

Reinforcing social dialogue in the context of the move towards the green and digital transitions: Background paper



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How to encourage social dialogue at European and national level to facilitate the adaptation of the labour market to green and digital transitions?

Social dialogue and the twin transitions

Introduction

As our economies and societies recover from the impact of the COVID-19 pandemic, policymakers aim to shape the process of change, both to benefit from the productive capacity of digital technologies and to ensure environmental sustainability. These considerations inform the deployment of investments through the Recovery and Resilience Facility and the European Green Deal. The green and digital transitions involve a transformation of our economies, affecting what we consume and produce, and how we do so. They will continue to influence the content and organisation of work, employment relations and the structure of employment – in sectors and occupations, in regions and more widely. On all of these issues, the social partners have interests to defend, and knowledge and expertise which can be mobilised to shape policy.

Social dialogue: the framework for social partner engagement

Social dialogue engages the knowledge and commitment of representative social actors and ensures that their voice is heard. Establishing a consensus between social partners provides clarity and confidence to those affected and smooths the process of change, shaping it in a balanced way.

Social dialogue takes place at various levels and in different formats. Each setting has its specific strengths. At **European level**, both bipartite and tripartite formats exist, and social dialogue takes place at cross-sectoral level and at sectoral level through the European sectoral social dialogue committees (numbering more than forty to date). Social dialogue in companies can also have a European dimension, through European works councils and other structures of worker participation. Engagement with the European institutions through processes of consultation or 'concertation' provides a link between the EU policy agenda via the European social partners to their affiliates, and hence to the policies and actions of social partners at national level, potentially mobilising support from national level. Bipartite negotiations at European level set a framework and baseline for national-level regulation of employment relations. Where social partners conclude an agreement at European level, this may be implemented under their own authority (autonomous agreement) at national and sub-national level, or through European legislation (Council Directive).

Within Member States, social dialogue can take place at **national cross-sectoral level**, and at **sub-national level** (sectoral, regional and company/workplace level).

National cross-sectoral level social dialogue can be tripartite or bipartite. Tripartite social dialogue in many countries is institutionalised in economic and social councils, sometimes including organised representation of other actors in civil society. In other countries, tripartite engagement is more ad hoc (though often well-established through custom and practice). These arrangements give the public authorities an opportunity to explain policy initiatives to social partners and draw on their knowledge and expertise. Especially if there is consensus between the social partners, they also represent an opportunity for social partners to exert influence on government policy, including legislation.

In other national systems, cross-sectoral level social partners engage in bipartite social dialogue – resulting, for example, in formal joint opinions to be taken into account in legislative processes. In some cases, cross-sectoral social dialogue can also result in agreements between the parties which bear directly on working conditions.

Sub-national social dialogue can take place at sectoral, regional and company/workplace-level. Collective bargaining on pay and working conditions – the core of industrial relations – is typically multi-level. The most important level in many countries is the sector, where pay negotiations can provide both a level playing field for competition, and a framework for negotiations at lower levels. Where the sectoral level plays an important role in pay determination, negotiations typically cover other key issues for the sector, such as working time, training and employment rights, and facilitate joint approaches by the sectoral social partners to the government.

Negotiations at **company** or **workplace** level are typically concerned with adapting the rules stemming from legislation or higher-level collective bargaining to local conditions. They can encompass both pay (company-level enhancements to the rates set nationally, bonus arrangements, etc.) and non-pay issues (such as skills development, work organisation, the introduction of new technology, and working time arrangements). Such local negotiations can foster a constructive dynamic within companies between developing productivity and improving working conditions. While trade unions represent the worker's side in collective bargaining, an important role can be played in negotiations at company or workplace level, depending on the national system, by **works councils** or analogous forms of employee representation. These bodies typically enjoy legal rights to company-level information and consultation on critical issues affecting employees, and in some systems also have rights to co-determination in certain domains. They are therefore important actors in company-level social dialogue.

What does experience show?

