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**Olga Rymkevich - Iacopo Senatori**

(Edited by)

# Digital Employment and Industrial Relations in Europe

**Collana Fondazione Marco Biagi**

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## **The Impact of Digital Work on Industrial Relations Systems. Lessons from a Comparative Research \***

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*Olga Rymkevich and Iacopo Senatori*<sup>1</sup>

SUMMARY: 1. The iRel Project: Rationale and Methodology. – 2. Structure of the Country Chapters.  
– 3. Lesson Learnt.

### *1. The iRel Project: Rationale and Methodology*

This book is the final outcome of a research project that addressed the multi-faceted topic of the “digital transformation of work” from the perspective of the regulatory functions performed by the law and industrial relations.

The project, named *iRel. Smarter Industrial Relations to Address New Technological Challenges in the World of Work*, has been carried out in the years 2019-2022 by a team of universities and research centres, that benefited from a grant received from the European Commission under the “Social Dialogue” funding programme. It aimed at discussing the regulatory role of social dialogue in the face of the challenges posed by the introduction of new technologies into workplace practices and production processes, by reconstructing and comparing the practices in place in seven European countries, namely Bulgaria, Denmark, Estonia, Germany, Hungary, Italy and Poland.

The use of the comparative method has been a means to reach a broader understanding of the phenomenon at hand, and to trigger a reflection based on benchmarking, mutual learning and exchange of good practices, in coherence with the purpose of the European Commission’s funding programme, finalized to “improving expertise in industrial relations”.

It is a common assumption that social dialogue can play a crucial role in the process of digital transformation of employment, due to its flexibility and its strong

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\* This volume presents the results of a European research project covering the years 2019-2022 (closed on 29.04.2022).

<sup>1</sup> Olga RYMKEVICH is a seniour researcher, Marco Biagi Foundation; Iacopo SENATORI is an associate professor at the University of Modena and Reggio Emilia; Member of the Scientific Committee of the Marco Biagi Foundation.

adaptive potential to bring together productivity, efficiency, improvement of working conditions and respect for fundamental rights of workers. However, social dialogue practices are heterogeneous and differ considerably across the EU Member States, depending on industrial relations traditions, the relative strength of work and capital and other political, economic and labour market peculiarities, national agenda priorities and last but not least, the role of legislation in labour market regulation. This can represent an obstacle to the effective implementation of the EU regulatory initiatives but, on the other hand, mutual learning and continuous exchange of experiences can influence the approaches of the social partners at European and national levels in order to set up more adequate regulatory strategies.

Under this assumption, the project was designed to encompass countries that represent different social, economic and industrial relations models: the Nordic-Scandinavian, the Continental, the Southern/Mediterranean and the Post-communist, Central and Eastern European respectively.

With regard to the area of investigation, the project pursued an original goal, with the adoption of a holistic notion of the “digital transformation” of work and the employment relationship. In fact, at the time when the project was designed, the scholarly reflection was for the most part focused on specific phenomena, such as remote and telework, work in the platform economy and the effects of the digital restructuring and automation of companies and workplaces (a process also described with the formula “Industry 4.0”), that were treated separately in consideration of the respective peculiarities. iRel attempted to look beyond this fragmentation, by bringing together all the three aforesaid perspectives, in order to examine possible correlations between them.

This idea seems to have been confirmed by the subsequent developments, both at the factual/normative and the scholarly levels. On the one hand, the number of academic contributions observing the phenomenon from a viewpoint encompassing all the different aspects of digitalization has increased<sup>2</sup>. On the other hand, it has become clear that some of the most critical issues related to the digital transformation tend to cross-cut all the possible conceptual boundaries between different forms of “digital work”. A remarkable example is algorithmic management, that equally involves platform workers, remote workers and workers of the traditional (albeit digitalized) factory. It does not surprise, hence, to note that in the ongoing debate about the European Commission’s initiative on platform work the case has been made for a generalization of the scope of the provisions on algorithmic management.

The questions that the research aimed to answer pertain to whether and how digitalization is acknowledged as a matter to regulate by lawmakers and social partners in the countries represented in the project, and to whether digitalization is having an impact on the institutional and structural features of the industrial relations systems.

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<sup>2</sup> See for instance T. GYULAVÁRI, E. MENEGATTI (eds.), *Decent Work in the Digital Age. European and Comparative Perspectives*, Hart-Bloomsbury, 2022; A. PERULLI, T. TREU (eds.), *The Future of Work: Labour Law and Labour Market Regulation in the Digital Era*, Kluwer, 2021.

