digital identity that allows them to use a wide range of online services; etc.

¹⁵ A commitment is made to ensure transparency concerning the use of algorithms and artificial intelligence; to ensure that the online environment is safe, secure and fair and that fundamental rights are protected, etc.

¹⁶ A commitment is made to further ensure the protection of fundamental rights on the internet; in particular, the freedom of expression and freedom of information; to create an online environment that protects people from misinformation and other forms of harmful content; etc.

¹⁷ The aim is to ensure a safe and secure online environment, privacy and personal data control and the protection of children and young people online, etc.

¹⁸ A commitment is made to help develop and deploy sustainable digital technologies that minimise their impact on the environment and society; to develop and deploy digital solutions that have a positive impact on the environment and the climate.

efforts of Member States fall short of the EU's level of ambition, therefore, the Commission calls for the reinforcement of joint European Union action and allocation of additional investment in digital skills, quality connectivity and the uptake of artificial intelligence.¹⁹ It also recommends promoting the use of digital tools to ensure that many more people acquire both basic and specialised digital skills by 2030 (EC Strategy). The EU Member States will have to review and adjust their national roadmaps before 2 December 2024 to align them with the ambition of the Digital Decade Policy Programme; the Commission, in turn, will monitor and assess the implementation of these recommendations and report on the progress made in the next Digital Decade Report in 2025.

Mention should be made of the following most significant legislative measures adopted to date by the European Commission to implement the Digital Agenda for Europe: Digital Services Act (DSA) (Regulation (EU) 2022/2065) which ensures a safe and accountable online environment (the DSA regulates online intermediaries and platforms such as marketplaces, social networks, content sharing platforms, app stores as well as online travel and accommodation platforms); Digital Markets Act (DMA) (Regulation (EU) 2022/1925) which ensures the conditions for fair and open digital markets (introduces a narrowly defined set of objective criteria for a large internet platform to be considered to be an “access controller”, which allows the DMA to continue to adequately address the problem of large, systemic internet platforms)²⁰; the European Chip Act (Regulation (EU) 2023/1781) which strengthens Europe's competitiveness and resilience in semiconductor technology; the European Digital Identity (Regulation (EU) 2024/1183) which serves as a personal digital wallet for European Union citizens, residents or businesses (to be used for identification or authentication of certain personal information for access to public and private digital services across the European Union; users have full control and freedom of choice over the scope of sharing information); the Artificial Intelligence Act (Regulation (EU) 2024/1689) which aims to improve the functioning of the internal market and promote the uptake of human-centred and reliable artificial intelligence (AI), while ensuring a high level of protection of health, safety, fundamental rights enshrined in the Charter of Fundamental Rights of the European Union, including democracy, the rule of law and the protection of the environment from the detrimental effects of the AI systems in the Union, and by supporting

¹⁹The key figures are as follows: €250 billion have been allocated from the Next Generation EU Facility for digitisation; 80% of the EU population should have basic digital skills by 2030; in addition, €43 billion will be mobilised in total by 2030 for the implementation of the Chip Act.

²⁰Legal doctrine considers that with the adoption of these legal acts, the European Union completed its digital services regulatory reform aimed at achieving two closely linked objectives: first, to create a safe digital space for all users of services, where human rights and fundamental freedoms are protected, and second, to ensure the functioning of open, competitive and fair markets for digital services. As the regulation adopted in the European Union will also apply to service providers established in third countries if they offer their services in the Union, it is likely that the application of the SPA and the SRA will also have an impact on the formulation of international regulatory standards for the operation of online platforms (Kalèda, S.L. 2023, pp. 26 and 40).

innovation; the European Data Strategy (Regulation (EU) 2023/2854)²¹ which aims to put the European Union at the forefront of the data-driven society (creating a single market for data will allow data to move freely within the EU and across sectors, benefiting businesses, researchers and public administrations). Mention should be made of the Interoperable Europe Act (Regulation (EU) 2024/903),²² adopted by the European Parliament and the Council on 13 March 2024, which sets out measures to promote the cross-border interoperability of trans-European digital public services, thus contributing to the interoperability of the underlying networks and information systems through the establishment of a common set of rules and a common governance framework (Art. 1(1) of the Interoperable Europe Act)²³ (it should be noted that interoperability is a key feature of a functioning digital single market, contributing to a more effective implementation of the digital dimensions (European Commission 2024b) of public policy; interoperability in the public sector has a significant impact on the right to free movement of goods, persons, services and capital as enshrined in the Treaties, as complex administrative procedures can create significant obstacles, in particular for small and medium sized enterprises²⁴). Finally, the European Union, recognising that state-of-the-art digital network infrastructures are the backbone of a thriving digital economy and society, seeks to make a proper assessment of the needs of Europe's digital infrastructures as well as of the need to initiate the adoption of new legislation (European Commission 2024a).

In summary, the EU's Digital Agenda is a vital component of its twin green and digital transformation objectives. Digital technologies such as AI and the Internet of Things (IoT) are vital in achieving sustainability and climate targets. Since 2010, the EU has implemented major strategies, including the Digital Single Market Strategy, the Digital Compass 2030 and the European Data Strategy, with the aim of building a competitive, secure and inclusive digital economy. Key legislative acts include the Digital Services Act, the Digital Markets Act, the AI Act, the European Digital Identity Act and the European Chips Act. However, the 2024 State of the Digital Decade report highlights gaps in Member States' efforts, emphasising the need for increased investment and greater coordination to meet the 2030 targets.

²¹ Regulation (EU) 2023/2854 of the European Parliament and of the Council of 13 December 2023 on harmonised rules on fair access to and use of data and amending Regulation (EU) 2017/2394 and Directive (EU) 2020/1828 (Data Act) (OJ L, 2023/2854, 22.12.2023).

²² Article 23 of this Regulation provides that it shall apply from 12 July 2024; however, some provisions shall apply from 12 January 2025.

²³ Article 2 of the Regulation 2024/903 provides a definition of the term "cross-border interoperability" which means the ability of the Union entities and public sector bodies of Member States to interact with each other across borders by sharing data, information and knowledge through digital processes in line with the legal, organisational, semantic and technical requirements related to such cross-border interaction.

²⁴ Recital 1 of the Regulation 2024/903.

4.3 Platforms Work Regulation in the EU

The “road” to the Platform Work Directive. As it has already been mentioned, in its Communication “The European Green Deal” published on 11 December 2019, the European Commission set out a new growth strategy that aims at transforming the European Union into a fair and prosperous society, with a modern, resource-efficient and competitive economy with the level of net emissions of greenhouse gases (GHG) in 2050 equalled to zero and where economic growth is decoupled from resource use. In addition, the strategy aims to protect, conserve and enhance the EU’s natural capital, and protect the health and well-being of citizens from environment-related risks and impacts. At the same time, this transition must be fair and inclusive, leaving no one behind (EC Communication (2019), p. 1.) In addition, it should also be kept in mind that the aspect of sustainability should be further embedded into all the fields of EU policy (EC Communication (2019), p. 2.2.). Eventually, the Just Transition Mechanism (Just Transition Mechanism) will target the regions and sectors most in need of transformation and will contribute, among other things, to the objective of protecting citizens and workers (who will be made particularly vulnerable due to the transformation), for example by providing them with access to re-skilling programmes. It should be noted that pro-active re-skilling and up-skilling are necessary to reap the benefits of the ecological transition²⁵ (EC Communication (2019), p. 2.2.). In this context, it should be noted that Art. 3 TEU enshrines one of the objectives of the European Union, i.e., to promote the well-being of their peoples, to work for the sustainable development of Europe based on a highly competitive social market economy, aiming at full employment and social progress. In accordance with Art. 9 TFEU, in defining and implementing its policies and activities, the Union shall take into account the requirements linked to the promotion of a high level of employment, the guarantee of adequate social protection, the fight against social exclusion, and a high level of education, training and protection of human health. Articles 151 to 161 TFEU set out the Union’s competence in the field of social policy. Art. 153 TFEU empowers the Union to support and complement the action of the Member States in certain areas (e.g. working conditions, social protection and social protection for workers, equality between women and men in terms of access to the labour market and treatment at work, etc.) in order to attain the objectives of Art. 151 TFEU.²⁶

²⁵ To this end, the proposed “European Social Fund” will play an important role in helping Europe’s workforce acquire the skills needed to move from declining to growing sectors and to adapt to new processes.

