WORKER STATUS AS A GATEWAY TO FUNDAMENTAL RIGHTS UNDER EUROPEAN UNION LAW

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ABSTRACT: *Worker status occupies a central position in European Union law, functioning as the primary legal gateway through which individuals gain access to fun damental rights. This article examines how the concept of "worker" has been autonomously developed by the Court of Justice of the European Union in order to ensure the effectiveness of free movement and social protection within the internal market. Through an analysis of key jurisprudential milestones, the paper identifies the cumulative criteria defining worker status and explores the fundamental rights attached to this qualification, including equal treatment, fair working conditions, social security coordination, and collective rights. Particular attention is paid to the challenges posed by atypical and platform-based forms of employment, which increasingly test the traditional boundaries of labour law. The analysis also briefly considers the Romanian legal framework as an example of national implementation, highlighting the gap between formal alignment with EU law and practical enforcement of worker-related fundamental rights. The article argues that an expansive and functional interpretation of worker status remains essential for safeguarding fundamental rights and preserving the social dimension of the European Union.*

KEY WORDS: *EU labor law, free movement, workers' rights, definition of worker, atypical employment, platform work, social protection*.

JEL CLASSIFICATIONS: *K31, K38, J61, J83.*

1. INTRODUCTION

The European Union's single market allows over 450 million people to move and work freely across member states. This freedom of movement for workers – enshrined in Article 45 of the Treaty on the Functioning of the EU (TFEU) – would not be effective without a clear definition of who qualifies as a "worker" (Court of Justice of the EU, 1986). Such a definition determines who can access social protection measures and invoke fundamental rights beyond their home state, including equal

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treatment, decent working conditions, and social security benefits (Risak & Dullinger, 2018).

From the earliest days of European integration, a primary objective was to prevent each member state from unilaterally setting divergent labor standards in areas like working conditions, unemployment protection, health insurance, and non-discrimination (European Commission, 2021). Instead, common values of solidarity and cohesion have driven a gradual harmonization of social norms. EU Treaties and the Charter of Fundamental Rights of the EU establish general principles, while directives and regulations detail specific rights that individuals can enforce at national level or before EU institutions (European Union, 2012).

At the heart of this framework lies the notion of a "worker." On the surface it seems straightforward, but its precise definition has been carefully crafted by the CJEU using criteria such as subordination, remuneration, and the economic nature of the activity (Court of Justice of the EU, 1982). A uniform concept of "worker" serves a dual purpose in the EU. First, for free movement, it delineates who is entitled to move to another member state and claim the same practical rights as that state's nationals (e.g. access to employment, social benefits, tax advantages) (Court of Justice of the EU, 1991).

Second, in the sphere of social policy and labour protection, the definition of "worker" determines the personal scope of EU labour law – i.e. who benefits from rights like paid medical leave, protection from collective dismissal, unemployment benefits, transparent work contracts, etc. (Risak & Dullinger, 2018, pp. 18–22). Without a consistent definition, member states might arbitrarily widen or narrow these protections, leading to inequalities and "social dumping."

Over time, the CJEU has developed the concept of the worker to prevent abuses (such as misclassifying genuine workers as "volunteers" to deny them rights) and to extend social protection to new forms of work (for example, work via digital platforms) (European Commission, 2021). In the following sections, we synthesize the jurisprudential criteria that underpin the EU definition of a worker, as well as the fundamental rights that all those who meet this definition can invoke. This analysis underscores that "worker" is not merely a legal label – it functions as a central element of social and economic cohesion within Europe's single market (Risak & Dullinger, 2018).

2. DEFINING THE CONCEPT OF "WORKER" IN EU LAW

EU primary law itself does not provide an exhaustive definition of "worker." The Treaties guarantee free movement of workers (Articles 45–48 TFEU) and make clear that any EU citizen employed in a remunerated activity in another member state is considered a worker for the purposes of free movement (Court of Justice of the EU, 1986). The EU Charter of Fundamental Rights likewise does not define "worker," but it does acknowledge fundamental rights applicable to workers (for example, Article 15 on freedom to choose an occupation and right to work, Article 31 on fair and just working conditions) (European Union, 2012).

