



Social Dialogue and Trade Union Rights in the Digital Era

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Abstract

Digitalisation is having a profound effect on business models and the organisation of work, redefining its times, spaces and methods. Physical distancing and spatial-temporal flexibility have become common features of many jobs. Organisational contexts and work performances are shifting towards forms that disregard the physical co-presence of workers, which is largely detrimental to workers' advocacy and representation. Nevertheless, social dialogue remains fundamental to safeguarding workers' rights in a digital environment. The development of social dialogue is a direct consequence of the level of involvement to which trade unions and workers' representatives are entitled, as actors of the industrial relations systems. Social dialogue requires the support of the law to develop and strengthen. This is confirmed by an overview of the regulatory tools applicable to several domains of digital work at EU and national level, including artificial intelligence, platform work and telework. The effective implementation of the rights of trade unions and workers' representatives in the workplace is paramount in strengthening social dialogue at company level. However, enforcing these rights in increasingly virtual workplaces is more challenging and requires trade unions to adapt to the evolving, albeit still fragmented, landscape.

Keywords: digital workplace, social dialogue, workers' collective rights, workers' representatives, trade unions, sources of law

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1. Introduction: rethinking collective interest in a digital world of work

In recent years, digitalisation has had a profound effect on business models and the organisation of work, redefining its times, spaces and methods. While digitalisation can provide an opportunity to innovate products and processes in a more socially and environmentally sustainable way, it also poses challenges as it reproduces and reinforces asymmetries. The introduction of digital technologies in the workplace, including digital platforms, automated monitoring systems and automated decision-making systems, together with the redefinition of contractual forms and regulatory tools, has impacted the employment relations and transformed the traditional structure of industrial relations. This has given rise to new challenges in terms of fair representation, collective bargaining and workers' rights.

When examining the role that social dialogue can play in a digital transformation-conditioned working paradigm, it is essential to consider the value and relevance of workers' collective interest, which is at the cornerstone of trade unions and workers' representative bodies existence and is closely linked to the powers that these organisations can exercise.

Due to the specific characteristics of the digital economy, which tend to fragment workers' interests rather than bring them together, a concrete risk of regression and downgrading of the value and relevance of workers' collective interest has been acknowledged.

The use of digital technologies has resulted in the development of contractual techniques that focus more and more on the individual relationship between employer and employee. Organisational contexts and work performances are moving towards forms that ignore the physical co-presence of workers, which is largely detrimental to workers' advocacy and representation.

Physical distancing and spatial-temporal flexibility are now common features of many jobs. The digitalisation of organisational models has facilitated the dematerialisation of the workplace. An increasing number of standard and non-standard workers now carry out their activities via platforms or in digital spaces, including crowd workers, riders, content creators and influencers. Others work according to hybrid or remote arrangements, including teleworkers and smart workers¹.

While it is undeniable that the importance of workers' collective interest is threatened in a digital work environment, it is also true that it has been able to evolve into changing, dynamic interests over time². It has not become an irrelevant element in the organisational contexts shaped by technological

¹ The literature on these topics is very extensive. To provide a general overview from different perspectives, see: *Working anytime, anywhere: The effects on the world of work*. Geneva–Luxembourg, Eurofound – ILO, 2017.; E. ALES – Y. CURZI – T. FABBRI – O. RYMKEVICH – I. SENATORI – G. SOLINAS: *Working in Digital and Smart Organizations*. Palgrave MacMillan, 2018.; J. PRASSL: *Humans as a Service, The Promise and Perils of Work in the Gig Economy*. Oxford University Press, 2018.; A. PERULLI – T. TREU (eds.): *The Future of Work: Labour Law and Labour Market Regulation in the Digital Era*. Kluwer, 2020.; A. ALOISI – V. DE STEFANO: *Your boss is an algorithm. Artificial Intelligence, Platform Work and Labour*. Bloomsbury Publishing, 2022.; S. KRAUS – A. FERRARIS – A. BERTELLO: The future of work: How innovation and digitalization re-shape the workplace. *Journal of Innovation & Knowledge*, Vol. 8, Issue 4 (October–December 2023); P. M. LEONARDI – S. H. PARKER – R. SHEN: How Remote Work Changes the World of Work. *Annual Review of Organizational Psychology and Organizational Behavior*, 2024. 193 ff.; A. PONCE DEL CASTILLO (ed.): *Artificial intelligence, labour and society*. ETUI, 2024.

² F. VERGIS: Hybrid Action for a Hybrid World: Collective Freedoms and the Challenges of Digital Work Fragmentation. In: J. LÓPEZ LÓPEZ (ed.): *Remote Work and Labor Institutions*. Cambridge University Press, 2026. 59 ff.

innovations, on the contrary, it has been redefined according to new forms, relationships, needs and identities.

The complexity of the challenges posed by the digitalization of work and the difficulty for workers to adequately address them while remaining individual, have demonstrated that trade unions representation still remains a fundamental means to ensure the protection of workers.

The experience in the transport and delivery sectors has confirmed that technological evolution does not necessarily imply the extinction of collective interests or the obsolescence of trade unions. In fact, the criticalities emerged in the context of platform work have led to identify and develop workers' collective interest through the creation of new physical and virtual spaces for organisation, collective action and conflict³.

Nevertheless, to enable unions to adapt to the new landscape and continue their commitment of promoting workers' collective interest and protecting their rights, digital transition needs to become a driving force also in the evolution of trade unions action and the tools they use.

In addition to rebuilding their membership, trade unions face at least two main challenges in the digital transition. The first is counterbalancing the increasing power of employers to monitor their employees, which can be achieved by strengthening rights to information and consultation. The second is engaging in effective negotiations and exercising the right to collective bargaining to ensure decent working conditions in a digital environment⁴.

This article aims at verifying, from a multilevel regulatory perspective, what is the role of social dialogue in safeguarding workers' rights in a digital environment, as a consequence of the kind and degree of involvement trade unions and workers' representatives are entitled, as actors in industrial relations systems. In this respect, the interaction between EU and national regulations, by law and collective bargaining, will be explored. To address this purpose, the article is structured as follows: Section 2 analyses the EU regulatory framework on digital work from the perspective of social dialogue; Section 3 deals with the European sectoral social dialogue on digitalisation; Section 4 focuses on collective rights in teleworking; Section 5 explores trade union rights in digital workplaces. The overview of several domains of digital work – including artificial intelligence, platform work and telework – will allow to identify the emerging trends in promoting collective rights through different regulatory means.