More precisely, the research plan encompassed questions like: if and to what extent digitalisation is addressed in legislation and collective agreements; if the established industrial relations practices and institutional structures have been put under strain by the fastly changing technological landscape, or they have been capable of reacting swiftly; if trade unions and workers' representatives have been ready to understand the effects of the ongoing technological transformation on the world of work and take on the resulting challenges, like the evolving needs and interests of workers and the new threats posed on their rights (but also the opportunities disclosed by the adoption of technologies in the workplace), or, at the opposite, they have been hampered in their capacity to organize and represent workers affected by this momentous change; to what extent the business models and the new ways of organizing work enabled by digital technologies are questioning the foundations of the rules presiding over the functioning of the industrial relations systems and hampering their effectiveness; how the law and the self-regulation initiatives of social partners are interacting with (and complementing) each other on the topics associated with digitalization, namely if the law has been prepared to support social dialogue in tackling and adjusting to the new regulatory needs, and if, on the other hand, social partners have been prompting, stimulating or inspiring the intervention of the law.

Several changes took place during the three years' time span in which the project has been effective: some were predictable and some were not. The fast pace of the technological advancement, on the one hand, and the pandemic, on the other hand, introduced new issues and new perspectives in the iRel research plan. New questions arose, like those posed by the rise of artificial intelligence and by the massive use of remote work as a measure of mass disease prevention. As a result, a number of specific subjects came to the forefront, like the right to disconnect, the right to work remotely and the necessity of a human control on algorithmic decisions, that showed the urgency of a regulation.

In parallel, new initiatives have been launched by regulatory bodies, both at the national and the supranational level, some of which are now in force, while others remain in progress. To mention but a few, the European Framework Agreement on Digitalisation of June 2020, the European Commission's joint initiatives on platform work and the right to collective bargaining of platform workers and other groups of solo self-employed persons, the Artificial Intelligence Act. Mention should be made, in this regard, also of the flourishing judicial activity, both at the national and the EU levels, often triggered by trade unions that used judicial litigation as the key of a clear-cut strategy to advance the rights of workers affected by digitalization and trigger the intervention of lawmakers<sup>3</sup>.

As a result, the research has been carried out against a turbulent and continuously evolving landscape, which represented a stimulating factor but also one that sharpened the difficulties encountered. Therefore, the findings, as usual, but in

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<sup>3</sup> I. SENATORI, C. SPINELLI (eds.), *Litigation (collective) Strategies to Protect Gig Workers' Rights. A Comparative Perspective*, Giappichelli, 2022.

particular under the given context, should be considered as sound as provisional and reviewable.

## *2. Structure of the Country Chapters*

The chapters included in this book present a structure that mirrors the different stages of the project.

The first stage was dedicated to the reconstruction of the institutional characteristics of the industrial relations systems in the countries involved in the project (constitutional grounds, players, union density, collective bargaining coverage, structure of collective bargaining and distribution of regulatory competences on employment matters between the law and the social partners) and to the description of the state of the art regarding the degree of penetration of new technologies into the economy and the world of work.

The three intermediate stages have been dedicated respectively to the emerging issues in those that have been assumed as the three basic dimensions of digital work, i.e. platform work, remote work and workplace automation (or “Industry 4.0”). The researchers operated according to a common pattern, constituted by a set of questions that specified, for each stage, the general questions summarized in the end of the previous section of this chapter.

The final stage, and the corresponding section of the country chapters, addresses the policy perspectives. In particular, it focuses on two elements: the needs and expectations arising in each country on how to establish a regulatory framework that ensures the advancement of workers’ rights and an effective role of social dialogue in the context of an efficient digital transition, and the possible interlinkages between regulation at the levels of EU and the Member States.

## *3. Lessons Learnt*

Leaving to the individual national chapters the detailed reconstruction of the results found in each partner country with regard to the questions outlined above, this section will attempt to present concisely the general trends that have been observed from a comparative perspective. These trends concern both institutional aspects (pertaining to the structure and functioning of industrial relations systems) and substantive aspects (pertaining to the contents of the regulatory initiatives undertaken by social partners).

Starting from the institutional aspects, the research showed that coordinated and well-structured industrial relations systems, like those of Denmark, Germany and Italy, tend to perform more effectively in the regulation of “digital work issues” compared to the more fragmented and de-centralised systems of Central Eastern Europe. This feature may be partly explained by the lower attention for the phenomenon from legislatures and social partners in this second group of

countries, resulting in a lower urgency to adopt specific regulations. However, the generally weak state of industrial relations and the – often – problematic relationship between governments and social partners undoubtedly play a role too.