²⁶ Art. 151(1) TFEU provides that the Union and the Member States, having in mind fundamental social rights such as those set out in the European Social Charter signed in Turin on 18 October 1961 and in the 1989 Community Charter of the Fundamental Social Rights of Workers, shall have as their objectives the promotion of employment, improved living and working conditions, so as to make possible their harmonisation while the improvement is being maintained, proper social protection, dialogue between management and labour, the development of human resources with a view to lasting high employment and the combating of exclusion.

In addition, the Union may address specific issues, such as the adoption of measures to help ensuring social protection for the self-employed, on the basis of Art. 352 of the TFEU, which provides that where the Union needs to take action to achieve one of the objectives set out in the Treaties, in the areas defined by the Treaties, and where the Treaties do not provide for the requisite powers for that purpose, the Council may, unanimously and acting on a proposal from the European Commission, and subject to the consent of the European Parliament, adopt appropriate measures. In this context, it should be borne in mind that the European Union, in exercising the competences conferred on it by the Member States in the field of social policy and in the adoption of any new legislative measures, observes the principle of subsidiarity, and respects the right of every worker, as enshrined in the Charter of Fundamental Rights of the European Union (the “Charter”), to secure conditions of work in which he or she can work safely and in conditions which respect his or her health and dignity (Art. 31 of the Charter), as well as the workers’ right to information and consultation (Art. 27 of the Charter). Finally, under the Inter-institutional Declaration of the European Parliament, the Council and the European Commission on the European Pillar of Social Rights (“the European Pillar of Social Rights”), issued in Gothenburg on 17 November 2017, a shared commitment and the responsibility were taken to provide for implementation at both Union level and Member State level within their respective competences, taking due account of different socioeconomic environments and the diversity of national systems, including the role of social partners, and in accordance with the principles of subsidiarity and proportionality (European Pillar of Social Rights, Recital 17). It should be noted that Recital 15 of the European Pillars of Social Rights states that the term “workers” used in this document concerns all persons in employment, regardless of their employment status, modality and duration; and Principle 5 of the European Pillar of Social rights provides that, regardless of the type and duration of the employment relationship, workers have the right to fair and equal treatment regarding working conditions, access to social protection and training; that, in accordance with legislation and collective agreements, the necessary flexibility for employers to adapt swiftly to changes in the economic context is to be ensured; and that innovative forms of work that ensure quality working conditions are to be fostered, that entrepreneurship and self-employment are to be encouraged and that occupational mobility is to be facilitated. In accordance with Principle 12 of the European Pillar of Social Rights, regardless of the type and duration of their employment relationship, workers, and, under comparable conditions, self-employed persons, have the right to adequate social protection (Interinstitutional Proclamation 2017).²⁷

Finally, it has been repeatedly mentioned, that the digital transformation touches on various areas of activity in the European Union and has a major impact on the

²⁷On 4 March 2021, the European Commission published a Communication to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions on “An Action Plan for a European Pillar of Social Rights” (Brussels, 4.3.2021, COM (2021)102 final).

European Union's economy; and that its labour markets, and digital work platforms²⁸ are becoming an important element of this new emerging socio-economic environment, as they stimulate innovative services and new business models, and provide a wide range of opportunities for customers and businesses. However, more and more attention is given to the fact that introduction of new forms of work organisation on digital labour platforms may jeopardise existing rights and obligations in relation to labour law and social protection. In this context, the European Union has not only had to continue to pursue its most recent ambitions, such as sustainability and digital transformation, but at the same time strive for efficiency in other policy areas, including the field of social policy.

In the light of the above-mentioned facts, on 19 December 2021, the European Commission presented a Proposal for the Directive of the European Parliament and of the Council on Improving Working Conditions in Platform Work (the "Proposal for the Directive")²⁹ which aimed at improving the working conditions and the social rights of persons working through digital platforms. Among other aspects, the Proposal included an objective of supporting the conditions for the sustainable growth of the digital platforms in the Union (hereinafter referred to as "the Proposal for the Directive"). Alongside with this Proposal for the Directive, the European Commission published Communication "Better Working Conditions for a Stronger Social Europe. Harnessing the full Benefits of Digitalisation for the Future of Work" (EC Communication 2021). With this Communication, the European Commission called on Member States, social partners and all stakeholders to take concrete measures to improve the working conditions related to platform work, where the European Commission's main objective is to promote the benefits of the digital transformation, while safeguarding the European social market economy. In the above-mentioned Communication, the European Commission recalls that the Union has already set the tone on a global level in terms of addressing key issues such as personal data protection and the regulation of artificial intelligence systems; in addition, it indicated that setting global standards can improve legal clarity for digital labour platforms across the globe and, therefore, boost the sustainable growth of the platform economy (EC Communication 2021, part 7).

The submission of the European Commission's Proposal for the Directive, therefore, can be regarded as the final stage in a long process that has led to the recognition of the need to regulate platform work at the European Union level. The need to regulate platforms by adopting uniform regulatory rules was determined by the necessity to create a level playing field for all platforms operating in the EU. For a considerable period of time prior to the submission of the Proposal for the Directive, there had been a debate in the European Union, which was confirmed by various documents adopted by the European Union institutions. The following could serve as an example: in its Communication of 6 May 2015, the European Commission

²⁸ As defined in the Proposal for the Directive.

²⁹ European Commission's Proposal for the Directive of the European Parliament and of the Council on Improving Working Conditions in Platform Work (Brussels, 9.12.2021, COM (2021) 762 final, 2021/0414 (COD)).

presented “A Digital Single Market Strategy for Europe” (EC Communication 2015), setting out its ambition to complete the Digital Single Market as soon as possible and to play an active role in its implementation in close cooperation with all stakeholders. Part 3 of this Communication stated that „the market power of some online platforms potentially raises concerns, particularly in relation to the most powerful platforms whose importance for other market participants is becoming increasingly critical. In addition, the Communication highlighted the role of platforms where some platforms have proven to be innovators in the digital economy helping smaller businesses to move online and reach new markets; besides, the document drew attention to the probability that potentially new regulatory questions may appear (EC Communication 2015, Part 3). The European Commission’s Communication of 25 May 2016 “Online Platforms and the Digital Single Market Opportunities and Challenges for Europe” (EC Communication 2016) reconfirmed that online platforms play a key role in innovation and growth in the Digital Single Market, and underlined the need to establish strong platform ecosystems in Europe that could complement or reinforce the existing legislation that governs certain activities of online platforms (EC Communication 2016, Part 6).

It should be noted that (prior to the submission of the Proposal for the Directive by the European Commission) previous European Union legislation in the field of social protection (mostly Directives) were making references to platform workers. Two trends can essentially be observed: the first is the adoption of the European Union legislation with binding force under Art. 288 TFEU, which also refers to platforms’ employees, and the second one is the adoption of non-binding acts which may serve as a good incentive to initiate legislative procedures in the EU.