Involvement of social partners in policy development

- Social dialogue is a key feature of industrial relations and a crucial element in fostering the recovery and social resilience.
- Timely and effective social dialogue is central to building national ownership of reforms and ensuring their lasting success.
- At European level, the policy context for social dialogue is provided by the European Pillar of Social Rights (EPSR) (and the Action Plan for implementation) and the Employment Policy Guidelines. Principle 8 of the EPSR addresses social dialogue and involvement of workers,¹ and Employment Guideline 7 recommends that Member States enhance the functioning of the labour market and the effectiveness of social dialogue.²

The cross-sectoral social partners (ETUC, BusinessEurope, SGIEurope and SMEUnited) have already addressed a range of policy issues affecting labour market change. Their 2019–2021 work programme focused on the impact of digitalisation and social, demographic and environmental transitions, and in 2020 they concluded a framework agreement on digitalisation. The cross-sectoral social partners also recognise the importance of the integration of groups struggling to access the labour market.

¹ 'The social partners shall be consulted on the design and implementation of economic, employment and social policies according to national practices. They shall be encouraged to negotiate and conclude collective agreements in matters relevant to them, while respecting their autonomy and the right to collective action. Where appropriate, agreements concluded between the social partners shall be implemented at the level of the Union and its Member States.

Workers or their representatives have the right to be informed and consulted in good time on matters relevant to them, in particular on the transfer, restructuring and merger of undertakings and on collective redundancies. Support for increased capacity of social partners to promote social dialogue shall be encouraged.'

² See also Regulation 2021/241 establishing the Recovery and Resilience Facility, which requires the recovery and resilience plans submitted by Member States to include 'a summary of the consultation process, conducted in accordance with the national legal framework, of local and regional authorities, social partners, civil society organisations, youth organisations and other relevant stakeholders, and how the input of the stakeholders is reflected in the recovery and resilience plan'.

At sectoral level, numerous initiatives (over 30 in 2021) have emerged from the sectoral social dialogue committees. The themes addressed reflect the issues on the European policy agenda, including remote work, the rights of workers with disabilities, climate change, and seasonal work, as well as proposals (in 2021) relating to measures taken in the context of the COVID-19 pandemic and their impact at sectoral level.

Despite this substantial output, challenges remain for European social dialogue. Firstly, the results consist mainly of joint opinions, joint statements and similar 'soft' instruments, but only a minority of agreements binding on the parties. Secondly, there have been questions by some social partners about the Commission's role in the procedure for implementing social partner agreements through Council Directives. The European Court of Justice clarified it in its judgement of 2 September 2021 on the EPSU case. Further details regarding the implementation of this judgment are expected to be set out in a forthcoming Commission Communication on social dialogue. Thirdly, ongoing economic and labour market changes can challenge the representativeness of social partner organisations, as well as raising questions for the structure of sectoral social dialogue committees.

At national level, the engagement of social partners in the European Semester process has been monitored since 2016, and a series of reports have documented the significant input made by social partners to policy reform in important fields (evolving over time) of economic and social policy.

With respect to the involvement of the social partners in the development of the 2020 national reform programmes (NRPs) in the context of the European Semester, data from Eurofound's EU PolicyWatch database shows that in about 30% of the newly recorded cases in 2021 where governments passed legislation or made other (non-binding) texts, social partners were involved in the design phase of these measures through consultation, negotiation and in some cases joint agreements. The most substantial social partner involvement was found in employment protection and retention.

In relation to development of the Recovery and Resilience Plans (RRPs), the quality of social partner involvement³ has been assessed. Preliminary findings show that while there are significant divergences between the perceptions of the different actors at national level, on the whole trade union and employer organisations have broadly similar views on the quality of their involvement

The key conclusions are that involvement in many countries showed weaknesses. In general, shortcomings were identified in relation to timeliness, and the meaningfulness of consultation was undermined by a lack of feedback. The summarising of social partners' views in the RRP was considered to be incomplete by the social partners in many cases (and the divergence of views with government on this point is significant – in nine countries, government representatives considered this obligation to have been met, but both trade union and employer representatives disagreed). On a more positive note, there remains a strong appetite for deeper involvement, with social partners urging further engagement in the implementation phase.

Social dialogue and climate policy

Initiatives by social partners, including collective agreements, addressing the potential undesirable consequences of the transition to a climate-neutral economy are still relatively scarce.

