Working in the platform era.
Ugrade required

Background

The members of the French Digital Council (*Conseil national du numérique, CNNum) decided to seize the issue of work in the platform era, using the possibility of self-referral offered by the institution's operating decree "*for any matter falling within its field of competence*"[1].

This decision follows the work begun in the context of the "États généraux sur les nouvelles régulations du numériques" ("Estates General on the new digital regulations", EGNum). This organisation of the EGNum was given to the CNNum by the former Secretary of State for Digital Affairs Mounir Mahjoubi, from September 2018 to the summer of 2019. Six topics were discussed, including a social component that specifically addressed the regulation of platform work. The synthesis of the EGNum allowed to establish an inventory of the existing reflections and to map the controversies[2]. The verbatims of the consultations were valuable sources for the drafting of this report.

Meanwhile, the Council has expressed its position in the public debate on several occasions since April 2019[3]. This is taking place in a context of the emergence of a lively debate on the working and pay conditions of platform workers affected by the Mobility Orientation Law[4] (Deliveroo riders' strikes in the summer of 2019, and various mobilisations of chauffeur-driven car drivers), and culminates in this report.

---

[1] Décret n° 2017-1677 du 8 décembre 2017 relatif au Conseil national du numérique.

[2] CONSEIL NATIONAL DU NUMÉRIQUE. « La protection des travailleurs des plateformes ». Synthèse des états généraux des nouvelles régulations du numérique. mai 2020.

[3] See:

- CONSEIL NATIONAL DU NUMÉRIQUE. « Souhaite-t-on créer une société à trois vitesses, constituée de salariés, d'indépendants et de travailleurs au statut hybride ? ». *Le Monde*. 27 avril 2019.

- CONSEIL NATIONAL DU NUMÉRIQUE. « Position détaillée sur les dispositions de la LOM relatives au travail au travail des plateformes ». 3 juin 2019.

- CONSEIL NATIONAL DU NUMÉRIQUE. « Nous appelons à la suppression des chartes de l'article 20 de la LOM ». 5 septembre 2019.

[4] In French, loi d'Orientation des mobilités.

<u>Recommendations</u>

Axis I - Responding concretely to emergencies. Short-term measures

1. **Make it mandatory to display a platform-related DIGISCORE** (from A to E) **on all media interacting with consumers,** allowing both consumers and workers to access information on the platform and its behaviour in a simple and clear manner. Workers and consumers could thus be encouraged to sign up on well-rated platforms and leave the others behind. It could also encourage platforms to change their behaviour in order to move towards a better rating.

2. **Ensure equal working conditions for platform workers** in terms of remuneration, working hours and health and safety at work.

3. **Launch a consultation for social dialogue on platforms** bringing together all the concerned actors, first and foremost workers and workers' collectives, in the broadest possible way, with the aim of negotiating the electoral protocol. It should bring these partners together at regular intervals in order to bring the negotiations to a successful conclusion within six months after the fact-finding mission's conclusions being handed over.

4. **Establish a balanced and transparent social dialogue on digital labour platforms and extending whistleblower protections to platform workers**. Furthermore, elections of representatives should take place at the sectoral level and not on a platform-by-platform basis. At the level of each platform, the CNNum recommends to set up a committee of stakeholders to negotiate all the conditions relating to the digital intermediation nature of the platform (data portability, explicability of algorithms, platform design, etc.). Finally, civic tech tools could be mobilised to facilitate social dialogue, in particular, relations between workers and trade unions.

5. **Create a Social Observatory of the platforms** aiming at creating the conditions for social dialogue on the platforms thanks to a better knowledge regarding labour platforms and constituting a forum for reflection and consultation on this new way of distributing work.

Axis II - Sustainably improving platform work. Medium-term measures

6. **Extend trade union protections and industry bargaining agreements to the self-employed workers**, in the case of platforms operating in pre-existing sectors where collective agreements are already in force, and allowing trade

unions and platform workers collectives to participate in the negotiation of further industry agreements and collective agreements in the sector.