The degree of formalization of industrial relations practices, on the other hand, did not seem to influence the specific performance of the systems belonging to the first group of countries. For instance, collective bargaining in Denmark and Italy could be placed at the opposite ends of a hypothetical scale of formalization, and nonetheless both the systems showed a remarkable dynamism in the regulation of specific dimensions of digitalization, like platform work (and, for Italy, remote work).

Likewise, the level at which social dialogue takes place is not as crucial for the positive regulatory outcome as the existence of a coordination between the different levels. In Germany, work agreements at the company level are the pivotal sources for the regulation of the effects of digitalization at the workplace, but yet they operate in the framework of a highly institutionalized industrial relations system and a broad and established body of legislation.

With regard to the characters of workers' representation, the difference between systems adopting a single or a dual channel does not seem to be relevant in itself to determine the readiness of a system to respond effectively to the problems of digital work. In fact, the national chapters show that both can equally result in positive or negative outcomes. What is interesting to note, instead, is the peculiar interaction that can take place between the two models in one single system. Some cases addressed in the book show a kind of competition taking place when elected representatives are legitimized to intervene as regulatory agents in case collective bargaining is not present. The national chapters note that this interaction may represent a scheme on how to deal with the challenges of digitalization, as it may establish a pattern of mutual reinforcement between collective bargaining at the company level and employee participation, with the former setting up the general regulatory framework and the latter dealing with the solution of more practical issues (a pattern that echoes the circular “partnership process” proposed by the European Social Partners' Framework Agreement on Digitalisation).

About the relationship established between the law and autonomous social dialogue as regulatory sources, cooperative patterns tend to prevail over competitive ones, at least in the most institutionalized systems. In Denmark and Italy, the law acknowledges a broad regulatory authority to social partners and supports their action albeit in different ways: Denmark is characterized by a high statutory self-restraint, whereas in Italy the law tended to draw from collective agreements, raising their contents to the statutory rank or establishing a framework where social partners could operate with more certainty and effectiveness, like in the cases of platform work and remote work. Likewise, in Germany the law attempted to favour the adaptation of social partners' action to the digital environment, for instance with the law on modernization of works councils.

Overall, digitalization seems to have shaken but not altered the foundations of the industrial relations systems in the countries involved in the project. All of them reacted to the digital challenges with their typical resources, instruments



and forms of action, and to the extent permitted by the general political and economic conditions of each country. In countries with weak social dialogue, industrial relations practices have not been revitalized by the advent of the digital transformation. On the other hand, countries with more structured and established social dialogue have tackled the initial displacement by introducing innovations in a line of continuity with their traditional patterns. This has also allowed for the incorporation of relevant changes in the system, such as the emergence of new representative actors, as has occurred, for example, in Italy in the context of platform work in Italy.

With reference to contents of the regulatory action of social partners, a recurring element in the experience of all the countries involved in the project defensive approach adopted towards digitalization, at least at the earliest stage. This was reflected in the prevailing attention devoted managing the impact of the digital restructuring of enterprises on employment, in terms of safeguarding jobs and activating resources and strategies for adapting workers' job skills to the new technologies.

Since the technological change has a direct impact on the skills composition of jobs and job requirements, collective bargaining has been frequently addressing reskilling and upskilling through different training policies. In some cases, the aim was to anticipate future reorganisation and mitigate the impact of job losses. Collective bargaining provisions have also addressed labour shortages, which are becoming increasingly common. In general, it has been observed that training is an element present in most collective agreements almost in all the countries concerned, although the space devoted to it differs considerably from country to country and agreement to agreement.

Only in countries with more dynamic and effective industrial relations the contents of the regulatory action have subsequently embraced other aspects like the impact of digital technologies on managerial practices and organization of work and production processes (remote work, algorithmic management), resulting in provisions addressing a broader set of workers' fundamental rights of workers, like those related to dignity, equal treatment, health and safety and privacy.

The comparative picture resulting from the research is thus highly uneven. While the most successful experiences suggest that industrial relations can indeed be a useful regulatory resource to adjust the regulatory solutions to the issues posed by the digital transformation, still much remains to be done to support the development of a well-structured and efficient social dialogue systems even in countries where industrial relations are currently lagging behind.

However, the need to support social dialogue applies equally to the systems that are apparently in a better condition. The regulatory framework must in fact ensure the maintenance of balanced power relations between the social partners. In the face of the threats posed by digitalization, this includes extending the scope of action of workers' representation to categories of workers at risk of exclusion, improving the technical expertise and digital literacy of workers' representatives' and adjusting the modalities of the exercise of workers' representation to the characteristics of digital work.