³ K. VANDAELE – A. PIASNA: Sowing the seeds of unionisation? Exploring remote work and work-based online communities in Europe during the Covid-19 pandemic. In: N. COUNTOURIS – V. DE STEFANO – A. PIASNA – S. RAINONE (eds.): *The future of remote work*. Brussels, ETUI, 2023. 103.

⁴ E. MENEGATTI – T. GYULAVÁRI: *Decent Work in the Digital Age: European and Comparative Perspectives*. Oxford, Hart Publishing, 2022.; J. M. MIRANDA BOTO – E. BRAMESHUBER: *Collective Bargaining and the Gig Economy*. Oxford, Hart Publishing, 2023.; I. SENATORI – O. RYMKEVICH: *Digital Employment and Industrial Relations in Europe*. Torino, Giappichelli, 2023.; A. PIZZOFERRATO – M. TURRIN: *Current Issues of EU Collective Labour Law*. Torino, Giappichelli, 2024.

2. Regulating digital work through social dialogue at the EU level

As digitalisation is a complex organisational process involving recurrent decisions affecting different aspects of working conditions, information and consultation procedures are certainly well suited to address the challenges in a partnership approach, respecting the different roles of the parties involved (employers, employees and their representative organisations). Nevertheless, collective bargaining may be a more effective means to achieve better results in terms of granting workers with stronger protections.

Several studies focus on the role of social dialogue to understand the challenges that are emerging in relation to the increased use of AI in business organisation⁵. The OECD Employment Outlook 2023 addresses how social partners can support the introduction of AI in the workplace while safeguarding workers' rights and facilitating transitions. It highlights the growing role of collective bargaining in ensuring transparency in AI deployment⁶. While it is still an ongoing process, which can be expected to further extend, according to a recent survey conducted mainly in European services sectors, existing collective agreements which deal with AI prioritise topics such as working time, training on AI tools, workers' data protection, automated monitoring and decisions making systems impact on working conditions⁷.

The importance of social dialogue in managing transitions, including digital transitions, is widely recognised by the European Union. This is evident from the Commission Communication adopted in February 2023, which promotes the role of social partners in policymaking and strengthens sectoral social dialogue at the EU level⁸. In the same vein, the Pact for European Social Dialogue was endorsed during the current legislative session⁹. Under the Pact, the Commission is committed to supporting social dialogue at political, financial and administrative levels on a sustainable basis, as well as promoting the capacity building of national social partners.

However, when addressing the role of social dialogue in regulating the impact of digitalisation on the world of work, the EU legal framework is still rather fragmented, and even the most recent measures (Platform Work Directive, AI Act) present some shortcomings.

⁵ A. ALOISI: Regulating Algorithmic Management at Work in the European Union: Data Protection, Non-Discrimination and Collective Rights. *International Journal of Comparative Labour Law and Industrial Relations*, Vol. 40., N. 1 (2024) 37 ff. paragraph 3.3., available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4235261.

⁶ S. CAZES: Social dialogue and collective bargaining in the age of artificial intelligence. In: *OECD Employment Outlook 2023: Artificial Intelligence and the Labour Market*. OECD Publishing, 2023. Available at <https://tinyurl.com/msp5crc5>

⁷ S. BRUNNEROVÁ – D. CECCON – B. HOLUBOVÁ – M. KAHANCOVÁ – K. LUKÁČOVÁ – G. MEDAS: *Collective bargaining practices on AI and algorithmic management in European services sectors*. Brussels, Friedrich Ebert Stiftung, 2024. Available at <https://tinyurl.com/47v735vc>

⁸ Available at <https://eur-lex.europa.eu/legal-content/IT/TXT/?uri=CELEX%3A52023DC0040> For critical remarks see F. DORSEMONT: Council Recommendation of 12 June 2023 on Strengthening Social Dialogue in the European Union (OJ 6 12 2023): How Sweet and Soft is the Candy of Santa Claus? *Diritti Lavori Mercati International*, 2024/2. 421.; S. RAINONE: EU Social Dialogue revitalisation: between rethoric, new rights, political commitments and historical caution. *European Labour Law Journal*, 2024. 900.

⁹ Available at <https://data.consilium.europa.eu/doc/document/ST-6464-2025-INIT/en/pdf>

2.1. The Platform Work Directive

The Platform Work Directive (EU) 2024/2831, enacted as a result of a strong compromise among the stakeholders, lays down minimum rights to apply to every person performing platform work in the EU¹⁰, whether or not under an employment contract or in an employment relationship (Article 2, paragraph 1, let. c and d). The Directive also recognises the role of trade unions in many aspects of the platform economy, including on issues such as algorithmic management.

Directive (EU) 2024/2831 foresees in several norms¹¹ the involvement of trade unions, workers' representatives freely elected by platform workers¹² and even, what is worth to stress, representatives of persons performing platform work not under an employment contract, insofar as they are provided for under national law and practice (Article 2, paragraph 1, let. f and g).

Information and consultation rights of platform workers' representatives are enshrined in general terms in Article 13 and qualified as additional to those provided for by Directives 89/391/EEC, 2002/14/EC and 2009/38/EC. Workers' representatives of platform workers are entitled to information and consultation rights – as defined in Article 2, points (f) and (g), of Directive 2002/14/EC and under the same modalities concerning their exercise laid down in that Directive – “on decisions likely to lead to the introduction of or to substantial changes in the use of automated monitoring or decision-making systems”. What is more, “the platform workers' representatives may be assisted by an expert of their choice, in so far as this is necessary for them to examine the matter that is the subject of information and consultation and formulate an opinion”. The expenses for the expert shall be borne by the digital labour platform which has more than 250 workers in the Member State concerned, provided that they are proportionate.