Secondary legislation offers functional definitions in specific contexts. For instance, Directive 96/71/EC on posted workers defines a posted worker as "a worker who, for a limited period, carries out his work in the territory of a member state other than the state in which he normally works" (European Commission, 1996). Other directives often refer to national law definitions (using terms like "employee" or "contract of employment"), allowing member states some flexibility so long as fundamental EU principles are respected (Risak & Dullinger, 2018, p. 19).

In essence, EU law sets broad criteria, and national laws fill in the details, provided they do not undermine the uniform minimum scope intended by the EU.

The European Union's legal order has been built on two complementary pillars: (1) the internal market, in which goods, services, capital, and persons (including workers) move freely; and (2) the social policy acquis, which aims to ensure that free movement does not lead to a race-to-the-bottom in labour standards (European Commission, 2021).

A baseline level of protection for all workers, regardless of which member state they work in, is secured through common rules. In this context, having a uniform notion of "worker" is crucial. It ensures that both aspects – freedom of movement and social protection – apply to the same broad group of people across the EU (Risak & Dullinger, 2018).

Because the Treaties left the term "worker" open, it fell to the Court of Justice of the EU to develop a clear definition through case law. The seminal Lawrie-Blum judgment (Case C-66/85, 1986) provided the classic criteria: a "worker" is a person who, for a certain period of time, performs services for and under the direction of another person in return for remuneration (Court of Justice of the EU, 1986).

This definition established three key elements:

(i) the person performs a service or works for another (indicating a relationship of subordination to an employer),

(ii) the work is for a period of time (not a one-off or purely incidental task), and

(iii) the work is remunerated (payment can be direct or indirect, including in-kind benefits).

Crucially, the CJEU emphasized that the nature of the legal relationship or the label given by the parties is not decisive – what matters is the reality of a person performing genuine work under someone's direction for compensation (Court of Justice of the EU, 2004).

Subsequent cases refined these criteria to ensure the definition is broad and inclusive. In Levin (Case C-53/81, 1982), the Court held that even part-time work with a low wage falls under the EU concept of "worker" as long as the activity is genuine and effective, not purely marginal or token (Court of Justice of the EU, 1982).

Similarly, in Kempf (Case C-139/85, 1986), the Court confirmed that reliance on social benefits does not preclude someone from being a "worker" under EU law, provided the employment itself is genuine (Court of Justice of the EU, 1986). These rulings ensured that low-paid or part-time workers still enjoy freedom of movement and equal treatment, preventing states from setting arbitrary economic criteria to thwart migrant workers' rights (Risak & Dullinger, 2018, pp. 23–25).

The qualitative aspects of work have also been considered. In Steymann (Case C-196/87, 1988), the Court extended the concept to cover work performed within a religious community in exchange for benefits in kind (Court of Justice of the EU, 1988).

The Trojani case (Case C-456/02, 2004) later reaffirmed this approach, confirming that work remunerated in kind may still constitute genuine employment if it is regular and economically relevant (Court of Justice of the EU, 2004).

Over time, the concept of the worker in EU law has naturally expanded to encompass atypical employment relationships that have become more common (Risak & Dullinger, 2018, pp. 40–44). Atypical workers include part-time, temporary, agency, or platform-based workers – basically, anyone not in a traditional full-time open-ended contract.

One example is Allonby (Case C-256/01, 2004), concerning a lecturer in the UK who was reclassified as self-employed through an intermediary agency. The CJEU looked beyond the contractual label and held that the lecturer was a worker under EU law because she performed services under direction and for remuneration (Court of Justice of the EU, 2004).

More recently, attention has turned to the platform economy, where individuals perform services through digital platforms. Although the CJEU has not yet adopted a single comprehensive ruling on all platform workers, EU policy increasingly recognises that algorithmic control and economic dependence may amount to subordination (European Commission, 2021).

The table below illustrates the progressive development of the EU concept of "worker" through key rulings of the Court of Justice of the European Union, highlighting the gradual expansion of worker status from traditional employment to atypical and platform-based work.