## BULGARIA

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*Ekaterina Ribarova*<sup>1</sup>

SUMMARY: 1. Summary Review of the Industrial Relations in Bulgaria. – 1.1. Main Trends. – 1.2. Trade Unions. – 1.3. Employers' Associations. – 1.4. Tripartite Partnership. – 1.5. Collective Bargaining and Collective Labour Disputes. – 1.6. Information, Consultation and Workers' Participation. – 1.7. The Impact of the Digitalisation and Other Technological Innovations on the Industrial Relations. – 2. General Policy Approach to Digitalisation and Work. – 2.1. Basic Terminology, Used in the National Documents. – 2.2. Government Policies and Legislation. – 2.3. Tripartite and Other Partners' Documents and Policies. – 2.4. Employers' Associations Policies and Documents. – 2.5. Trade Union Policies and Documents. – 2.6. Collective Agreements. – 2.7. Policies and Documents of the Structures of Organised Civil Society. – 3. Platform Work. – 3.1. General Issues. – 3.2. Legal Background. – 3.3. Statistical Data and Data from Surveys. – 3.4. New Trends in 2020-Consequences of Covid-19. – 3.5. Industrial Relations and the Platform Work. – 3.6. Connections with Theoretical Issues. – 4. "ICT-Enhanced Remote and Mobile Work". – 4.1. General Issues. – 4.2. Legal Background. – 4.3. Statistical Data and Survey Results. – 4.4. Covid-19 Pandemic Affect the Use and/or the Regulation of Remote/Mobile Work. – 4.5. New Forms and New Regulations. – 4.6. Industrial Relations and Remote/Mobile Work. – 5. Workplace Automation and Social Partners Strategies. – 5.1. General Issues and Main Policies and Documents. – 5.2. Statistical Data and Surveys. – 5.3. Sectoral Scope. – 5.4. Topics. – 6. Conclusions.

### 1. *Summary Review of the Industrial Relations in Bulgaria*

#### 1.1. *Main Trends*

The national industrial relations system has existed since the beginning of XX century, but in 1944-1949 it was practically abolished by the totalitarian communist regime. In the early 1990-s the system was recovered, forced by many strikes, appeared in late 1989-early 1990. The framework for collective labour disputes was created in 1990. In the same year the tripartite partnership was created and collective bargaining at the sectoral and company level was also started. The Government and the social partners improved the relations with ILO and Bulgaria ratified the European Human Rights Convention in 1992.

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<sup>1</sup> Ekaterina RIBAROVA, Dr., Research consultant, Institute for Social and Trade Union Research and Education at the CITUB, Sofia, Bulgaria.

In 1993 the framework for the tripartite partnership and collective bargaining was also created and since then many changes in the Labour Code were also made- in 2001- 2010. Since 2000, when Bulgaria also ratified the Revised European Social Charter and started the negotiations for the accession to the EU, some new amendments regarding the workers' rights were made, including the rights for information and consultation, the rights of workers to participate in monitoring of the health and safety at work, the workers' rights in cases of insolvency of their employers etc.

The process of privatisation and restructuring in 1992-2007, are the base of new features of industrial relations. They could be defined as follows:

- Declining density of the membership in trade unions and also the density of membership in the employers' associations;
- De-regulation of the industrial relations and de-centralisation of the collective bargaining;
- Although that, there is still strong influence of the tripartism on the policies in the labour relations, social insurance, living standard. Many of the decisions, concerning labour and social issues are taken at the national level, with compulsory tripartite consultations (determination of minimum level of wage, minimum level of social insurance contributions, minimum levels of pensions, of unemployment benefits and of the other social payments, preparation of national programs for employment and vocational training etc.).

## 1.2. Trade Unions

In 1998- 2012 trade union membership has been rapidly declined, but in recent years the density is rather sustainable. Currently it is 16% of the total number of employees. There are two trade union confederations, recognised as representative at national level:

The Confederation of Independent Trade Unions of Bulgaria (CITUB) is the largest trade union confederation in Bulgaria, including 75% from all trade union members. CITUB was established in 1990, on the base of the structures of the former single trade union centre, existed in 1944-1989. Currently it has 39 affiliates-sectoral federations and trade unions (including 35 standard affiliates and 4 affiliates with contracts for support and services), which cover all the sectors in the country and has also regional and municipal structures in all the regions.

The other major trade union is the Confederation of Labour (CL) Podkrepa, including 22% from all trade union members. It was founded on 8 February 1989 by a small group of dissidents. CL Podkrepa has 24 affiliates- sectoral federations and trade unions and has regional organisations in all the regions in the country.