Among the provisions supporting the collective representation of workers' interests it is worth considering Article 20 of the Directive, which requires Member States to establish channels of communication between persons performing work through digital platforms and between them and workers' representatives, ensuring confidentiality.

Specific arrangements for representatives of persons performing platform work other than platform workers' representatives are set in Article 15, although limited in scope¹³. Even worse, from the perspective adopted in this study, representatives of persons performing platform work are not entitled

¹⁰ Chapter 2 of the Platform Work Directive introduces a rebuttable legal presumption of employment. An analysis of these provisions goes beyond the scope of this article.

¹¹ Article 8 (2); Article 9 (1), (2), (4); Article 10 (1), (4); Article 11 (2). For a detailed analysis see C. SPINELLI: Industrial Relations Practices in the Digital Transition: What Role for the Social Partners? *Diritti Lavori Mercati International*, 2024/2. 470.

¹² By adopting a broad definition of workers' representatives, the EU legislator has not favoured any particular form of representation. This respects national industrial relations traditions and recognises the role that grassroots movements have played in relation to platform workers.

¹³ The exercise of the rights provided to workers' representatives under Article 8(2), Article 9(1) and (4), Article 10(4) and Article 11(2) are extended to representatives of persons performing platform work other than workers' representatives, but only “insofar as they are acting on behalf of those persons with regard to the *protection of their personal data*”.

to the information and consultation rights set out in this Directive¹⁴. In other words, self-employed platform workers can mainly rely on individual transparency rights. Therefore, to complement the collective rights of persons performing platform work as self-employed the Guidelines on collective agreements by solo self-employed people should be taken in due account¹⁵.

2.2. *The AI Act*

The Regulation on Artificial Intelligence (EU) 2024/1689 (AI Act) aims to foster the development and uptake of safe and trustworthy artificial intelligence systems across the EU's single market by both private and public actors. The legal basis of the AI Act is grounded in Article 114 and Article 16 of the Treaty on the Functioning of the European Union (TFEU). The scope of application includes providers and deployers of AI systems that have their place of establishment or are located in the EU, or even in a third country as far as the output produced by the AI system is used in the Union (Article 2, paragraph 1).

The AI Act sets harmonised rules for the development, placement on the market and use of AI systems in the European Union following a proportionate risk-based approach. It imposes regulatory burdens only when an AI system is likely to pose high risks to fundamental rights and safety.

AI systems used in educational and vocational training like those used in employment, workers' management and access to self-employment, listed in Annex 3, paragraphs 3 and 4 of the Regulation, should be classified as high-risk, since those systems may appreciably impact future career prospects and livelihoods of these persons.

According to Recital 92, the Regulation cannot undermine the obligations for employers to inform or to inform and to consult workers or their representatives under EU or national law and practice, including Directive 2002/14/EC, on decisions to put into service or use AI systems. In case of planned deployment of High-Risk AI Systems at the workplace, it remains necessary to ensure information of workers and their representatives where the conditions for those information or information and consultation obligations in other legal instruments are not fulfilled. Recognising such information right is considered ancillary and necessary to the objective of protecting fundamental rights that underlies the AI Act. As a consequence, an information requirement to that effect should be laid

¹⁴ A. ALOISI – N. POTOCKA-SIONEK: De-gigging the labour market? An analysis of the 'algorithmic management' provisions in the proposed Platform Work Directive. *Italian Labour Law E-Journal*, Vol. 15., N. 1(2022) 36 ff.

¹⁵ The Guidelines clarify when certain self-employed people can get together to negotiate collectively better working conditions without breaching EU competition rules. The Guidelines apply to solo self-employed people who work completely on their own and do not employ others. See S. RAINONE: Labour rights beyond employment status: insights from the competition law. Guidelines on collective bargaining. In: T. ADDABBO – E. ALES – Y. CURZI – T. FABBRI – O. RYMKEVICH – I. SENATORI (eds.): *Defining and protecting autonomous work*. Springer, Berlin. 2022. 167.; G. GIAMPÀ: Collective Bargaining for Solo Self-Employed Persons in the European Union. Assessing the Efficacy of the European Commission's Guidelines. *Diritti Lavori Mercati International*, 2024/1. 243 ff.

down in the Regulation, without affecting any existing rights of workers. Moreover, the AI Act shall not preclude the European Union or Member States from encouraging or allowing the application of collective agreements which are more favourable to workers in terms of protecting their rights in respect of the use of AI systems by employers (Article 2, paragraph 11).

Article 26 foresees the obligations of deployers of High-Risk AI Systems, which burden also any employer who is “using an AI system under its authority” (Art. 3, paragraph 4). The involvement of workers’ representative is limited to the right to be informed about the use of the High-Risk AI System, which do not necessary lead to either a consultation or even an agreement (Article 26, paragraph 7)¹⁶.

2.3. Some critical remarks

In light of the above analysis, it is clear that the well-established information and consultation procedures of the traditional European Union industrial relations system can play a significant role in managing the risks associated with the digitalisation of work. However, it should be noted that EU law has strengthened the right of workers’ representatives to receive information much more than their right to be consulted. In other words, transparency as a protective legal technique has gained an increasingly important regulatory role at EU level, at the expense of the direct involvement of workers’ representatives, which may lead at least to take into account their opinions and even favour starting negotiations. As for collective bargaining, its scope of intervention is fundamentally limited to improving the level of protection offered to workers’ rights through legislative provisions, provided that a collective agreement can be negotiated and signed in accordance with national rules and practices¹⁷. In other words, there is room then for collective bargaining, but it is up to trade unions to gain the floor¹⁸.

In this scenario, the EU social partners’ expectations are disregarded. The 2020 Framework Agreement on Digitalisation outlines a phased approach to shared management, with the aim of jointly mapping and assessing developments, adopting digital transformation strategies and developing context-specific actions and measures¹⁹. This approach involves all system actors, including businesses, workers and their representatives, and requires the latter to be provided with the necessary

¹⁶ C. CRISTOFOLINI: Navigating the impact of AI systems in the workplace: strengths and loopholes of the EU AI Act from a labour perspective. *Italian Labour Law E-Journal*, Vol. 17., N. 1 (2024) 92.