Table 1. Evolution of the EU Concept of "Worker" through CJEU Jurisprudence

Year	CJEU Case	Key Contribution to the Concept of "Worker"
1982	*Levin*	Recognition of part-time and low-paid work as genuine employment
1986	*Lawrie-Blum*	Establishment of core criteria: subordination, remuneration, duration
1986	*Kempf*	Worker status maintained despite reliance on social assistance
1988	*Steymann*	Acceptance of remuneration in kind as valid consideration
2004	*Allonby*	Substance-over-form approach; disguised employment
2004	*Trojani*	Inclusion of socially integrated and marginal work
2021	Platform Work Proposal	Extension of protection to platform workers

Source: Author's own elaboration based on CJEU case law and EU policy developments.

3. FUNDAMENTAL RIGHTS OF WORKERS IN THE EUROPEAN UNION

Once an individual is recognized as a "worker" in the EU sense, a suite of fundamental rights and legal guarantees becomes available. EU law provides these rights both directly (through treaty provisions and the Charter) and indirectly via directives that member states must implement (Court of Justice of the EU, 1986; European Union, 2012). The following are key fundamental rights associated with the status of worker in the EU.

3.1 Free Movement and Equal Treatment

Free movement of workers is one of the fundamental freedoms of the EU's single market. Under Article 45 TFEU, EU workers have the right to seek employment, work, and reside in another member state, as well as to remain there after employment (Court of Justice of the EU, 1991).

A critical component of this freedom is equal treatment: a worker from one member state working in another must be treated on par with the host country's nationals in terms of employment conditions, remuneration, and other work-related benefits (Court of Justice of the EU, 1982). This prohibits nationality-based discrimination in hiring, pay, dismissal, or access to social and tax advantages.

CJEU case law has consistently enforced this principle. In Royale Belge and other early decisions, the Court invalidated national measures restricting migrant workers' access to social security (Court of Justice of the EU, 1976). Moreover, EU secondary legislation – notably Regulation (EU) No. 492/2011 – further details the equal treatment principle by guaranteeing access to employment, vocational training, housing, and social advantages under the same conditions as national workers (European Commission, 2011).

Jobseekers (persons seeking employment in another member state) also benefit from certain protections. In Antonissen (Case C-292/89, 1991), the Court held that jobseekers must be allowed to remain in the host state for a reasonable period in order to find employment, reflecting the effectiveness of free movement (Court of Justice of the EU, 1991). While jobseekers do not enjoy the full range of social benefits attached to worker status, they may not be discriminated against in access to employment.

Every worker in the European Union, regardless of nationality, is entitled to fair and safe working conditions. Article 31 of the Charter of Fundamental Rights of the European Union establishes the right of every worker to working conditions that respect health, safety, and dignity, as well as the right to limitations on maximum working hours, daily and weekly rest periods, and paid annual leave (European Union, 2012).

These fundamental principles are implemented through a broad body of secondary legislation. The Working Time Directive (Directive 2003/88/EC) sets binding limits on weekly working time and guarantees minimum rest periods and paid annual leave (European Commission, 2003). The Framework Directive on Health and Safety at Work (Directive 89/391/EEC) obliges employers to assess occupational risks and implement preventive measures (European Commission, 1989).

Additional protection is granted through directives on maternity and parental leave, as well as work-life balance (Directive (EU) 2019/1158), which aim to reconcile professional and family responsibilities (European Commission, 2019).

Worker status also ensures access to social security protection. EU coordination rules allow mobile workers to aggregate periods of insurance, employment, or residence completed in different member states, preventing the loss of entitlements when exercising free movement (Court of Justice of the EU, 2004). Once a person qualifies as a worker, certain rights persist even in cases of temporary incapacity, illness, or involuntary unemployment.

Beyond nationality-based equality, EU workers benefit from a comprehensive framework prohibiting discrimination on multiple grounds. Article 21 of the Charter and EU equality directives prohibit discrimination based on sex, racial or ethnic origin, religion or belief, disability, age, or sexual orientation (European Union, 2012).

Directive 2000/43/EC addresses racial and ethnic discrimination in employment, while Directive 2000/78/EC establishes a general framework for equal treatment in employment and occupation (European Commission, 2000a; European Commission, 2000b). Gender equality is further reinforced by Article 157 TFEU and Directive 2006/54/EC, which guarantee equal pay for equal work and equal treatment throughout the employment relationship (European Commission, 2006).