The examples presented here illustrate how social partners, in bipartite or tripartite settings, and at different levels are working together in the context of the transition to a climate-neutral economy.

Ensuring that shifting to a more environmentally sustainable production system is done in a socially equitable way is an important component of the European Green Deal. This is reflected in the Commission's proposal for a Council Recommendation on ensuring a fair transition to climate neutrality, published in December

³ In the framework for analysis, 'involvement' is defined as timely and meaningful consultation, and the quality criteria used for assessment are: the time made available for consultation; the extent to which consultation includes an opportunity to provide and receive feedback; balance in the approach towards the parties representing respectively employers and workers; and transparency in the process, including giving visibility in the RRP to the contributions of social partners.

2021, and in the Just Transition Mechanism, which will provide targeted support to those regions and sectors most affected by the transition to a green economy.⁴ Social dialogue can play an important role in this context. Examples include the European-level initiatives taken by both sides of the automotive industry to invite companies in the sector to support training and upskilling of their workforces, wage and job security, and investment in technology.

Important agreements in the energy sector (Italy, Spain) and agreements concluded between trade unions of the coal sector and governments (Germany, Poland) have regulated the training and reskilling of workers affected by the transition, with the aim of maintaining local employment or transferring workers to other plants.

For example, a social agreement on the phasing out of coal mines by 2049 signed in Poland in September 2020 between the government and trade unions includes provisions on job protection and energy transition. And in April 2020, the Spanish electricity sector saw the signing of a tripartite Just Transition agreement between several companies, the Ministries of Labour and of Ecological Transition, and the trade union confederations CCOO and UGT. It establishes the framework for regional agreements in an attempt to cushion the impact of coal-fired power plant closures.

In another example, the renewal of the industry-wide agreement for the Italian electricity sector on 9 October 2019 provided a single framework for all workers in the sector, including a special provision on training to ensure employability and support during the energy transition.

It is notable that these examples are largely taken from sectors where policies addressing climate change imply significant restructuring, job losses and company closures. The importance of social dialogue in this context is clear. However, social dialogue is also highly relevant to the less visible moves to green production in companies across the economy, which involve adapting work organisation, job profiles and skills strategies. There is little information available so far on the extent to which social dialogue has taken up this challenge. However, such processes of change are not pre-determined. They permit a range of different outcomes, with different impacts (some more favourable, some less so) on particular groups of workers. The issues at stake include not only the volume of employment, but the quality of jobs offered. Some work may become more attractive, e.g. through the reduction in exposure to physical risks, greater scope for learning and more worker autonomy. In other cases, there may be a loss of interaction with co-workers, de-skilling or exposure to new OSH risks. A particular concern is that the negative effects may be concentrated on particular groups of workers, with the gender perspective critical in this context.

Experience suggests that negotiated outcomes can be more balanced and sustainable, and that giving an effective voice to those directly affected contributes to better designed jobs. Data from Eurofound's 2019 European Company Survey show that in establishments where management has a trusting and constructive relationship with the employee representation, and where the employee representation can influence management decision-making, outcomes are better for both the social climate and economic and financial performance.

Social dialogue and digital change

The topic of digitalisation has been of interest to the social partners for many years, and some of them have included it in their collective bargaining rounds. Collective agreements dealing with aspects related to digitalisation have been identified in about half of the Member States

Although social dialogue has played a role in shaping the process of digitalisation, not all change has been negotiated. The main domains in which social partners have been active are the **development of platform**

⁴ [The Just Transition Mechanism \(europa.eu\)](https://european-council.europa.eu/media/en/press-operations/infographic-116226.jpg)

work, and the growing debate on the **right to disconnect** (see final paragraph below). While digitalisation can be seen as an opportunity to revitalise social dialogue, it also poses challenges. In particular, as work is restructured through digital change (integrating machines and humans in new production processes or facilitating the realignment of the boundaries between in-house and outsourced work), established social partners may be challenged in representing and mobilising workers and companies. In some cases, groups of workers may find that their rights to representation, information and consultation vanish as a result of the number of employees in a company or workplace falling below the relevant threshold.