The first trend may be illustrated by the fact of the adoption on 20 June 2019 of Directive (EU) 2019/1152 on transparent and predictable working conditions (Directive (EU) 2019/1152)³⁰ in the European Union which includes measures to protect the working conditions of people in non-standard employment relationships, including digital platform workers. Recital 8 of Directive 2019/1152 states that in its case law,³¹ the Court of Justice of the European Union (hereinafter referred to as “the Court of Justice”, “the CJEU”) has established criteria for determining the status of a worker. It has also been noted that the implementation of this Directive should take into account the interpretation of those criteria by the Court of Justice. In addition, it has been stated that domestic workers, on-demand workers, intermittent workers, voucher based-workers, platform workers, trainees and apprentices

³⁰ Art. 21 of the Directive provides that Member States have to take all the measures necessary to comply with this Directive by 1 August 2022, at the latest.

³¹ See the case law of the Court of Justice referred to in Recital 8 of Directive 2009/1152: judgments of 3 July 1986, *Lawrie-Blum* (66/85, EU:C:1986:284); of 14 October 2010 *Union syndicale Solidaires Isère* (C-428/09, EU:C:2010:612); of 9 July 2015, *Balkaya* (C-229/14, EU:C:2015:455); of 4 December 2014, *FNV Kunsten Informatie en Media* (C-413/13, EU:C:2014:2411); and of 17 November 2016 *Betriebsrat der Ruhrlandklinik* (C-216/15, EU:C:2016:883). It should be noted that in these cases before the Court of Justice, the circumstances of the dispute did not concern persons performing platform work.

could fall within the scope of Directive 2019/1152, provided they fulfil the respective criteria. The document presents a clarification that genuinely self-employed persons should not fall within the scope of this Directive since they do not fulfil the Directive's criteria. It should be noted that both in the national implementation of this Directive and, where appropriate, in its direct application in practice, in cases where factual and legal circumstances so allow, it should be borne in mind that Art. 1 of Directive 2019/1152, which defines the purpose, subject-matter and scope of this Directive,³² should be read in conjunction with Recital 8 of this Directive. Essentially the same wording on the scope of this Directive can be found in Directive (EU) 2022/2041 of 19 October 2022 on adequate minimum wages in the European Union (Directive (EU) 2022/2041) which envisages that the Directive could apply, *inter alia*, to platform workers (Directive 2022/2041, Recital 21). Directive 2022/2041 aims to improve the adequacy of minimum wages and increase workers' access to the protection in terms of minimum wages. Directive (EU) 2023/970 of 10 May 2023, which reinforces the application of the principle (Directive (EU) 2023/970) of equal pay for men and women for equal work or work of equal value by introducing pay transparency and enforcement mechanisms, also specifies that platform workers fall within the scope of this Directive (Directive 2023/970, Recital 18). Meanwhile, the aforementioned "European Declaration on Digital Rights and Principles for the Digital Decade", published by the European Commission on 26 January 2022, neither contains any specific provisions concerning digital (online) platforms workers, nor makes any specific reference to such workers. Chapter II "Solidarity and Inclusion" of the European Declaration states that everyone should have access to technologies that unite but not divide people, and that the digital transformation should contribute to creating a fair, inclusive society and the economy of the Union. Chapter II "Solidarity and Inclusion" of the Declaration, under the heading "Working Conditions", stipulates that everyone has the right to fair, just, healthy and safe working conditions and appropriate protection both in the digital environment and in the physical workplace, regardless of his or her employment status, modality or duration.

The second trend is reflected in the Council Recommendation of 8 November 2019 on access to social protection (Recommendation, 2019) for workers and the self-employed persons; the document, among other aspects, mention platform workers.³³ In particular, the Council Recommendation pointed out that the Union's labour markets are characterised by a wide range of forms of employment relationships as well as self-employment in addition to open-ended, full-time contracts,

³² Art. 1(2) of Directive 2019/1152 stated that this Directive lays down minimum rights that apply to every worker in the Union who has an employment contract or employment relationship as defined by the law, collective agreements or practice in force in each Member State with consideration to the case-law of the Court of Justice.

³³ It should be noted that this Recommendation adopted by the Council is also referred to in Recital 11 of the Directive on the improvement of working conditions on digital platforms, which confirms the statement that acts adopted by the European Union institutions of a non-binding nature usually have an impact on the initiation of the adoption of European Union legislation.

some of which, such as on-demand work, voucher-based work and platform work, have developed more recently and increased in importance since the 2000s (Recital 11 of the Recommendation). Recital 18 of this Recommendation notes that in some Member States, certain categories of workers, such as short part-time workers, seasonal workers, on-demand workers, platform workers and those on temporary agency contracts or traineeships are excluded from social protection schemes. Moreover, it has been stated that workers who do not have full-time, open-ended contracts can encounter difficulties in being effectively covered by social protection measures, because they may not fulfil entitlement criteria for receiving benefits from contribution-based social protection schemes. Finally, in its Recommendation on access to social protection for workers and the self-employed persons, the Council recommended that in line with this Recommendation, Member States should ensure that both workers and self-employed persons have access to an effective and adequate social protection. It should be noted that this Recommendation covers unemployment, sickness and health, maternity and paternity, invalidity, old-age and survivors' benefits, and benefits in respect to accidents at work and occupational diseases. As part of performing its function of monitoring the application of this Recommendation, the European Commission submitted a Report (Report, 2023) to the Council on 31 January 2023 which presents the main conclusions on the application and implementation of this Recommendation in the Member States. It follows from the Report that reforms are needed to improve the participation of specific categories of people in social protection systems, in particular the self-employed persons or those working on non-standard contracts or in specific sectors (domestic services, culture) where non-standard forms of work are widespread; besides, groups of non-standard workers and the self-employed persons are covered by social protection measures to a lesser extent than others (e.g. by not being able to benefit from unemployment, sickness or other benefits). The European Commission also drew attention, among other things, to the need to regulate work on digital platforms thus ensuring better access to formal social protection; thereby in essence confirming the continued relevance of the need for the adoption of the proposed Directive on improving the conditions of work on digital platforms which had been proposed back in 2021. In addition, in the aforementioned report, the European Commission provided information on the level of social protection for digital platform workers in the Member States, indicating that over the past few years, the working conditions of platform workers have been at the centre of social policy debate with a particular focus on their employment status (self-employed or employees) and its impact on social protection coverage (Report 2023, p. 15).

It has been indicated that platform workers' access to social protection had been discussed in 11 NIPs (BE, DE, EE, FR, HR, IT, CY, LT, PT, RO and SI) with most of them considering it to be a challenge. Five Member States (BE, IT, CY, RO and SI) included concrete measures in their NIPs, while four Member States referred generally to the need to take action in this area in future (DE, EE, LT and PT). For instance, Cyprus counts platform workers among the group of people on non-standard contracts whose access to benefits (unemployment, accidents at work) should be extended through social insurance reform; Belgium and Romania

announce legislative changes to ensure adequate social protection for platform workers, including those who are self-employed. Moreover, it has been stressed that since submitting their NIPs, some Member States (Greece, Spain, and France) have taken further action concerning platform workers, also by way of implementation of the Recovery and resilience plans. Portugal has announced about taking further measures, and other countries (Germany, Croatia, Luxembourg and the Netherlands) at the time of the preparation of the Report were discussing possible changes in their relevant legislation (Report 2023, p. 16).³⁴

Finally, on 30 September 2022, the European Commission published its Communication “Guidelines on the application of Union competition law to collective agreements regarding the working conditions of solo self-employed persons” (the Guidelines) (EC Communication 2022). The Guidelines explain how the Commission will apply the Union competition law without prejudice to the application of other rules or principles of the Union law, i.e., the Guidelines do not create any social rights or obligations and do not affect the prerogatives of Member States in social policy or the autonomy of the social partners; besides, the Guidelines are without prejudice to the definitions of the terms ‘worker’ or ‘self-employed person’ under national law, or the possibility for solo self-employed persons to seek re-classification of their employment status (or the national authorities/courts to assess such cases) under Union or national law. Finally the Guidelines merely clarify the conditions under which certain solo self-employed persons and their counterparty/-ies can enter into collective negotiations and agreements without running the risk of infringing Art. 101 TFEU (EC Communication, 2022, point 10). It should be noted that the Guidelines contain the same definition of “digital labour platform” as the European Commission’s Proposal for the Directive, and indicate a commitment to consider the need to update the definitions.