The Court has interpreted these provisions broadly. In P v S and Cornwall County Council (Case C-13/94, 1996), the CJEU held that dismissal related to gender reassignment constitutes discrimination on grounds of sex, extending protection to transgender workers (Court of Justice of the EU, 1996).

Indirect discrimination has also been recognised, particularly in situations where apparently neutral employment practices disproportionately disadvantage certain groups, such as women employed under non-standard contracts (Allonby, Court of Justice of the EU, 2004).

This table summarizes the fundamental rights attached to EU worker status, as derived from the Treaties, the Charter of Fundamental Rights of the European Union, and relevant secondary legislation.

Table 2. Fundamental Rights Associated with EU Worker Status

Fundamental Right	Legal Basis
Free movement of workers	Article 45 TFEU
Equal treatment	Article 45 TFEU; Regulation (EU) No 492/2011
Fair working conditions	Article 31 EU Charter; Directive 2003/88/EC
Social security coordination	Regulation (EC) No 883/2004
Non-discrimination	Directives 2000/43/EC and 2000/78/EC
Collective rights	Articles 27–28 EU Charter

Source: Author's own elaboration based on EU Treaties, the Charter of Fundamental Rights of the European Union and secondary legislation.

Workers in the EU also enjoy collective labour rights and participatory rights recognised at European level. The Charter guarantees workers' rights to information and consultation within the undertaking (Article 27) and the right to collective bargaining and collective action, including the right to strike (Article 28) (European Union, 2012).

The table below presents the main categories of workers covered by EU labour law, emphasizing the inclusive approach adopted by the CJEU in extending legal protection beyond standard employment relationships.

Table 3. Categories of Workers under the Scope of EU Labour Law

Category of Worker	Legal Status under EU Law
Standard employees	Fully covered by EU labour law
Part-time workers	Covered if work is genuine and effective
Low-income workers	Covered regardless of wage level
Workers remunerated in kind	Covered if remuneration has economic value
Agency workers	Covered despite triangular employment relationships
Platform workers	Emerging category – protection under development

Source: Author's own elaboration based on CJEU jurisprudence and EU labour law doctrine.

EU legislation establishes minimum standards for information and consultation, notably through Directive 2002/14/EC and the European Works Council framework for multinational undertakings (European Commission, 2002).

The CJEU has addressed the relationship between collective rights and economic freedoms in cases such as Viking (Case C-438/05) and Laval (Case C-341/05). While recognising collective action as a fundamental right, the Court held that such action must comply with the principle of proportionality when it restricts freedoms of establishment or service provision (Court of Justice of the EU, 2007).

Finally, worker status intersects with rights to privacy and personal data protection in the workplace. The jurisprudence of the European Court of Human Rights, notably Bărbulescu v Romania (2017), confirms that workers retain a reasonable expectation of privacy at work (European Court of Human Rights, 2017). These principles are reinforced at EU level by the General Data Protection Regulation (GDPR), which governs the processing of workers' personal data (European Union, 2016).

4. CASE STUDIES: JURISPRUDENTIAL MILESTONES

To illustrate how the EU concept of "worker" has been shaped and its implications for rights, the following landmark cases of the Court of Justice of the European Union are examined. Each case highlights a distinct dimension of the definition of "worker" and its legal consequences (Risak & Dullinger, 2018, pp. 21–30).

4.1 Case C-66/85 Lawrie-Blum (1986) – Defining "Worker"

Deborah Lawrie-Blum, a British citizen holding a Scottish university degree, sought to undertake a preparatory paid traineeship (teacher training placement) in a public secondary school in Germany. German authorities refused to recognise the traineeship as employment and denied her access to the status and benefits granted to German trainee teachers. The legal issue concerned whether a trainee performing supervised teaching activities for remuneration could qualify as a "worker" under then EEC law (Court of Justice of the EU, 1986). The CJEU held that the essential features of an employment relationship are satisfied where a person performs services for and under the direction of another person in return for remuneration. The Court emphasised that the legal classification of the relationship under national law is irrelevant for the purposes of EU law (Court of Justice of the EU, 1986). Since Ms. Lawrie-Blum carried out genuine teaching duties under supervision and received remuneration, her activity constituted real and effective work. As a result, she was entitled to free movement and equal treatment in Germany, including access to employment-related benefits and social security. This judgment established a binding and autonomous EU definition of "worker" and has since served as the cornerstone of EU labour law jurisprudence (Risak & Dullinger, 2018, pp. 22–24).