¹⁷ Article 26 (2), Directive (EU) 2024/2831 e Article 2 (11), Regulation (EU) 2024/1689. However, Article 25 of the Platform Work Directive states that Member States shall “encourage the exercise of the right to collective bargaining in platform work”.

¹⁸ In September 2025, the ETUC published *Negotiating the Algorithm. Trade Union Manual*, to provide support to its affiliates. This report emphasises the importance of building union capacity not only on best practice in negotiation, but also on data analysis and assessment. It is available at <https://tinyurl.com/bdecjlm7>

¹⁹ European Social Partners’ Autonomous Framework Agreement on Digitalisation (22 June 2020), available at <https://www.etuc.org/en/document/eu-social-partners-agreement-digitalisation> See L. BATTISTA: The European Framework Agreement on Digitalisation: a tough coexistence within the EU mosaic of actions. *Italian Labour Law E-Journal*, Vol. 14., N. 1 (2021) 105.

information and services to enable effective engagement in the various phases of the process. However, the Framework Agreement does not take a clear stance on which industrial relations practices can operate most effectively within this dynamic, digitalised framework, as it simply refers to procedures and tools specific to each member state.

Beyond formal statements, the current EU legal framework on digitalisation does not yet seem to provide effective support for the full involvement of trade unions and workers' representatives in this field. It is not really conceived as a kind of "auxiliary" legislation²⁰ that can have a spill-over effect. Consequently, national-level industrial relations traditions still prevail and mark the differences in regulations. Such a conclusion is confirmed by an interesting comparative study focused on AI and algorithmic management that shows "how trade unions have tended to rely on the type of institutional resources and standards (protective or participatory²¹) in their respective industrial relations systems to respond to the challenges posed by the extension of AI or algorithmic management"²².

Indeed, it seems that the EU law in force will not lead, at least in the short term, to the development of a coherent regulatory framework across Member States on the digitalised work. Therefore, major expectations are currently grounded in the enactment of a dedicated directive on algorithmic systems in the workplace, which has been strongly requested by the European Trade Union Confederation since 2022²³. It could represent a new opportunity to secure greater EU-level support for social dialogue, without undermining national industrial relations traditions. At the very least, this new directive is expected to extend to all workers the provisions on algorithmic management foreseen in the Platform Work Directive. In this perspective, there are available best practices to take into account. A recent ILO study on social dialogue and AI, which examined case studies at national, regional, sectoral, company and workplace levels in Europe, North America, Asia, South America, Caribbean and Africa, found that social dialogue fosters a shift from labour replacement to labour complementation in AI usage. This shift is achieved through a combination of constraints on employers exit strategies from workers' protections and support for collective worker voice²⁴.

²⁰ In the sense of O. KAHN-FREUND: *Labour and the Law*. London, Steven and Sons, 1977.

²¹ According to these definitions, while protective mechanisms usually take the form of regulation by the state or multi-employer collective agreements setting minimum standards for large groups of workers, participatory standards provide employees and their representatives and/or organisation with rights to govern processes at company level.

²² O. MOLINA et al.: *It takes two to code: a comparative analysis of collective bargaining and artificial intelligence*. Transfer: *European Review of Labour and Research*, Vol. 29., N. 1 (2023) 91–100. The study analyses regulatory developments in four Member States, which were selected to exemplify different industrial relations models: the Scandinavian corporatism (Denmark), the Continental model (Germany), the Mediterranean model (Spain) and the Eastern European model (Hungary). According to the authors, the expected scenario – which was then substantially confirmed by the subsequent analysis – would have been as such: "In countries with traditions of a strong state in employment relations and weak participatory institutions at company level, we can expect trade unions to push for regulation either by the state or multiemployer collective bargaining. By contrast, in countries with stronger participatory institutions at company level, employee representatives and trade unions will try to adapt them to cope with challenges".

²³ *Resolution calling for an EU Directive on Algorithmic Systems at Work*. Adopted at the ETUC Executive Committee of 6 December 2022. The request has been recently reiterated: ETUC, *Artificial Intelligence for Workers, Not Just for Profit: Ensuring Quality Jobs in the Digital Age*. Adopted at the Executive Committee meeting of 04–05 March 2025.

²⁴ V. DOELLGAST – S. APPALLA – D. GINZBURG – J. KIM – W. L. THIAN: Global case studies of social dialogue on AI and algorithmic management. *ILO Working Paper*, N. 144. 2024. Available at <https://doi.org/10.54394/VOQE4924>

According to the Executive Vice-President for Social Rights and Skills, Quality Jobs and Preparedness mandate²⁵, an initiative on algorithmic management should reasonably be expected. At the beginning of December 2025 the European Commission presented the *Quality Jobs Roadmap*, and launched a first-stage consultation on the “Quality Jobs Act”²⁶, a new legislative proposal to be enacted in 2026 to ensure workers’ rights while keeping up with technological, economic and societal changes. With regard to algorithmic management, the *Roadmap* promotes a responsible use of it, while focusing “on effective implementation and enforcement of existing EU protections for workers across all Member States, on providing further clarity on those protections” and considering *targeted complementary measures* that are not covered by the current legislation, but only “where necessary”. This approach is justified in order to “guarantee clear added value, consistency with the legal framework, *avoiding duplications* and promote a level playing field across the EU”²⁷.

However, just a few days later, the European Parliament voted in favour of a legislative initiative resolution that cannot be disregarded. This resolution calls on the European Commission to propose rules on the use of algorithmic management in the workplace²⁸.

In the background there is the Proposal to simplify the EU’s digital legislative framework, known as the Digital Omnibus²⁹. This would introduce amendments to several regulations and directives under scrutiny, including the GDPR and the AI Act³⁰. The declared aim is to ensure that the ‘digital rulebook’ continue to support innovation and growth while maintaining the same level of protection for fundamental rights.

Therefore, there will certainly be some very significant developments in the EU regulatory process to monitor.