Guidelines if the definitions of the terms used in the adopted Platform Work Directive differ substantially. Part 3 of the Guidelines, “Solo self-employed persons working through digital labour platforms”, provides examples and explanations of how digital labour platforms differ from other online platforms, and outlines the circumstances under which collective agreements between solo self-employed persons and digital labour platforms relating to working conditions fall outside the scope of Art. 101 TFEU (EC Communication, 2022, points 28–31).

Platform Work Directive On 23 October 2024 the European Parliament and the Council adopted the Directive (EU) 2024/2831 on improving working conditions in platform work (the “Platform Work Directive”) (Directive (EU) 2024/2831). This directive will enter into force on 1 December 2024. Member States shall bring into

³⁴In its Conclusion of 9 October 2023, which the Council presented after taking note of the European Commission’s report, the Council stressed, inter alia, that the social protection of the self-employed persons is particularly relevant in the current process of the transformation of ways of working, and that nowadays, significant numbers of people combine dependent employment and self-employment or switch between them; therefore, cross-border mobility in case of platform work may pose challenges for the self-employed that need to be addressed (Brussels, 9.10.2023, 13,934/23, p. 26).

force the laws, regulations and administrative provisions necessary to comply with this directive by 2 December 2026.

Context and Objectives of the Platform Work Directive The revenues in the digital labour platform economy in the EU are estimated to have grown by around 500% during the past 5 years.³⁵ According to data from 2022, over 28 million people in the EU were working through Digital labour platforms; their number is expected to reach 43 million by 2025 (Council of the EU 2024).

It should be noted that digital labour platforms promote innovative services and new business models, and create many opportunities for consumers and businesses. Besides, digital platform workers (location-based platforms and online web-based platforms) are involved in various activities (Council of the EU 2024). It is, therefore, essential that the persons working through digital platforms have access to adequate working conditions and guarantees of social protection conditions.

It should be noted that, over time, it has had to be acknowledged that the new forms of work organisation introduced by digital labour platforms are putting at risk the existing rights and obligations in terms of labour law and social protection. The European Commission, in order to initiate procedures for the adoption of European Union legislation, has first of all to make a very good assessment of the need for any new legislation and of the major challenges in a given area, as later it helps to identify the most appropriate means of tackling these challenges. The European Commission was, therefore, able to draw on the results of the studies and, after consultation with the various stakeholder groups, to identify the following main problematic aspects of working through digital platforms which are as follows:

- most people working through digital platforms have been classified as self-employed; misclassification of employment status can lead to poor working conditions and inadequate social protection for people working through digital platforms, as well as denying them the rights and protections to which they are entitled as workers; these rights include the right to a minimum wage, working time rules, occupational safety and health, equal pay for men and women and the right to paid holidays, as well as better access to social protection against accidents at work, unemployment, sickness and old age;
- digital work platforms use automated systems to match labour supply and demand, allowing digital platforms to assign tasks, monitor, evaluate and make decisions about the people who work on them, this is the practice often referred to as algorithmic management; as algorithmic management is relatively new and, with the exception of the European Union's data protection rules, is a largely unregulated phenomenon in the digital platform economy, it poses challenges for both the employees of digital labour platforms and the self-employed persons working through such platforms;

³⁵ Paragraph 1 of the Explanatory Memorandum to the Proposal for a Directive.

- lack of traceability and transparency; the problem of traceability is particularly acute when digital platforms operate on a cross-border basis, making it unclear where and by whom digital platforms are operated; this makes it difficult for the relevant national authorities to enforce existing obligations, including in the area of social protection contributions.

The importance of these challenges identified by the European Commission is confirmed by statistics showing how many people can be directly affected by the inappropriate determination of the employment status of persons working through digital platforms (Council of the EU 2024).

Thus, having identified the emerging challenges in the area of social protection for persons working through digital platforms, in its Proposal for the Directive, the European Commission was able to formulate the general objective of improving the working conditions and social rights of persons working through digital platforms, including, among other things, efforts to foster the conditions for the sustained growth of digital platforms in the EU. The following specific objectives were identified to contribute to this overall objective:

1. to ensure that people working through digital platforms have (or can obtain) a fair employment status, based on their actual relationship with the digital labour platform, and have access to applicable employment and social protection rights (classification of work through digital platforms);
2. to ensure fairness, transparency and accountability of algorithmic management in the context of work through digital platforms; and
3. to increase transparency, traceability and awareness of changes in the way persons work through digital platforms, and improve enforcement of the applicable rules for all persons working through digital platforms, including those performing work in several countries.

As regards the legal basis of the Platform Work Directive and the principles of subsidiarity and proportionality, it should be noted that this Directive is based on Art. 153(1) (b), 153(2) (b) and 16(2) TFEU. Prior to the presentation of the Proposal for the Directive, an opinion prevailed that national action alone would not achieve the fundamental objectives of the European Union, based on the Treaty, of fostering sustainable economic growth and social progress, as Member States might be reluctant to adopt stricter rules or to strictly enforce compliance with the existing labour standards. Such a conclusion was based, *inter alia*, on an investigation whereby it was established that more than 100 court decisions and 15 administrative decisions dealing with the employment status of people working through platforms have been observed in the Member States, with varying outcomes but predominantly in favour of reclassifying people working through platforms as workers.³⁶ Moreover, taking

³⁶ It should be noted that Recital 7 of the Platform Work Directive also states that Court cases in several Member States have shown the persistence of misclassification of the employment status in certain types of platform work, in particular in sectors where digital labour platforms exert a certain degree of direction or control. While digital labour platforms frequently classify persons work-

into account the dual objective of the Platform Work Directive to improve the conditions for working on digital platforms and the protection of personal data, it has been assessed that this objective cannot be sufficiently achieved by the Member States and can, therefore, by reason of the need to lay down common minimum requirements, be better achieved at the level of the Union; where the Union may adopt measures in accordance with the principle of subsidiarity as set out in Art. 5 TEU. The Platform Work Directive also ensures compliance with the principle of proportionality by not going beyond what is necessary to achieve the objective (Platform Work Directive, Recital 67). It should be noted that the Platform Work Directive lays down minimum requirements, thus preserving the Member States' prerogative to introduce or maintain more favourable provisions for the persons working through digital platforms. The rights valid under the existing legal framework should continue to apply, including those regarding the mechanisms for establishing the existence of an employment relationship unless this Directive establishes more favourable provisions. The implementation of this Directive cannot be used to reduce the existing rights set out in existing Union or national law in this field, nor can it constitute valid grounds for reducing the general level of protection in the field covered by this Directive as well as existing prerogatives conferred on representatives. (Recital 68 of the Platform Work Directive).

Subject Matter and Scope The Platform Work Directive consists of VI chapters reflecting the objectives pursued by this Directive: general provisions (I); employment status (II); algorithmic management (III); transparency on platform work (IV); remedies and enforcement (V); final provisions (VI).

The purpose of this Directive is to improve the working conditions of persons performing platform work and the protection of personal data³⁷ (Art. 1(1) of the Platform Work Directive):

- (a) by establishing measures to facilitate the correct determination of the employment status of persons performing digital platform work;
- (b) by promoting transparency, fairness³⁸ and accountability in algorithmic management in platform work and by improving transparency in platform work, and
- (c) by increasing transparency about working on digital platforms, including in cross-border situations.

ing through them as self-employed or “independent contractors”, many courts have found that platforms exercise de facto direction and control over those persons, often integrating them in their main business activities. Those court cases have therefore reclassified purportedly self-employed persons as workers employed by the platforms.