4.2 Case C-53/81 Levin (1982) – Part-Time and Low-Income Work

In Levin, the Court examined whether part-time employment with low remuneration falls within the scope of the EU concept of "worker". Mrs. Levin, a British national residing in the Netherlands, worked approximately 20 hours per week as a chambermaid and earned an income below the national subsistence level. Dutch authorities refused to grant her a residence permit on the grounds that her employment was not economically sufficient (Court of Justice of the EU, 1982). The CJEU rejected this restrictive interpretation, ruling that the level of remuneration and the number of hours worked are not decisive factors, provided that the activity is genuine and effective. The Court stressed that Member States may not impose minimum income thresholds to exclude individuals from worker status, as this would undermine the effectiveness of free movement (Court of Justice of the EU, 1982). The Levin judgment ensured that part-time and low-paid workers enjoy full protection under EU law and cannot be excluded from free movement rights on economic grounds alone (Risak & Dullinger, 2018, pp. 24–25).

4.3 Case C-139/85 Kempf (1986) – Workers Receiving Social Assistance

The Kempf case further clarified the relationship between worker status and access to social assistance. Mr. Kempf, a German national residing in the Netherlands, worked part-time as a music teacher but earned insufficient income to meet his basic needs and therefore relied on public assistance. Dutch authorities questioned whether he could still be regarded as a worker (Court of Justice of the EU, 1986).

The Court held that the receipt of social assistance does not preclude worker status, provided that the individual is engaged in genuine and effective employment. Excluding workers solely because they supplement their income with social benefits would undermine the objectives of Article 45 TFEU (Court of Justice of the EU, 1986). This ruling reinforced the inclusive nature of the EU concept of "worker" and confirmed that social vulnerability does not negate the existence of an employment relationship (Risak & Dullinger, 2018, p. 25).

4.4 Case C-196/87 Steymann (1988) – Work Remunerated in Kind

In Steymann, the Court examined whether work performed within a religious community in exchange for benefits in kind could qualify as employment. Mr. Steymann, a German national living in the Netherlands, carried out plumbing and maintenance tasks for a religious community and received accommodation, food, and pocket money instead of a salary (Court of Justice of the EU, 1988).

The Court held that remuneration need not take the form of monetary payment and that benefits in kind may constitute consideration for work, provided that the activity is economically relevant and performed under a degree of organisation or direction (Court of Justice of the EU, 1988).

This judgment confirmed that the economic value of the activity, rather than the form of remuneration, is decisive for worker status. It further prevented organisations from avoiding labour law obligations through non-monetary compensation schemes (Risak & Dullinger, 2018, pp. 26–27).

4.5 Case C-256/01 Allonby (2004) – Disguised Employment and Equality

The Allonby case concerned a lecturer whose employment contract was replaced by a self-employed arrangement through an intermediary agency, resulting in the loss of pension rights. Despite the formal classification as self-employed, the Court assessed the factual circumstances of the working relationship (Court of Justice of the EU, 2004).

The CJEU ruled that where an individual performs services under the direction of another entity and does not bear the economic risk of an independent business, they may still qualify as a worker under EU law. The Court also recognised that such contractual arrangements may lead to indirect discrimination, particularly against women (Court of Justice of the EU, 2004).

This judgment underscored the principle that substance prevails over form and that misclassification cannot be used to circumvent EU labour and equality protections (Risak & Dullinger, 2018, pp. 28–29).

4.6 Case C-456/02 Trojani (2004) – Marginal Work and Social Integration

In Trojani, the Court examined whether work performed as part of a social reintegration programme could constitute genuine employment. Mr. Trojani carried out activities for the Salvation Army in Belgium in exchange for board, lodging, and

pocket money (Court of Justice of the EU, 2004). The Court held that if the work is genuine and effective, even activities linked to social assistance or integration schemes may fall within the scope of Article 45 TFEU. However, the assessment must be made on a case-by-case basis by national courts (Court of Justice of the EU, 2004). This case further demonstrated the flexibility of the EU concept of "worker" and its capacity to adapt to non-standard employment situations (Risak & Dullinger, 2018, pp. 29–30).