3. The European sectoral social dialogue on digitalisation

A major commitment to sharing approaches to digitalisation in the workplace can be found in the European sectoral social dialogue. Social partners have demonstrated their awareness of the importance

²⁵ See the Mission Letter published on 17th September 2024, available at <https://tinyurl.com/4426fx7h>

²⁶ Consultation document – First-phase consultation of social partners under Article 154 TFEU on possible direction of EU action to improve working conditions, health and safety at work and implementation of workers’ rights – Quality Jobs Act. Brussels, 4.12.2025 C(2025) 9944 final. Available at <https://tinyurl.com/5cfzukunft>

²⁷ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and The Committee of the Regions. *Quality Jobs Roadmap*. Brussels, 4.12.2025 COM(2025) 944 final. 7. Available at <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52025DC0944>

²⁸ MEPs demand new measures to protect against algorithmic management at work. Available at <https://tinyurl.com/y7c8kzef>

²⁹ Proposal for a Regulation of the European Parliament and of the Council amending Regulations (EU) 2016/679, (EU) 2018/1724, (EU) 2018/1725, (EU) 2023/2854 and Directives 2002/58/EC, (EU) 2022/2555 and (EU) 2022/2557 as regards the simplification of the digital legislative framework, and repealing Regulations (EU) 2018/1807, (EU) 2019/1150, (EU) 2022/868, and Directive (EU) 2019/1024 (Digital Omnibus), COM(2025) 837 final, Brussels 19.11.2025, available at <https://tinyurl.com/yz7n3hxd>

³⁰ Proposal for a Regulation of the European Parliament and of the Council amending Regulations (EU) 2024/1689 and (EU) 2018/1139 as regards the simplification of the implementation of harmonised rules on artificial intelligence (Digital Omnibus on AI), COM(2025) 836 final, Brussels 19.11.2025, available at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:52025PC0836>

of collective bargaining when it comes to managing the significant impact of digital technologies on workers.

3.1. *The contents*

Among the most recent texts, it worth consider at least the Joint Declarations of the EU Social Partners for the Banking Sector of May 2024, on Artificial Intelligence, and of December 2021, on Remote Work; the Joint Statement of the EU Telecoms social partners on Remote Work of June 2023; the Joint Statement of the EU Social Partners in the MET industries of February 2023; the Agreement on Digitalisation signed in October 2022 by the EU social partners for central/federal government³¹.

The Joint Declaration of the EU Social Partners for the Banking Sector on Artificial Intelligence, issued in May 2024, is built on the sector's long-standing tradition of social dialogue and introduces an addendum on union involvement with respect to the AI Act. The preamble states that managing the impact of new technologies on the workplace requires a shared approach based on prior information, consultation and collective bargaining. Social dialogue at all levels, including collective bargaining, is recognised as an effective and positive means of addressing the impact of new technologies and digitalisation in the workplace. The European Social Partners are committed to continuing to monitor and analyse the related effects, including the evolving organisational models of work. This Joint Declaration highlights the collective commitment of the sectoral social partners to advancing technological innovation while maintaining social dialogue on workers' rights. They are particularly committed to the ongoing monitoring and evaluation of the implementation of the Joint Declaration at national, sectoral and company levels, focusing on social dialogue, collective bargaining and the sharing of best practices. In Chapter IV the social partners state that "freedom of association and worker collective rights, including social dialogue and collective bargaining, are to be respected also in the context of Artificial Intelligence". Collective agreements could introduce restrictions on the use of AI for employee surveillance and establish a predetermined decision-making process that respects the human-in-the loop principle, thereby preventing exclusively automated decisions from affecting workers (Chapter VI).

Ceemet and IndustriAll Europe signing the Joint Statement in the MET industries of February 2023 have agreed that social dialogue "is best placed to deal with all employment related aspects of technology, including inequality, skills, the nature of work, work organisation and the prevention of discrimination". Additionally, they recognise the importance of social partners *working together* at

³¹ All available at https://employment-social-affairs.ec.europa.eu/policies-and-activities/european-employment-strategy/social-dialogue/social-dialogue-texts-database_en

company level *from an early stage* to introduce and shape new systems in the workplace if successful implementation of technological change is to be achieved.

The importance of fostering social dialogue between employers and unions is also recognised in the Joint Statements on Telework.

The statement signed by the European Social Partners in the Telecom sector – UNI Europa ICTS and ETNO – is accompanied by a set of guidelines and recommendations for the implementation of remote working arrangements through social dialogue at the local level. Paragraph 2, entitled “Social dialogue, collective bargaining and collective trade union rights” not only stipulates that freedom of association and workers’ collective rights, including social dialogue and collective bargaining, should be guaranteed also in a remote work context, but also establishes that the employer is in charge to provide for any kind of tool which is necessary to “allow for fair representation and ensure that trade unions can maintain effective contact and organise remote employees just as they would those in a physical workplace”.

The Framework Agreement on digitalisation signed by the EU social partners for central/federal government (EUPAE and TUNED) introduces or strengthens digital rights for workers and their representatives, including telework. The agreement ascertains telework must remain voluntary, reversible and available for every worker based on a joint analysis with the unions of tasks and activities and with the necessary support and equipment to work from home. It encourages national social partners to ensure that additional expenses related to telework are duly compensated in negotiation with the trade unions.

3.2. The enforcement

Although commendable in terms of content, the Joint Declarations suffer from a main limitation consisting in the difficulty of translating formulated principles and shared recommendations into binding provisions. Such agreements typically generate fiduciary obligations, creating a legitimate expectation of their application without conferring enforcement powers. The efficacy of the clauses for each company in the group (and therefore in labour relations) depends mainly on the next stage of collective bargaining at a national level, or on directives from the parent company to the subsidiaries. At least, Joint Declarations commit both the signatory parties and their affiliates to negotiating fairly and in good faith.

In October 2022, to further extend its scope of application, the EU social partners for the central/federal government submitted their Framework Agreement on Digitalisation to the European Commission, requesting its implementation as a legally binding instrument through a Directive under Article 155 TFEU. The Commission responded that they intended to address the digitalisation

agreement alongside the cross-sector agreement on telework and the right to disconnect, which was under negotiation at the time. According to their work programme for 2022–24, the EU social partners (BusinessEurope, SMEUnited, SGI Europe and the ETUC) had agreed to review and update the 2002 Telework Agreement to be put forward for adoption as a legally binding agreement implemented via a Directive³². While the scope of the sectoral agreement for the central/federal government goes beyond telework and the right to disconnect, the Commission was reluctant to pursue two directives on similar topics. However, negotiations on a legally binding agreement on ‘telework and the right to disconnect’ proved very difficult and ultimately failed in November 2023. Following these inconclusive negotiations, the EU social partners asked the Commission to address the issue.