³⁷ Recital 20 of the Platform Work Directive states that digital labour platforms differ from other online platforms as they use automated monitoring or decision-making systems to organise work performed by individuals at the request, one-off or repeated, of the recipient of a service provided by the platform.

³⁸ It should be noted that human supervision was foreseen after the discussion of the Proposal for the Directive in the European Parliament and the Council.

Art. 1(2) of the Platform Work Directive defines the subjective scope of application of the Directive, which covers all persons working on digital platforms in the Union under an employment contract or employment relationship within the meaning of the law in force in each Member State, in accordance with the applicable law or the collective agreements or the practice in force in each Member State, in the light of the case-law of the Court of Justice of the European Union.³⁹ As the European Commission pointed out in its Proposal for the Directive, such a reference to the case law of the Court of Justice is made in cases where the employment status of a person working on a digital platform is not clear (including in cases of fictitious self-employment) in order to allow for a correct determination of that status.

In accordance with Art. 1(1) of the Platform Work Directive, this Directive applies to digital labour platforms organising platform work performed in the Union, irrespective of their place of establishment and irrespective of the law otherwise applicable.

Definitions Art. 2(1) of the Platform Work Directive defines certain terms and concepts necessary for the application and interpretation of the provisions of this Directive, such as “digital labour platform”, “platform work” and “person performing platform work”. It should be noted that the list of terms defined in this Article of the Platform Work Directive has expanded considerably after the discussion on the Proposal for the Directive in the European Parliament and in the Council, with the addition of terms such as “intermediary”,⁴⁰ “representatives”, “platform workers’

³⁹The same reference to the case law of the Court of Justice is made in Recital 18 of the Platform Work Directive, but in this context there is no reference to specific judgments of the Court of Justice, as this Court has not yet dealt with a case which has raised issues concerning the status of a platform worker (for example, the above-mentioned Directive 2019/1152, contains a reference to specific judgments of the Court of Justice that have established criteria for the status of workers). However, it should be noted that Recital 29 of the Directive on forms of employment refers to the case-law of the Court of Justice concerning the consequences of false declarations of self-employment and the impact of formal recognition as self-employed person under national law on the application of European Union law. In addition, in this context, a number of cases can be mentioned which dealt with digital platforms, but in these cases the Court of Justice dealt with the application of Union law on services to a wide range of activities based on the exchange economy carried out via digital platforms. For example, see Judgments of 20 December 2017, *Asociación Profesional Elite Taxi* (C-434/15, EU:C:2017:981); 10 April 2018, *Uber France* (C-320/16, EU:C:2018:221); 19 December 2019, *Airbnb Ireland* (C-390/18, EU:C:2019:1112); and of 22 September 2020, *Cali Apartments and HX* (C-724/18 and C-727/18, EU:C:2020:743). It is recognised in legal doctrine that the *Asociación Profesional Elite Taxi* and *Airbnb Ireland* judgments provided a “test” for the proper “legal qualification” of the activities carried out by digital platforms and subsequently for the determination of the applicable European Union law (see Grozdanovski, L. Les services fournis par les plateformes numériques: quelle qualification juridique pour quell enjeux? *Journal de tribunaux*, 2020/22, n°6818, p. 449–455).

⁴⁰“Intermediary” means a natural or legal person who, for the purpose of providing work on or through a digital work platform, (a) establishes a contractual relationship with that digital work platform and the person working on the digital platforms, or (b) is part of the subcontracting chain linking that digital work platform and the person working on the digital platform. It should be noted that, following deliberations at the European Parliament and the Council, the Platform Work

representatives”, “automated monitoring systems”, and “automated decision-making systems”.

It should be noted that according to Art. 2 of the Platform Work Directive, a person performing platform work means any natural person performing platform work, irrespective of the contractual designation of the relationship between that individual and the digital labour platform by the parties involved.

In accordance with Art. 2 of the Platform Work Directive, platform worker means any person performing platform work who has an employment contract or employment relationship as defined by the law of a Member State, collective agreements or practice in force in the Member States with consideration to the case-law of the Court of Justice.

In addition, Art. 2(2) of the Platform Work Directive states that the definition of digital labour platforms laid down in paragraph 1, point (1) shall not include providers of a service whose primary purpose is to exploit or share assets or which allow non-professionals to resell goods.⁴¹

Employment Status The new Platform Work Directive establishes a presumption of an employment relationship (as opposed to self-employment) whenever the facts support it. Art. 4(1) of this Directive obliges Member States to establish appropriate and effective procedures to verify and ensure the proper determination of the employment status of persons working on digital platforms in order to establish the existence of an employment relationship within the meaning of the law in force in the Member States, of collective agreements or of the applicable practices, in the light of the case-law of the Court of Justice, including through the application of the presumption of the existence of an employment relationship as referred to in Art. 5 of this Directive. The European Commission based Art. 4(1) of the Proposal for the Directive on the need to ensure that the employment status of persons working on digital platforms is correctly identified and that persons who may have been misclassified can be reclassified.⁴² The European Commission believes that this article

Directive includes a specific Art. 3 setting out the obligations of the intermediary in relation to persons working on digital platforms.

⁴¹ This clarification has been included in the text of the Platform Work Directive following discussions at the European Parliament and the Council.

⁴² For example, the French delegation’s statement of 12 June 2023 on the Proposal for the Directive pointed out that the legal presumption mechanism aimed at facilitating a proper classification of the employment status of persons working on digital platforms would only be effective and relevant on condition that it did not apply to genuinely self-employed individuals. The need for this presumption to be based on clear, transparent and legally predictable conditions to be met was also underlined (10,107/23 ADD 3). The Belgian, Spanish, Luxembourg, Maltese, Dutch, Portuguese, Romanian, Slovenian and Spanish delegations took the same position, pointing out in their jointly adopted declaration of 12 June 2023, *inter alia*, that the rebuttable presumption of the legal presumption of the employment relationship provided for in the Proposal for the Directive should be applied in accordance with clear and transparent norms and mechanisms, which are generally applicable to all the Member States, and which are in line with the case-law of the Court of Justice of the European Union and the jurisprudence of national courts (10,107/23 ADD 2). The Lithuanian Delegation’s statement of 12 June 2023 also stresses, *inter alia*, that the legal presumption, its cri-

will contribute to the possibility to allow persons that are possibly misclassified as self-employed workers (bogus self-employment) to have access to working conditions laid down in the Union or national law, taking into account their actual employment status. Art. 4(2) of the Platform Work Directive clarifies that the determination of the existence of an employment relationship should be based primarily on the facts relating to the actual performance of the work (the “preponderance of the facts” principle), and including the use of automated monitoring or decision-making systems in the organisation of work on the digital platforms.⁴³ However, it is also stated that it is irrelevant how the relationship is classified in any contractual arrangement that may have been agreed between the parties involved. Moreover, if the existence of an employment relationship is established, the party or parties assuming the employer’s obligations shall be clearly identified in accordance with the legal systems of the Member States (Art. 4(3) of the Platform Work Directive⁴⁴).

Legal Presumption The Platform Work Directive obliges the Member States to establish an efficient rebuttable legal presumption of employment at national level, aiming to correct the imbalance of power between the digital labour platform and the person performing platform work (Parlement européen; 20,240. The burden of proof lies with the platform, meaning that it is up to the platform to prove that there is no employment relationship (Art. 5(1-2) of the Platform Work Directive). According to Art. 5(3) of the Platform Work Directive, the above-mentioned legal presumption applies in all relevant administrative or judicial proceedings where the question of the proper employment status of a digital platform worker arises. It also provides that the legal presumption does not apply to proceedings relating to tax, criminal and social protection matters, but leaves it open to Member States to apply the legal presumption in those proceedings in accordance with their national law. In addition, Art. 5(4) and (5) of the Platform Work Directive gives digital platform workers and their representatives, as well as the competent national authority, the right to initiate a process to determine the exact employment status of a digital platform worker. Art. 5(6) of the Platform Work Directive also provides that the legal presumption should apply to factual situations before the deadline for transposition of the Directive into national law. It should be noted that the wording of Art. 5 of the Platform Work Directive adopted by the European Parliament and the Council differs from the first version of the Article proposed by the European Commission, as it no longer contains the list⁴⁵ of criteria proposed by the European Commission to

teria, the requirements for the application of the legal presumption, the application of the legal presumption and the rebuttal of the legal presumption, should be proportionate and should not create an administrative burden for genuinely self-employed persons (10,107/23 ADD 1).