7. **Strengthen the fight against misclassification, undeclared work and illegal employment** by increasing the human and financial resources of the control and recovery administrations and, in particular, by developing digital tools (datamining) for the detection of concealed and illegal work.

8. **Strengthen the transparency of the platforms** by extending the obligations to inform workers, for example in the event of changes to the general terms and conditions of use, and by setting up an internal mediator in all platforms.

9. **Financially support platform cooperativism by dedicating 20 million from the Investment for the Future Programme**[5] to support, at both national and local levels, these actors in order to ensure a fair remuneration and representation of workers in the collaborative economy.

10. **Involve local and regional authorities in the supervision of digital work platforms** to combat the real and symbolic territorial divide between metropolitan centres and rural territories by, for example, allowing local and regional authorities to introduce a pre-market licence allowing to operate, or by creating Public Interest Groups[6] in rural territories on the model of digital labour platforms, but managed by local authorities, to operate certain public service activities (e.g. services for the elderly).

Axis III – Working differently in the 21st century. Long-term measures

11. **Review the status and protections of self-employed workers** by aligning the level of social protection for self-employed workers with that of employees, by extending the conditions of access to unemployment insurance for self-employed workers, by extending the conditions of access to the Visale housing guarantee for self-employed workers over 30 years of age or by recasting the status of micro-enterprise so as to limit windfall effects. Make the right to collective bargaining effective for self-employed workers and relaunching work on the single status of workers[7].

12. **Protect workers' digital rights and freedoms** by changing the legal definition of the workplace or establishment to take account of the emergence of new digital or virtual workplaces, by strengthening provisions on privacy protection in employment relationships, portability of personal data,

---

[5] In French, Programme d'Investissement d'Avenir (PIA).
[6] In French, Groupement d'Intérêt Public (GIP).
[7] In French, statut unique de l'actif.

explainability of algorithms and the prohibition of algorithmic discrimination. Support research projects on "collective data rights" in the context of labour relations that allow collective rights to be granted to a group, e.g. workers' unions.

13. **Promote fair and responsible approaches to the design of digital work tools** by training designers in ethical issues and more specifically in labour law and by promoting platforms using tools that are free of misleading and/or dangerous designs thanks to labelling approaches such as DIGISCORE.

14. **Train social partners on the challenges of the digital transformation of work.** This concerns, on the one hand, all workers' representatives (trade unions, collectives in the field...) which must be trained in platform economy and digital issues, such as the notions of nudge, algorithmic management, misleading designs, data portability, GDPR. And, on the other hand, field collectives must be trained in social dialogue, labour law and commercial law. Similarly, platform representatives must be trained in social dialogue and collective bargaining. Finally, labour administrations and other supervisory administrations must be trained in platform economy and digital issues.

15. **Launch a "Citizens' Convention on Work" modelled on the Citizens' Convention on Climate Change** with the aim of mobilising good will to reflect collectively on the status of work in society, on the opportunity of a single status for workers, or on the transformation of salaried employment. Following the example of the Citizens' Climate Convention, the Government could undertake to take up the proposals put forward in this framework.

Methodology

The Council relied on fieldwork as well as numerous hearings, participation in events and review of the academic literature. The Council conducted more than 60 hearings with institutional players, researchers, platform representatives, workers and social partners. The Council also took part in about ten events related to the subject, either in the form of interventions by its President Salwa Toko or as an observer. In addition, it contributed to the organisation of a brainstorming workshop gathering fifteen platform workers in partnership with the National Agency for the Improvement of Working Conditions (ANACT - *Agence nationale pour l'amélioration des conditions de travail*) on 17 September 2019. Finally, this report is based on a state of the art of the scientific literature dedicated to this topic, as well as on the synthesis work carried out within the framework of the EGNum's (*États généraux des nouvelles régulations du numérique - General Assembly on new digital regulations*) work and on the verbatims of the consultations carried out on this occasion.