As a consequence, the EU Commission launched the first-stage consultation of European social partners to gather their views on the possible direction of EU action to ensure fair telework and the right to disconnect. This consultation took place between April and June 2024. The second phase of the consultation, which required responses from social partners by 6 October 2025, focused primarily on workers’ right to disconnect, fair and quality telework (including non-discrimination, access to equipment, data protection, and monitoring), and occupational health and safety.

In their responses to the second-stage consultation, social partners held different views on the need for additional EU legislation and the possibility of resuming negotiations with each other. The latter does not seem to be a realistic scenario at this stage.

4. Teleworking arrangements from a social dialogue perspective.

In the post-pandemic scenario, implementing telework practices remains popular with employees, although to a lesser extent with employers, following a slight decline in 2022. While working from home was a comparatively marginal experience before the pandemic, its widespread use during that time has made it more appealing in business re-organisations. Some of the stigma associated with this type of working arrangement has been reduced due to its huge adoption as a means of reducing social contact and preventing job losses. Working outside the employer’s premises has been evaluated as an organisational pattern that benefits both employers, who are interested in improving flexibility and productivity, and workers, who are interested in work-life balance. Hybrid forms combining remote and office working are more likely to prevail. However, more recently, many companies, even major players in the ICT sector, have started recalling workers to the office, abandoning this organisational model. Therefore, in the current climate, one of the most critical aspects of telework regulation right now is its reversibility, particularly in the absence of a clear legal or contractual right to telework.

³² On the main aspect which need an updating see S. HUYBRECHTS: 20 years Framework Agreement on Telework: looking back to move forward. In: *Global Workplace Law & Policy*. Wolters Kluwer, July 18th, 2022.

In light of this comprehensive scenario, the involvement of workers' representatives and trade unions is essential when teleworking in all its forms is put in place.

Improvements in work organisation and change management patterns are necessary to introduce flexible working arrangements³³. Teleworking, even in its evolutionary dimension, is not a one-size-fits-all solution but it requires that many factors are aligned in terms of supportive culture, appropriate systems and trust-based work environment. In this context, the involvement of workers and their representatives in the design and implementation of any kind of telework – home-working, hybrid working, smart working – is of paramount importance, as workplace-level initiatives could facilitate this process and help to manage the risks involved³⁴. In addition to being a legal obligation in terms of health and safety related aspects³⁵, discussing and achieving consensus on organisational and regulatory solutions “will set the tone and foster confidence before a structural teleworking programme begins”³⁶.

According to the 1989 Framework Directive on Occupational Safety and Health (OSH) workers or their representatives should be consulted in the “planning and introduction of new technologies to the workplace” with respect to “the consequences of the choice of equipment, the working conditions and the working environment for the safety and health of workers” (Article 6(3)(c) FD). The notion of ‘new technologies’ adopted in the Directive is quite open, so to include any kind of digital tools. Most important, however, is the word ‘planning’, which calls for an anticipatory approach in consulting the workers and their representatives. Therefore, consultation and information duties shall be activated before decisions are carried out, when still different options are possible and the opinion of worker representatives can still be integrated into management’s decision.

More generally, Directive 2002/14/EC must be taken into account, as it establishes a general framework for the information and consultation of employees within the European Union. The Directive obliges employers to inform and consult with employees’ representatives “on decisions likely to lead to substantial changes in work organisation or in contractual relations” (Article 4, paragraph 2, letter c)³⁷. This obligation is all the more pertinent when a company makes a strategic decision to implement remote or hybrid working arrangements to increase productivity by enhancing digitalisation and/or introducing more flexibility. Such choices inevitably impact work organisation and working conditions and therefore fall under the employer’s duty. This is the case, for example,

³³ C. SPINELLI: Remote and hybrid working arrangements. In: M. R. REDINHA – C. DE OLIVEIRA CARVAHO – J. NUNES VICENTE (coord.): *New Employment Relations: Untying the knot(s)*. Lisbon, Apodit Editora, 2025. 75.

³⁴ E. ALES: The Impact of Automation and Robotics on Collective Labour Relations: Meeting an Unprecedented Challenge. In: T. GYULAVÁRI – E. MENEGATTI: *Decent Work in the Digital Age*. Oxford, Hart Publishing, 2021. 39.

³⁵ Article 11, Directive 89/391/EEC.

³⁶ P. BÉRASTÉGUI: Teleworking in the aftermath of the Covid-19 pandemic. *ETUI Policy Brief*, 2021. 5., 6.

³⁷ According to an evolutionary interpretation of Article 4 (2) (c) of the Directive, there is an obligation to inform and consult with employees’ representatives on any decision relating to algorithmic management. This is because the Directive mandates information and consultation duties “on decisions likely to lead to substantial changes in work organisation or in contractual relations”. See V. DE STEFANO – S. TAES: Algorithmic management and collective bargaining. In: *Foresight Brief*. Brussels, ETUI, 2021. 29.

when decisions have to be taken on which tasks and activities can be performed outside the employer's premises, i.e. when defining the so-called 'teleworkability'. In this regard, the anticipatory approach is confirmed as fundamental. Similar conclusions should be drawn in the event of a company deciding to revert to on-site working, if this affects a significant number of employees.

Last but not least, the Framework Agreement on Telework of 2002 (Article 11), which is the main piece of regulations dedicated specifically to telework, provides for the information and consultation rights of workers' representatives on the introduction of telework "in accordance with European and national legislations, collective agreements and practices".

While the involvement of workers' representatives through information and consultation procedures mainly focuses on organisational aspects related to telework, the regulation of working conditions is more frequently the remit of collective agreements. In most EU countries collective agreements are the main instrument currently shaping the use of telework and hybrid work in large companies, either complementing or replacing statutory legislation.