5. CONCLUSIONS

In conclusion, the European Union has developed a robust legal framework for the protection of workers, anchored by a broad and dynamic concept of who qualifies as a "worker" under EU law. Through an extensive body of jurisprudence, the Court of Justice of the European Union has progressively expanded the scope of worker status, ensuring that fundamental rights linked to free movement and social protection are not undermined by restrictive national definitions (Court of Justice of the EU, 1986; Risak & Dullinger, 2018).

The evolution of the concept of "worker" reflects the EU's commitment to balancing economic integration with social justice. From the foundational Lawrie-Blum criteria to subsequent rulings on part-time work, in-kind remuneration, and disguised employment, the Court has consistently prioritised the economic reality of employment relationships over their formal legal classification (Court of Justice of the EU, 1982; Court of Justice of the EU, 2004). This approach has prevented Member States and employers from excluding vulnerable categories of workers from the protection of EU labour law.

Nevertheless, the effective enjoyment of workers' rights depends not only on judicial interpretation but also on consistent implementation at national level. Despite the clarity of CJEU case law, gaps remain in practice, particularly for migrant workers and individuals engaged in atypical or non-standard forms of employment (Risak & Dullinger, 2018, pp. 30–33). Misclassification, insufficient enforcement mechanisms, and limited access to legal remedies continue to hinder the realisation of EU labour rights.

Looking forward, the concept of "worker" will face new challenges arising from digitalisation, automation, and the expansion of platform-based labour. Platform workers, in particular, often operate in a legal grey zone between employment and self-employment, despite being subject to significant levels of economic dependence and algorithmic control (European Commission, 2021). To prevent the emergence of a new category of unprotected workers, EU institutions and Member States should build upon existing jurisprudence and adopt clear legislative instruments that extend labour law protections to economically dependent platform workers.

In this context, the proposed EU Directive on improving working conditions in platform work represents a significant step towards clarifying employment status and strengthening social protection in the digital economy (European Commission, 2021). Its adoption and effective transposition would contribute to safeguarding fundamental rights, ensuring fair competition, and preserving the social dimension of the internal market.

Ultimately, the EU concept of "worker" has evolved from a technical legal notion into a central instrument of social inclusion and cohesion. By maintaining an expansive and adaptable interpretation of worker status, the European Union can ensure that its foundational promise—economic integration accompanied by social progress—remains effective for both standard and non-standard workers in an ever-changing labour market (Risak & Dullinger, 2018).

In the Romanian context, the EU concept of "worker" has been formally incorporated into national labour legislation, primarily through the Labour Code, which defines the employment relationship as work performed by an employee for and under the authority of an employer in exchange for remuneration (Romanian Labour Code, Article 10). This definition broadly reflects the core criteria developed by the Court of Justice of the European Union, particularly those concerning subordination and remuneration. Furthermore, the Labour Code guarantees fundamental labour rights such as equality of treatment, health and safety at work, and access to social protection, in line with EU standards (Romanian Labour Code, Articles 5 and 39).

Despite this formal alignment, significant challenges persist in practice, especially regarding atypical forms of work, economically dependent self-employment and platform-based labour, where the traditional binary distinction between employee and self-employed person proves increasingly inadequate. Although Romanian courts show a growing tendency to rely on CJEU jurisprudence when interpreting labour law concepts, the application of an autonomous and functional EU definition of "worker" remains uneven. Problems such as misclassification of workers, undeclared work and restricted access to effective social security protection continue to affect vulnerable categories of workers.

In this respect, Romania faces the ongoing challenge of strengthening judicial practice and administrative enforcement mechanisms, particularly through the activity of labour inspection authorities. Looking ahead, the effective transposition and implementation of emerging EU initiatives on platform work will require not only legislative adaptation but also institutional capacity-building and increased legal awareness among employers and workers. Ensuring that worker status operates in practice as a genuine gateway to fundamental rights remains essential for consolidating the social dimension of European Union law within the Romanian labour market.

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