⁴³ This clarification has been included in the text of the Platform Work Directive following discussions at the European Parliament and the Council.

⁴⁴ Art. 4(3) of the Directive has been included in this version of the Platform Work Directive following discussions at the European Parliament and the Council.

⁴⁵ For example, effectively setting or defining wage ceilings; requiring a person working on a digital platform to comply with specific mandatory rules on arrival, treatment of the service recipient

show that a digital work platform is controlling the performance of the work, nor the requirement that at least two of the indicators must be met for the presumption to apply. However, the list of auxiliary measures proposed by the European Commission to be applied by the Member States to ensure an effective implementation of and compliance with the legal presumption is set out in a separate Art. 6 of the Platform Work Directive, entitled “Framework of supporting measures”. It should be noted that this new provision⁴⁶ of the Platform Work Directive provides, *inter alia*, for the obligation to develop appropriate guidance, including in the form of concrete and practical recommendations, for digital labour platforms, persons performing platform work and the social partners (Art: 6(a) of the Platform Work Directive). In addition, Member States must develop guidance and establish appropriate procedures for competent national authorities to proactively identify, target and prosecute digital labour platforms which do not comply with the rules on correct determination of the employment status (Art. 6(b) of the Platform Work Directive). Member States must also provide for effective controls and inspections conducted by national authorities, in line with national law or practice, while ensuring that such controls and inspections are proportionate and non-discriminatory (Art. 6(c) of the Platform Work Directive). It should be noted that Art. 6(d) of the Platform Work Directive imposes a new obligation on Member States to provide for appropriate training⁴⁷ for competent national authorities and provide for the availability of technical expertise in the field of algorithmic management in order to enable those authorities to carry out the tasks envisaged under Art: 6(b) of the Platform Work Directive.

Algorithmic Management This is the first case in the EU where a Directive regulates the use of algorithms at work (Parlement européen 2024). The new Platform Work Directive aims to ensure that a person performing platform work cannot be fired or dismissed on the basis of a decision taken by an algorithm or an automated decision-making system. Instead, efforts are made to guarantee that digital labour platforms were supposed to ensure the prevalence of human oversight on important decisions directly affecting the persons performing platform work. The European Union legislator notes in the Platform Work Directive that algorithm-based technologies, including automated monitoring or decision-making systems (Recital 4 of the Platform Work Directive), are increasingly replacing the functions usually performed by managers in businesses, such as allocating tasks, the pricing of individual assignments, determining working schedules, giving instructions, evaluating the work performed, providing incentives or imposing sanctions. In addition, digital labour platforms in particular use such algorithmic systems as a standard way of organising and managing platform work through their infrastructure (Platform Work Directive, Recital 8). Thus, after defining which algorithm-based technologies

or performance of the work; supervising the performance of the work or checking the quality of the results of the work, including by electronic means; etc.

⁴⁶Art. 6 of the Directive, entitled “Framework of supporting measures”, was included in the Directive following discussions at the European Parliament and the Council.

⁴⁷The European Commission’s Proposal for the Directive did not include such an obligation.

are relevant for work on digital platforms, Art. 2 of the Platform Work Directive defines the terms “automated monitoring systems”⁴⁸ and “automated decision-making systems”.⁴⁹

With regard to algorithmic governance, it should be recalled, in particular, that according to Art. 1(1) of the Platform Work Directive, the main objective of this Directive, namely the improvement of working conditions and the protection of personal data in the context of work on digital platforms, will be pursued, *inter alia*, by promoting transparency, fairness, human oversight, safety and accountability in algorithmic management of platform work.

Recital 17 of the Platform Work Directive provides, *inter alia*, in relation to Art. 16 TEU,⁵⁰ that this Directive establishes rules to improve the protection of natural persons performing platform work regarding the processing of their personal data by increasing transparency, fairness and accountability of relevant algorithmic management procedures in platform work. In this respect, it is important to note that the final version of the Platform Work Directive has been supplemented by specific provisions to ensure data protection—Art. 7 “Limitations on processing of personal data by means of automated monitoring or decision-making systems” and Art. 8 “Data Protection Impact Assessment”. Art. 7(1) and (2) of the Platform Work Directive thus establishes what personal data cannot be processed by digital work platforms using automated monitoring and decision-making systems and provides that this restriction applies to all persons working on digital platforms for all the duration of the procedure, *i.e.* from the start of the recruitment or selection procedure.⁵¹ According to Art. 8(1) of the Platform Work Directive, processing of personal data by a digital labour platform by means of automated monitoring and decision-making systems is a type of processing likely to result in a high risk to the

⁴⁸ In accordance with Art. 2(1)(8) of the Platform Work Directive, these systems mean systems which are used for, or support monitoring, supervising or evaluating the work performance of persons performing platform work or the activities carried out within the work environment, including collecting personal data, through electronic means.

⁴⁹ In accordance with Art. 2(1)(9) of the Platform Work Directive, automated decision-making systems’ means systems which are used to take or support, through electronic means, decisions that significantly affect persons performing platform work, including the working conditions of platform workers, in particular decisions affecting their recruitment, access to and organisation of work assignments, their earnings including the pricing of individual assignments, their safety and health, their working time, their access to training, promotion or its equivalent, their contractual status, including the restriction, suspension or termination of their account.

⁵⁰ Art. 16(1) TFEU provides that everyone has the right to the protection of his or her personal data.

⁵¹ For example, it shall not process any personal data on the emotional or psychological state of the person performing platform work; shall not process any personal data in relation to private conversations, including exchanges with other persons performing platform work and their representatives; shall not process any biometric data of a person performing platform work, etc. See Recitals 40 and 41 of the Platform Work Directive for certain limitations on how digital work platforms may process personal data through automated monitoring and decision-making systems. The latter part provides for other categories of data that should not be processed by digital platforms, such as personal data that can be used to predict racial or ethnic origin, migration status, political opinions, trade union membership, etc.

rights and freedoms of natural persons within the meaning of Art. 35(1)⁵² of Regulation (EU) 2016/679. It is also envisaged, in accordance with this provision of this Directive, that when carrying out, in accordance with Art. 35(1) of the Regulation (EU) 2016/679, an assessment of the impact of the processing of personal data by means of automated monitoring and decision-making systems on the protection of the personal data of individuals working on digital platforms, including the limitations on the processing of the personal data as set out in Art. 7 of the Platform Work Directive, it shall be intended to seek the views⁵³ of individuals working on digital platforms and of their representatives, when acting in the capacity of a controller, within the meaning of point 7 of Art. 4 of the Regulation (EU) 2016/679.

The objective of promoting transparency and fairness in algorithmic governance should be facilitated by proper implementation of Articles 9 to 11 of the Platform Work Directive in the domestic law of the Member States and the subsequent effective application and monitoring of these provisions in practice. Firstly, Art. 9⁵⁴ of the Platform Work Directive sets out the measures that Member States should take to ensure the transparency of automated monitoring or decision-making systems. In accordance with Art. 9(1) of this Directive, Member States shall require digital labour platforms to inform persons performing platform work, platform workers' representatives and, upon request, competent national authorities, of the use of automated monitoring or decision-making systems. In addition, the Platform Work Directive sets out what information Member States may require to be provided with and when, concerning separate automated decision-making systems and automated monitoring systems, including information on the use of these systems, as well as their implementation, monitoring, etc. What should be emphasized is, first, a strong focus on the information relating to personal data (e.g. recipients or categories of recipients of personal data processed by automated monitoring systems, the way how decisions taken by automated decision-making systems are affected by the personal data of the person working on the digital platform, etc.⁵⁵). Second, Art.