According to a 2022 Eurofound study³⁸, with regard to the regulatory framework of telework, the EU Member States can be categorised into two main groups, distinguished by the respective prevailing role of statutory legislation or collective bargaining. However, within the first group of countries, several clusters had been identified, which were distinguished on the basis of the degree to which collective bargaining is developed and play a regulatory role anyway. This scenario is explained as a consequence of the different industrial relations models practised in the countries, as well as other aspects related to national institutional settings and the political context³⁹. The report compares the consequences for the coverage of provisions and the protection of workers of national regulations, resulting from the different combination between statutory law and collective bargaining in each cluster⁴⁰. Interestingly, another Eurofound study of 2022 observes how in most countries, where national-level regulation on telework provides a generic framework, collective agreements and social dialogue are effective ways to protect workers at company level. Instead, where no social dialogue exists, it can be difficult to implement national-level regulation at company level and effectively protect employees⁴¹.

There is then clear evidence that social dialogue is relevant to enhance workers' rights at every stage of implementing remote or hybrid working arrangements.

³⁸ *The rise in telework: Impact on working conditions and regulations*. Luxembourg, Eurofound, 2022. 45.

³⁹ The differences in telework regulations across EU Member States have recently been analysed from various analytical perspectives, with the aim of gaining a more comprehensive understanding of the diversity of telework across Europe. As well as the procedural and substantive rules that regulate telework, two other analytical dimensions were observed: workplace telework practices and environmental aspects that are potentially related to the possibility of teleworking and the demand for it. See. P. SANZ DE MIGUEL et al.: Varieties of telework regimes across European regions: A tale of four different worlds. *Industrial Relations Journal*, 30 June 2025, available at <https://journals.sagepub.com/doi/10.1177/00221856251350496>

⁴⁰ See also L. RATTI – A.GARCÍA-MUÑOZ: The Regulation of Remote Work. Seeking Balance Through the Articulation of Labour Law Sources: A Comparative Appraisal. *International Journal of Comparative Labour Law and Industrial Relations*, 2024. 303–325.

⁴¹ *Telework in the EU: Regulatory frameworks and recent updates*. Luxembourg, Eurofound, 2022. 64.

5. Trade Unions rights in the workplace

The effective implementation of trade unions and workers' representatives' rights in the workplace is of paramount importance in strengthening social dialogue at company level. However, enforcing these rights in increasingly virtual workplaces is more difficult. The fragmentation of companies and greater mobility of workers present countless challenges to representation systems. Traditional ways of social contact and managing daily problems are losing their driving force, which weakens trade union organising and workers' representation as it becomes more difficult to come together, share and exchange information informally, or discuss sensitive topics.

The EU legislator seems to be aware of these difficulties when requires Member States to establish channels of communication between persons performing work through digital platforms and between them and workers' representatives (Article 20 of the Platform Directive). The EU Social Partners also recognised this problem in Article 11 of the 2002 Framework Agreement on Telework, which states that teleworkers have the same collective rights as their colleagues working at the employer's premises. This includes the right to participate in and stand for elections to bodies representing workers, such as a works council or a health and safety committee. The right to communicate with workers' representatives is also a part of the teleworkers' collective rights. The same attention to fair representation and ensuring contact is paid to in the EU sectoral social dialogue on telework⁴².

It is crucial to enforce these rights in order to ensure that trade unions and workers' representatives can play a significant role in anticipating and regulating the changes that digital technologies are introducing to the workplace⁴³.

Overcoming the 'materiality' of workplaces due to digitalisation requires to rethink the ways in which the rights of trade unions and workers' representatives are exercised, so that the 'new space' becomes a vehicle for their expansion instead of an appropriate tool for rendering them ineffective. In response to these issues, a growing demand for trade unions to undergo a digital transformation has arisen, urging them to make greater use of technological communication tools to exercise collective rights.

This transformative process has been facilitated in countries where the rights of trade unions and workers' representatives at the workplace are guaranteed by the legislation. In Italy, for instance, the rights to assemble (Article 20), to post notices (Article 25) and to proselytise (Article 26) are widely exercised digitally. This is the result of an evolving interpretation of Title III of Law No. 300 of 1970, (the so-called Workers' Statute), adopted by legal scholars⁴⁴ and jurisprudence, and incorporated into

⁴² Joint Statement of the EU Telecoms social partners on Remote Work of June 2023, *supra*, Section 3.

⁴³ A. FORSYTH: *The Future of Unions and Worker Representation: The Digital Picket Line*. London, Hart-Bloomsbury Publishing, 2022.; K. PÄRLI: Impacts of Digitalisation on Employment Relationships and the Need for more Democracy at Work. *Industrial Law Journal*, Vol. 51., Issue 1 (March 2022) 84–108.

⁴⁴ V. ANIBALLI: *Diritti e libertà sindacali nell'ecosistema digitale*. Edizioni Scientifiche Italiane, 2022. G. DE SIMONE: Lavoro digitale e subordinazione. Prime riflessioni. *Rivista Giuridica del Lavoro*, 2019/1. 21–24.; A. DONINI: Il luogo per l'esercizio dei

collective agreements⁴⁵. Consequently, assemblies are organised in both physical and digital spaces, notices can be posted on the company's digital notice boards, and the company's mailing lists can be used for union communications⁴⁶. In the public sector, these rights are regulated by the Framework Agreement on Telework of 2020 for Public Administrations. The German lawmaker has focused on regulating the communication rights of the works council (Articles 30, 33 and 40 BetrVG), while leaving the digitalization of trade union prerogatives to negotiation dynamics⁴⁷. In Spain, the Just Eat company collective agreement of 17 December 2021 implements the Ley Rider and regulates the use of telematics tools by platform workers' representatives, which are to be provided by the company within the intranet (Article 72). This provision extends the collective rights enshrined in the Workers' Statute, which are based on a strict definition of the workplace (Article 1.5 Estatuto del Los Trabajadores)⁴⁸. Other countries, such as Belgium, adopt more restricted approaches, with several companies denying trade unions access to their workers' mailing lists on privacy grounds⁴⁹.