At European level, the social partners, albeit employing different terminology, addressed some of the implications of digitalisation as early as 2002, when they concluded the framework agreement on telework, which included such issues as employment conditions, health and safety, training and collective rights.^{5 6} More recently, the 2020 European social partners' framework agreement on digitalisation encourages social partners to devise common strategies to respond to the digital transformation and commits both trade unions and employers to promoting reskilling and upskilling.

At sectoral level, the European social partners in insurance had adopted a joint declaration on the social effects of digitalisation already in 2016. In a follow-up statement adopted in 2019, the parties emphasised that the aim must be for social partners to improve the work–life balance of employees. In the chemical sector, the European social partners have launched a joint project (supported by the European Commission) on digital skills, covering all levels of employment and encompassing research and workshops. In central government, negotiations are taking place with a view to concluding an agreement on digitalisation.

In relation to platform work, the European Commission published a package of proposals in December 2021, including a Communication calling on Member States and social partners to put forward concrete measures to improve working conditions in platform work.⁷ This will shape the immediate context for social dialogue in relation to platform work at both European and national level.

The specific characteristics of platform work – including the fragmentation of work into individual tasks, the diversity of platform business models and of workers' motivations to engage in platform work, and the geographical dispersion of workers – pose challenges to workers' representation and the ability to make their collective voice heard. Nevertheless, some examples of platform economy actors engaging in forms of social dialogue and collective bargaining can be found, driven by trade unions or grassroots organisations.

Examples of general sectoral collective agreements that also cover platform workers include the Austrian collective agreement for bicycle couriers and the Italian collective agreement in logistics, freight transport and shipping. These agreements aim, by regulating areas such as working time, pay, and accident and sickness entitlements, to create a level playing field between the platform economy and the traditional economy in terms of competition and working conditions. Both collective agreements have been highlighted as important signals that the traditional tools of industrial relations can also cover platform work. On the negative side, they cover platform workers only if they have employee status, and the agreed minimum pay levels are deemed low.

Negotiation on the right to disconnect appears to have been triggered in France and Spain by the passage of legislation – pointing towards the potential synergy between legislation and social dialogue. In France, in 2019, the annual assessment of collective bargaining by the Ministry of Labour, Employment and Economic Inclusion (*Bilan annuel de la négociation collective 2019*) provided some details about sectoral- and company-level agreements. According to the findings, 38% of company-level agreements signed in 2019

⁵ This was the first EU-level framework agreement to be implemented by the signatory parties rather than through a European legislative act.

⁶ Telework was also dealt with by the EPSCO in May 2021, when Member States were invited to consider establishing national approaches to the opportunities and risks of telework, taking account of the gender perspective.

⁷ The other measures were a proposal for a Directive setting out measures to correctly determine the employment status of platform workers, and new rights in relation to algorithmic management; and draft guidelines on the application of EU competition law, aiming to bring legal certainty and make sure that EU competition law does not stand in the way of certain solo self-employed workers' efforts to improve collectively their working conditions.

deal with the right to disconnect and a further 39% deal with telework issues. The report found that, since 2017, the number of agreements that include the right to disconnect had almost doubled.

In Spain, monitoring by the Trade Union Confederation of Workers' Commissions (CCOO) finds that around 12% of all new collective agreements reached in 2019 included clauses on the right to disconnect. The most important agreement is the national collective agreement of the industry, technology and services in the metal sector, covering over 1.2 million workers and 250,000 companies.

In Italy, legislation on this issue is linked to teleworking (or 'smart working'), which is agreed between individual employers and employees. Prior to the pandemic, there were an estimated 480,000 smart workers in Italy. In some cases, smart working is also regulated by collective agreements at sectoral and company levels. Sectoral-level agreements in this area are mainly limited to restating the text of the legislation and requiring the regulation of the issue at company level. Examples of sectors with such provisions in place are the agri-food, energy and oil, gas and water and waste management sectors.