⁵² Under Art. 35 (1) ("Data protection impact assessment") of the Regulation (EU) 2016/679: Where a type of processing in particular using new technologies, and taking into account the nature, scope, context and purposes of the processing, is likely to result in a high risk to the rights and freedoms of natural persons, the controller shall, prior to the processing, carry out an assessment of the impact of the envisaged processing operations on the protection of personal data. A single assessment may address a set of similar processing operations that present similar high risks.

⁵³ See Recital 39 of the Platform Work Directive, which provides, *inter alia*, that this Directive lays down specific rules complementary to the Regulation (EU) 2016/679, in relation to the processing of personal data in the context of the processing of personal data through the use of automated systems in the context of the work on digital platforms, thus ensuring a higher level of protection of the personal data of individuals who perform platform work.

⁵⁴ This is a new and much more detailed version of Art. 9 of the Platform Work Directive, based on the former Art. 6 in the European Commission's Proposal for the Directive, and included in the text of the Directive after deliberations at the European Parliament and Council.

⁵⁵ As regards the protection of personal data, it should be noted that Art. 9(6) of the Platform Work Directive provides that persons performing platform work shall have the right to the portability of personal data generated through their performance of work in the context of a digital labour platform's automated monitoring and decision-making systems, including ratings and reviews without

10(1) of the Platform Work Directive envisages the requirement for Member States to ensure that digital labour platforms oversee and, with the involvement of workers' representatives, regularly, and at least every 2 years, carry out an evaluation of the impact of individual decisions taken or supported by automated monitoring and decision-making systems used by the digital labour platform on persons performing platform work, including, where applicable, on their working conditions and equal treatment at work. The wording of Art. 10(2) of the Platform Work Directive, as approved by the European Parliament and the Council, stipulates that Member States shall require digital labour platforms to ensure sufficient human resources for an effective oversight and evaluation of the impact of individual decisions taken or supported by automated monitoring or decision-making systems. In addition to the requirement that the persons charged by the digital labour platform with the function of oversight and evaluation shall have the necessary competence, training and authority to exercise that function, including for overriding automated decisions; the provision imposes an obligation to ensure that they are afforded a certain level of protection against adverse consequences resulting from the exercise of their functions (e.g. dismissal from their jobs, or equivalent disciplinary measures, etc.). Reference should be made to Article 10(3) and (5)⁵⁶ of the Platform Work Directive, which, respectively, oblige the digital work platform in cases where the oversight or the evaluation identifies a high risk of discrimination at work in the use of automated monitoring and decision-making systems or finds that individual decisions taken or supported by automated monitoring and decision-making systems have infringed the rights of a person performing platform work, the digital labour platform shall take the necessary steps, including, if appropriate, a modification of the automated monitoring and decision-making system or a discontinuance of its use, in order to avoid making such decisions in the future and provide that any decision to restrict, suspend or terminate the contractual relationship or the account of a person performing platform work or any other decision of equivalent detriment shall be taken by a human being.

Thirdly, Art. 11 of the Platform Work Directive aims at regulating human review of automated decision-making systems. This provision establishes that persons performing platform work shall have the right to obtain an explanation from the digital labour platform for any decision taken or supported by an automated decision-making system without undue delay.⁵⁷ The explanation, in oral or written form, shall

adversely affecting the rights of the recipient of the service under the Regulation (EU) 2016/679 . The digital labour platform shall provide persons performing platform work, free of charge, with tools to facilitate the effective exercise of their portability rights, referred to in Art. 20 of the Regulation (EU) 2016/679 R and in the first sentence of this paragraph. At the request of the person performing platform work, the digital labour platform shall transmit such personal data directly to a third party.

⁵⁶Art. 10(3) of the Platform Work Directive (formerly Art. 7 of the European Commission's Proposal for the Directive, formerly Art. 7) has been re-worded and paragraphs 4 to 5 have been added thereto following the deliberations at the European Parliament and Council.

⁵⁷It should be noted that the European Commission's proposed version of the Platform Work Directive included an additional requirement that the decision taken by the automated decision-

be presented in a transparent and intelligible manner, using clear and plain language. Besides, Member States shall ensure that digital labour platforms provide persons performing platform work with access to a contact person designated by the digital labour platform to discuss and to clarify the facts, circumstances and reasons having led to the decision (Art. 11(1), first subparagraph of the Platform Work Directive). In addition, Art. 11(1)(2) of the Platform Work Directive requires digital labour platforms to provide the person performing platform work with a written statement of the reasons for any decision supported or, where applicable, taken by an automated decision-making system to restrict, suspend or terminate the account of the person performing platform work, any decision to refuse the payment for work performed by the person performing platform work, any decision on the contractual status of the person performing platform work, any decision with similar effects or any other decision affecting the essential aspects of the employment or other contractual relationships. Persons performing platform work and, in accordance with national law or practice, representatives acting on behalf of the persons performing platform work shall have the right to request the digital labour platform to review all the above-mentioned decisions. It should be noted that the digital labour platform shall respond to such requests within 2 weeks by providing the person performing platform work with a sufficiently precise and adequately substantiated reply in the form of a written document which may be in electronic format (Art. 11(2) of the Platform Work Directive). Where the decision referred to in paragraph 1 infringes the rights of a person performing platform work, the digital labour platform shall rectify the decision without delay and in any case within 2 weeks of the adoption of the decision, or, where such rectification is not possible, the digital labour platform shall offer adequate compensation for the damage sustained (Art. 11(3) of the Platform Work Directive). In accordance with Art. 11(5) of the Platform Work Directive, this Article shall not apply to persons performing platform work who are business users as defined in Art. 2, point (1), of Regulation (EU) 2019/1150 (Regulation (EU) 2019/1150).⁵⁸

Safety and Health Recital 2 of the Platform Work Directive recalls that Art. 31 of the Charter provides for the right of every worker to fair and just working conditions which respect his or her health, safety and dignity. Moreover, Recital 50 of this Directive states that Council Directive 89/391/EEC (Council Directive 89/391/EEC)⁵⁹ introduces measures to encourage improvements in the safety and health of

making system must have a significant impact on the working conditions of the employee working on the digital labour platform.

⁵⁸ “Business user” means any private individual acting in a commercial or professional capacity who, or any legal person which, through online intermediation services offers goods or services to consumers for purposes relating to its trade, business, craft or profession.

⁵⁹ The Directive 89/391 as modified by Regulation (EC) No 1137/2008 of the European Parliament and of the Council of 22 October 2008 adapting a number of instruments subject to the procedure laid down in Art. 251 of the Treaty to Council Decision 1999/468/EC, with regard to the regulatory procedure with scrutiny—Adaptation to the regulatory procedure with scrutiny—Part One. OJ L 311, 21.11.2008, p. 1–54.

workers at work, including the obligation for employers to assess the occupational health and safety risks and lays down general principles of prevention that employers are supposed to implement. Art. 12⁶⁰ of the Platform Work Directive is relevant to the implementation of the objectives set out in the Recitals of the Directive to ensure the safety and health of workers on digital platforms, which not only specifies the actions to be taken by digital platforms with regard to their workers, but also the obligation of the Member States to ensure that the digital platforms take preventive measures to ensure the health and safety of the platform's workers, including the cases of violence and harassment (Art. 12(5) of the Platform Work Directive). Digital labour platforms shall be obliged to ensure effective information, consultation and participation of platform workers and/or their representatives (Art. 12(2) of the Platform Work Directive). It can therefore be concluded that digital platforms will have to assess the potential risks of automated monitoring and decision-making systems to the safety of both physical and mental health of platform workers (in particular potential occupational accidents, psychosocial and ergonomic risks), to assess whether the safeguards for these systems are adequate to address these risks, taking into account the specific working conditions, and to take appropriate preventive and protective measures.

