



# SUMMARY OF THE KEY ISSUES PAPER

## Fair work for own-account platform workers

### 1. Ensuring labour platforms take responsibility:

The Federal Ministry of Labour and Social Affairs will take action to ensure platform operators take on more responsibility, specifically platform operators (“labour platforms”) which do not limit themselves to a purely intermediary role, and instead exploit the special structural characteristics of the platform economy to influence the design and implementation of contracts, acting as central actors with an influential role in the triangular relationship between customers/clients, platform workers and platform operators. In this way, the Ministry intends to ensure adequate operating conditions and social protection, including for own-account platform workers. By contrast, operators of online marketplaces and intermediary platforms which do not influence the design and implementation of contracts between the contracting parties will only be subject to reporting and statistical requirements.

### 2. Strengthening social protection:

Own-account platform workers must not be left without social protection. We are therefore proposing a better social safety net for own-account platform workers who are similarly vulnerable to employees, and to this end we will require labour platforms, in particular, to contribute financially to retirement provision. In addition, we are examining the possibility of inclusion in other branches of social insurance. For example, the Federal Ministry of Labour and Social Affairs will examine whether protection in the occupational accident insurance system could be strengthened by creating a contingent liability for platform operators in sectors where the occupational accident insurance funds (Berufsgenossenschaften) have statutes requiring workers to be insured.

### 3. Facilitating the enforcement of workers’ rights:

The Federal Ministry of Labour and Social Affairs wants to make it easier for platform workers to have their status clarified by the labour courts. The Ministry will therefore introduce rules on the burden of proof which favour platform workers: if the platform worker provides indications that an employment relationship exists with the platform operator, the burden of proving that an employment relationship does not exist rests with the platform operator. This offsets the inequality regarding access to information which routinely exists between platform workers and platform operators.



#### **4. Securing fair operating conditions:**

Own-account workers should also be able to negotiate their working conditions on an equal footing. The Federal Ministry of Labour and Social Affairs therefore wants to find ways to enable own-account platform workers to organise collectively.

It is unacceptable for those who have worked on or with a platform for a longer period of time to face the possibility of being excluded from using the platform overnight. The Federal Ministry of Labour and Social Affairs will therefore stipulate binding minimum notice periods based on the length of time for which a worker has worked on a platform.

In view of the influential role played by labour platforms, which results in platform workers not being fully autonomous in their work and platforms being in a position of responsibility, it makes sense for basic protective regulations in labour law to apply to own-account platform workers. This includes, for example, regulations relating to the continued payment of wages in case of illness, the protection of working mothers, and holiday time.

In the case of particularly hazardous work in the platform economy, such as jobs performed by platform workers in public places which expose them to road traffic, for example, the Federal Ministry of Labour and Social Affairs will also examine the possibility of including platform workers in the statutory occupational safety and health system.

#### **5. Facilitating scrutiny of terms of contract:**

In practice, own-account platform workers are often unable to negotiate their terms of contact with the platform operators on an equal footing; instead, the terms are imposed unilaterally. Together with the Federal Ministry of Justice and Consumer Protection, which is responsible for the law on general terms and conditions, the Federal Ministry of Labour and Social Affairs will therefore seek to ensure that it becomes easier and less complicated to obtain a judicial review of certain clauses contained in general terms and conditions which are one-sided and detrimental to platform workers – for example, if platforms withhold remuneration without cause or terminate accounts arbitrarily.

#### **6. More transparency via reporting and statistical obligations:**

The Federal Ministry of Labour and Social Affairs will press for all platform operators to be subject to transparency and reporting obligations at EU level in relation to a public authority. To support the European Commission in this process and, at the same time, to improve the data available at least for Germany until EU rules are in place, the Federal Ministry of Labour and Social Affairs will lead the way by introducing national rules as a first step.