The digital exercise of union rights cannot be anymore reduced to a mere strategy to address declining unionisation rates or a simple tool to amplify workers' voices⁵⁰. In an increasing number of cases, the use of new technologies is enabling unions to continue to fulfil their fundamental role of organising and representing workers⁵¹.

6. Emerging trends in a still evolving scenario

The overview of several domains of digital work has been provided above with the aim to present the role that social dialogue and collective rights can play to ensure decent working conditions. The analysis reveals a fragmented and uncertain landscape that is nevertheless evolving. An increasing

diritti sindacali: l'unità produttiva nell'impresa frammentata. *Labour & Law Issues*, Vol. 5 (2019) 5. 100.; M. MARAZZA: Social, relazioni industriali e (nuovi percorsi di) formazione della volontà collettiva. *Rivista Italiana di Diritto del Lavoro*, 2019/1. 57–79.

⁴⁵ S. BELLOMO – D. CALDERARA – A. GRAVINESE – C. SPINELLI: Digitalización en el trabajo: nuevos retos en el Derecho Italiano del Trabajo. *LABOS Revista De Derecho Del Trabajo Y Protección Social*, Vol. 6., No 1 (2025) 205.

⁴⁶ Italian Court of Cassation, ordinance 17 marzo 2023, No. 7799.

⁴⁷ C. CRISTOFOLINI: *Digitalizzazione delle attività di proselitismo e comunicazione sindacale: spunti di riflessione dall'esperienza tedesca*. In: F. LUNARDON – E. MENEGATTI (eds.): I nuovi confini del lavoro: la trasformazione digitale. *Italian Labour Law e-Studies*, 2024/3. 78. Available at <https://tinyurl.com/bdfsnh7n>

⁴⁸ A. BAYLOS GRAU: L'accidentato viaggio dei riders in Spagna. Analisi della legge n. 12/21. *Labour & Law Issues*, Vol. 8., No. 1 (2022) 33.; M. L. RODRÍGUEZ FERNÁNDEZ: La negociación colectiva en las plataformas digitales. In: J. CRUZ – E. GONZÁLEZ-POSADA – M. L. MOLERO – J. LAHERA – A. MURCIA (Coords): *La negociación colectiva como institución central del sistema de relaciones laborales. Estudios en homenaje al profesor Fernando Valdés Dal-Re*. Bomarzo, Albacete, 2021. 521.

⁴⁹ B. DEDDEN – S. DE SPIEGELAERE – M. HICK: Remote work: ensuring trade union and workers' rights through collective bargaining. In: N. COUNTOURIS – V. DE STEFANO – A. PIASNA – S. RAINONE (eds.): *The future of work*. Brussels, ETUI, 2023. 130.

⁵⁰ J. VISSER: Will they rise again? Four scenarios for the future of trade unions. *Economic and Industrial Democracy*, Vol. 45., No. 3 (2024) 629 ff. Available at <https://doi.org/10.1177/0143831X231178850>

⁵¹ M. LAROCHE – G. MURRAY (eds.): *Experimenting for union renewal: challenges, illustrations and lessons*. Brussels, ETUI, 2024. This collective volume presents a wide range of case studies that explore the potential for trade union renewal. Chapters 6-8 focus on the gig economy.

number of studies are being conducted to highlight existing best practices and outline positive paths to follow.

The involvement of trade unions and workers' representatives is crucial at every stage when organisational patterns and terms and conditions of the contract of employment are to be changed due to digitalisation. Self-employed workers remain overlooked, despite being exposed to the same risks and needing better protection.

Social dialogue requires the support of the law to develop and strengthen⁵². The studies and reports examined provide substantial evidence of this. Adopting a regulatory framework at EU level, which promotes and enhances the rights to information and consultation, as well as the involvement of social partners through collective bargaining, more widely and with major commitment could guarantee a level playing field while respecting the competences of the European Union. Defining minimum standards would allow Member States and national social partners to implement them more effectively according to their own industrial relations traditions. This approach is also confirmed at an international level by the ILO's work on a Convention on Decent Work in the Platform Economy⁵³.

However, in the current scenario, social partners, particularly trade unions, need to take the initiative and play a more active role in protecting workers' rights and giving them a voice. In this respect, synergies between workers' representatives and trade unions are necessary. Participatory rights help to anticipate changes and influence work organisation, while collective agreements ensure more favourable working conditions. Strong commitment from those involved is necessary to activate any virtuous circle of joint regulation. Using digital means to enhance communication and enforce digital trade union rights in the workplace can facilitate workers' representation, bringing together those captured in digital environments and strengthening solidarity among them.

⁵² R. DUKES: Hugo Sinzheimer and the Constitutional Function of Labour Law. In: G. DAVIDOV – B. LANGILLE (eds.): *The Idea of Labour Law*. Oxford University Press, 2011. Available at SSRN: <https://ssrn.com/abstract=3676349> or <http://dx.doi.org/10.2139/ssrn.3676349> ; C. LLOYD – J. PAYNE: Digitalisation, unions and 'country-effect': Does union strength at the workplace matter? *Journal of Industrial Relations*, 2025. 1–26.

⁵³ A report which contains a draft Convention supplemented by a Recommendation on Decent Work in the Platform Economy has been submitted at the 113th Session of the International Labour Conference in June 2025 and then published on 15 August 2025, available at <https://www.ilo.org/resource/conference-paper/ilc/ilc114/decent-work-platform-economy> Governments are requested to inform the Office, after consulting with the most representative organizations of employers and workers, whether they have any changes to suggest or comments to make. The comments received will be reflected in the fourth and final report on the standard-setting item, which will be prepared by the Office for the consideration of the Conference at its 114th Session (June 2026). See S. FREDMAN – D. DU TOIT – A. BERTOLINI – J. VALENTE – M. GRAHAM: Fair Work for Platform Workers: Lessons from the EU Directive and beyond. *Industrial Law Journal*, Vol. 54., No. 3 (2025) 425. Available at <https://academic.oup.com/ilj/article/54/3/425/8176731> The authors analyse the EU Directive on Platform Work to suggest way forward for the proposed ILO Convention. On fair representation and collective rights see paragraph 5 and 6(v).