Both trade union confederations are members of the ETUC and ITUC.

There are also some other, very small trade union unifications and non-affiliated sectoral trade unions.

### 1.3. Employers' Associations

The density of membership of employers' associations, counted on the base of the total number of employers is approximately 18% from all the companies. According to the data of Eurofound in 2012<sup>2</sup> the employers' organisations covered 29% from the private companies in Bulgaria. There are 5 nationally representative employers' associations:

Confederation of the Employers and Industrialists in Bulgaria (CEIBG), established in 2006, after merger of former Union of Bulgarian Employers and the Bulgarian International Business Association, which affiliated the subsidiaries of the multinational companies (MNC-s) in Bulgaria. Currently, the CEIBG has 130 sectoral employers' associations and many companies, which are directly affiliated. The CEIBG has 130 regional and municipal structures. Most of CEIBG members are big national companies, subsidiaries of the MNC-s and other foreign companies. Also some private hospitals, universities etc. are members of the CEIBG. It is a member of the International Chamber of Commerce.

Bulgarian Industrial Association-Union of Bulgarian Business (BIA) was established in 1990, on the base of the structures of former Bulgarian Industrial Association, existed in 1970s and 1980s. Currently it includes 120 sectoral//branch employers' associations and has regional councils in all the regions. Also many of the public and some of the private universities and hospitals are its' members. BIA is a member of BUSINESSEUROPE and of the International Organisation of Employers.

Bulgarian Chamber of Commerce and Industry (BCCI) has existed since 1895. Its' activity was renewed since 1990 and currently it plays a role of business and employers' union. It includes 99 sectoral and branch organisations and it has regional and municipal councils in all the regions. BCCI has a good partnership with the national association of commercial banks, although this association is only focused on business issues. The BCCI is a member of EUROCHAMBERS, International Chamber of Commerce and International Organisation of Employers.

Bulgarian Industrial Capital Association (BICA) was established in 1996, on the base of several groups of companies and holdings, established with the purpose to participate in the privatisation. Currently it has 80 sectoral employers' associations and regional structures in the 3/4 of the regions. It is a member of the SGI Europe and international organisation of employers.

Union for Private Economic Enterprise (UPEE) was established in 1990 and its' affiliates are mainly micro, small and medium sized enterprises and craft enterprises. UPEE is a member of SME united and Esba.

There are also some other small regional and sectoral employers' associations, non-affiliated to one of the five representative at the national level. employers' organisations.

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<sup>2</sup> <https://www.eurofound.europa.eu/bg/country/bulgaria#actors-and-institutions>.

The main peculiarity of the employers' organisations is the overlap among them. There are many companies, which are members of more than one sectoral or national employers' association and also many sectoral/ branch employers' associations, which are members of more than one national employers' organisation.

#### 1.4. *Tripartite Partnership*

The tripartism has existed in Bulgaria since 1990, but the current national tripartite council was established on the national level in 1993. It consists of members from all representative trade union confederations and employers' organisations, as well as from Government representatives. The council is an important body for discussing employment issues, labour law, social security systems, living standard and the minimum wage, but officially it has only advisory role. There are also tripartite councils at sectoral and regional/municipal level and tripartite councils for special policies (employment, vocational training, health and safety at work etc.). Also the supervisory /managing councils of some of national agencies are established as tripartite structure, for example National Insurance Institute, National Agency for Vocational Education and Training, National Institute for Conciliation and Arbitration etc.

#### 1.5. *Collective Bargaining and Collective Labour Disputes*

Collective bargaining in Bulgaria takes place at the sector and on the company level. Also, municipal level collective bargaining does exist, but only for the companies and organisations, financed by the municipal budgets. In recent years there have been 23 sectoral collective agreements and several agreements in force in the companies with national scope. The number of company-level (1589) agreements is decreasing.

In 2017-2021 the collective bargaining coverage in total (sectoral, municipal and company level), both in the public and private sectors is estimated at 27%<sup>3</sup>. there is small increase of the coverage of collective bargaining, comparing to previous years. In the public sector (education, local administration, some public services like water supply, railways, posts etc.) the coverage is above 50%. In some sectors there has not been sectoral level collective bargaining since many years (like chemical and pharmaceutical production, textile, clothing, leather and shoes, most of the branches of food industry).

In some of the big companies from mines, manufacturing and utilities, both public and private, including MNC subsidiaries, the collective bargaining process is focused on the company level. In some of the MNC subsidiaries, including also companies from the service sectors, provisions of the transnational company agreements (TCA) are implemented as well.

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<sup>3</sup> CITUB data base.