Company-level agreements include more detailed and operational provisions relating to the frequency of teleworking, core and flexible hours, the right to disconnect, and health and safety training. Examples can be found in companies such as Eni (energy and oil), Poste Italiane (postal services), Italian State Railways (transport), Enel (energy), Barilla (agri-food) and Siemens (engineering).

In other EU countries, relatively few collective agreements covering the right to disconnect have been identified, though some agreements are in place at sectoral and company level in the Nordic countries and Germany.

As with other processes of restructuring, digital change has the potential to influence working conditions both positively and negatively. It is important to bear in mind that very different processes are involved – the consequences for the employment and working conditions of automation and digitisation will not be the same, nor will the consequences be the same for all workers. What can safely be concluded is that the potential benefits are more likely to be realised – and shared equitably – if change is introduced through processes of social dialogue.

How can social partner involvement be improved?

Social dialogue and well-functioning industrial relations serve the general interest, improve the equity and efficiency of policy outcomes, and are worthy of support from public authorities as well as through the actions of social partners.

European-level social dialogue depends on the shared ambition of the social partners concerning the need for regulation and common European (minimum) standards, as well as on the social partners' ability to take up new subjects and implement their agreements at national level. It is clear that support from the European institutions' and the Member States will be needed for success in this area.

If the capacity of social dialogue to shape social and working conditions is to be maintained, there is a need to look into the framework conditions as well as the dynamics of social dialogue.

Further strengthening of the links between European policy processes and national social dialogue would ensure more proactive social partner involvement. Concerns expressed by social partners about the time made available for consultation, the extent of feedback provided to them, and insufficient acknowledgement in published plans of the input they have made should be addressed.

Well-developed industrial relations are likely to bring about a better balance between the role of the state and that of social partners, facilitating adaptation to quickly evolving labour markets. However, social dialogue is hampered where structural gaps exist in national industrial relations systems. In this context, efforts to improve the representativeness and autonomy of social partners are needed – in the first instance from the social partners themselves, who could work systematically to identify and remedy gaps in representation.

This may involve rival organisations working in cooperation, and support from public authorities may be appropriate, reflecting the common interest in well-functioning social dialogue.

While it is for social partners themselves to consider their rules, procedures and policies with a view to strengthening their autonomy, it is also important that relevant legal provisions are fully respected. The principle of social partners' autonomy is embedded in most of the legal systems of the 27 EU Member States, as well as in Articles 5 and 6 of the European Social Charter, Article 11 of the European Convention on Human Rights, and ILO Conventions 87 and 98.

National-level bipartite social dialogue and collective bargaining is the core of national industrial relations systems and well-functioning bipartite relations are needed for effective tripartism. More effective social dialogue at national level needs a 'negotiating space' for social partners where they have incentives to engage. It is a shared responsibility for social partners and governments to ensure clarity within industrial relations systems about the boundaries between state responsibilities and the role of social partners. Mutual respect is an essential component here, and efforts to develop trust between the parties is also a shared task.

Questions for discussion

1. At European level, how can the incentives for social partners to engage in social dialogue – and especially to negotiate agreements – be strengthened? Is sufficient attention paid to the twin transitions across the sectoral social dialogue?
2. At national level, how can consultation with social partners be improved in developing policy on the twin transitions? What good practice can be identified and shared?
3. What initiatives can the social partners take to represent and organise the companies and workers in the activities emerging through greening and digitalisation? What are the barriers limiting progress? What support can public authorities offer?
4. How can social partners, companies and employee representatives strengthen local engagement in the key transformations in working practices linked to greening and digital change? What support can public authorities provide to support the involvement of workers and their representatives at company and workplace level?
5. What are the preconditions for social partners to be pro-active, anticipating and managing change? What resources (expertise, skills, access to information) require further investment? What actions to build trust can each party take?

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The informal meeting of EU ministers responsible for employment and social policy (EPSCO) took place in Bordeaux on 14–15 February 2022. The meeting focused on the challenges posed by the major green and digital transitions to the labour market, and the way in which the European Union can support these transitions within the framework of the construction of a new European model of growth. Eurofound contributed to the discussion on the topic of social dialogue (Workshop 3), specifically regarding its potential role at European and national level in facilitating the adaptation of the labour market to the twin transitions.

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