Information It should be noted that the Platform Work Directive provides for a number of recipients of the information, i.e., the employees of digital platforms and their representatives, the competent authorities of the Member States and the representatives of the persons performing platform work.

As regards the information to be provided by digital platforms to their employees or their representatives, it should be noted that Articles 13 and 14 of the Platform Work Directive provide that Member States shall ensure that the employees of digital platforms, or their representatives, are informed of decisions which may lead to the introduction of automated monitoring or decision-making systems or to substantial changes in the way they are used; besides, consultations with employees' representatives shall be carried out on the above-mentioned issues. The aim of this provision is to promote social dialogue on algorithmic management. Given the complexity of the subject matter, the representatives or the platform workers concerned can be assisted by an expert of their choice. It should be noted that there is a possibility for Member States to determine the frequency of requests for an expert, while at the same time ensuring the effectiveness of the assistance (Art. 13(3) of the Platform Work Directive).

As regards the relevant information to be provided by digital platforms to the competent authorities and to the representatives of the persons working on digital platforms, Art. 17(1) of the Platform Work Directive provides that the following information must be provided: the number of persons performing platform work

⁶⁰A specific provision—Art. 12 of the Platform Work Directive - to ensure the safety and health of workers has been integrated into the text of the Directive following discussions at the European Parliament and the Council.

through the digital labour platform concerned, with a reference to the level of activity and their contractual or employment status; the general terms and conditions, determined by the digital labour platform and applicable to those contractual relationships; the average duration of activity, the average weekly number of working hours per person and the average income from the activity of persons performing platform work on a regular basis working through the digital labour platform concerned; and the intermediaries with whom the digital labour platform has a contractual relationship. It should be noted that Art. 17(2)-(5) of the Platform Work Directive stipulates, inter alia, that digital work platforms must provide the competent national authorities with information on the work carried out by the persons working on the digital platforms and their employment status. The articles stipulate that the information should be regularly updated, and that additional explanations or data should be provided on request.

Protection of Personal Data As already has been mentioned, according to Art. 1(1) of the Platform Work Directive, read in conjunction with Recital 17 of this Directive, the purpose of the Directive is to improve the working conditions of workers on digital platforms and to protect the personal data of the individuals who perform platform work. This dual nature of the two objectives is pursued simultaneously and, while they are mutually reinforcing and inextricably linked, neither of them is subordinate to the other. In accordance with Art. 1(2) (2) of the Platform Work Directive, this Directive lays down rules on how to improve the protection of natural persons in relation to the processing of their personal data by providing measures on algorithmic management (for more, see Chapter “Algorithmic management”), applicable to persons performing platform work in the Union, including those who do not have an employment contract or employment relationship (see Recital 18 of the Platform Work Directive). In this context, it should be noted that considerable efforts have been made to ensure the protection of personal data in Articles 7 to 9 of the Platform Work Directive, which regulate the processing of personal data through algorithmic control.

As regards the relationship between the Platform Work Directive and other European Union legislation aimed at ensuring adequate protection of personal data, it should be noted that Recital 39 of the Platform Work Directive establishes the relationship between the provisions of the Regulation (EU) 2016/679 and the provisions of this Directive in the context of the protection of personal data as far as it concerns the employment context. It is recalled that while the Regulation (EU) 2016/679 establishes a general framework for the protection of natural persons with regard to the processing of personal data, still it is necessary to lay down specific rules to address concerns relating to the processing of personal data as regards the use of automated monitoring or decision-making systems in the context of the work performed through platforms. Art. 88 of the Regulation (EU) 2016/679 stipulates that Member States may lay down more specific rules by law or collective agreements to ensure the protection of the rights and freedoms of employees with regard to the processing of their personal data in the employment context. Recital 64 of the Platform Work Directive sets out a number of measures that Member States should

take in the context of platform work to ensure the protection of personal data of persons performing platform work. It has been pointed out that given that the above-mentioned Directive provides for more detailed rules and additional rules related to the Regulation (EU) 2016/679 concerning working on digital platforms in order to ensure the protection of personal data of persons working on digital platforms, the national supervisory authorities referred to in the Regulation (EU) 2016/679 should be competent to monitor the application of the above-mentioned safeguards. It has been noted that the enforcement of the more detailed and supplementary rules laid down in the Platform Work Directive should be governed by the Regulation (EU) 2016/679, in particular by the procedural framework set out in Chapters VI, VII and VIII thereof, in particular with regard to supervisory, cooperation and consistency mechanisms, remedies, liability and sanctions, including the power to impose administrative fines up to the amount referred to in Art. 83(5) of the Regulation (EU) 2016/679.⁶¹ In addition, Recital 65 of the Platform Work Directive provides, *inter alia*, that data protection supervisory authorities and other competent authorities should cooperate, including on a cross-border basis, in the enforcement of this Directive.

Besides, according to Art. 9(6) of the Platform Work Directive, read in conjunction with Recital 46, persons performing platform work shall have the right to the portability of personal data generated through their performance of work in the context of a digital labour platform's automated monitoring and decision-making systems, including ratings and reviews without adversely affecting the rights of the recipient of the service under the GDPR. In addition, in accordance with this part of the Recitals of the Platform Work Directive, persons performing platform work should have the right to receive, without hindrance and in a structured commonly used and machine-readable format, any personal data generated through their performance of work in the context of a digital labour platform's automated monitoring and decision-making systems, including ratings and reviews.

Finally, Art. 28 of the Platform Work Directive leaves Member States the possibility to lay down more specific rules either by law or by collective agreements to ensure the protection of rights and freedoms in the processing of personal data

⁶¹ Art. 83(5) of the Regulation (EU) 2016/679 provides that infringements of the following provisions shall, in accordance with paragraph 2, be subject to administrative fines up to 20,000,000 EUR, or in the case of an undertaking, up to 4% of the total worldwide annual turnover of the preceding financial year, whichever is higher: In addition, Art. 24(1) of the Platform Work Directive provides that the supervisory authority or authorities responsible for monitoring the application of Regulation (EU) 2016/679 shall also be responsible for monitoring and enforcing the application of Articles 7 to 11 of this Directive as far as data protection matters are concerned, in accordance with the relevant provisions in Chapters VI, VII and VIII of Regulation (EU) 2016/679, besides, the ceiling for administrative fines referred to in Art. 83(5) of that Regulation shall be applicable to infringements of Articles 7 to 11 of this Directive.

relating to persons working on digital platforms in accordance with Articles 9, 10 and 11, subject to Article 26(1).⁶²

Art. 29 of the Platform Work Directive provides that Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 2 December 2026. They shall immediately inform the Commission on the above-mentioned measures.

Thus, in the next few years, it will be possible to see in practice what are the real challenges faced by EU Member States in implementing the Platform Work Directive.

Summarising, the Platform Work Directive is a legislative response to the expansion of digital labour platforms across the EU. This Directive has been developed with the intention of enhancing the social protection available to platform workers. It addresses critical challenges, including worker misclassification, the opacity of algorithmic management, and cross-border enforcement. The Platform Work Directive establishes also a presumption of employment status, mandates algorithmic transparency, safeguards personal data, and enhances enforcement capacities. This Directive is indicative of the EU's broader commitment to ensuring fair, transparent, and accountable platform work.

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⁶² Art. 26(1) of the Platform Work Directive stipulates that this Directive shall not constitute valid grounds for reducing the general level of protection already afforded to platform workers within Member States, including with regard to established procedures for the correct determination of the employment status of persons performing platform work as well as existing prerogatives of their representatives.

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