Focus on Employment in the Era of AI and Digital Platforms: Understanding and Regulating Transitions

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Rebalancing the Power: from the Involvement
of Social Partners in AI Governance
to AI Systems as a Tool for Strengthening Unions

1. Introduction

The implementation of Artificial Intelligence (AI) systems in workplace technologies and in the processes that regulate the functioning of digital platforms has driven the rise of algorithmic management systems. These systems have progressively absorbed employers' prerogatives and the management of worker selection and recruitment stages[1]. As a result, they

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[1] Regarding the employers' powers, see TEBANO, *Lavoro, potere direttivo e trasformazioni organizzative*, Editoriale Scientifica, 2020; CIUCCIOVINO, *La disciplina nazionale sulla utilizzazione dell'intelligenza artificiale nel rapporto di lavoro*, in *LDE*, 2024, 1, p. 1 ff.; SARTORI, *L'impatto dell'intelligenza artificiale sul controllo e la valutazione della prestazione, e sull'esercizio del potere disciplinare*, in *LDE*, 2024, 3 and also ID., *Intelligenza artificiale e gestione del rapporto di lavoro. Appunti da un cantiere ancora aperto*, in *VTDL*, 2024, 3, p. 806 ff.; TEBANO, *Intelligenza Artificiale e datore di lavoro:*

have intensified the pre-existing information asymmetry and amplified the inherent power imbalance between the parties in the employment relationship[2].

By increasing the need for collective protections, this situation should lay the groundwork for a potential strengthening of collective actors in terms of representativeness, involvement, and bargaining power. In other words, it should promote the revitalization and enhancement of protective measures – including those already established by law or collective bargaining – capable of monitoring and influencing the exercise of employers' powers, preventing abuses through mechanisms that range from information and consultation procedures to stronger participation rights, alongside transparency and disclosure obligations[3].

However, despite the existence of policy documents outlining principles and guidelines in this regard, collective agreements frequently conflict with these frameworks. Moreover, a number of structural impediments hinder the full implementation of these principles, including but not limited to: declining unionization rates; the fragmentation of work performance[4]; competitive dynamics; the creation of individual reputational profiles; and the lack of physical or virtual spaces for worker aggregation.

Nevertheless, a significant number of European documents and acts emphasize the importance of involving workers and their representatives in workplaces where AI systems are used, at various levels. As articulated in the White Paper on Artificial Intelligence - A European Approach to Ex-

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scenari e regole, in *DLM*, 2024, 3; Gargiulo, *Intelligenza Artificiale e poteri datoriali: limiti normativi e ruolo dell'autonomia collettiva*, in *federalismi.it.*, 2023; Zappalà, *Informatizzazione dei processi decisionali e diritto del lavoro: algoritmi, poteri datoriali e responsabilità del prestatore nell'era dell'intelligenza artificiale*, in *Biblioteca 20 maggio*, 2021, 2, p. 98 ff.

[2] Peruzzi, *Intelligenza artificiale, poteri datoriali e tutela del lavoro: ragionando di tecniche di trasparenza e poli regolativi*, in *Ianus*, 2021, n. 24; Tullini, *La questione del potere nell'impresa. Una retrospettiva lunga mezzo secolo*, in *LD*, 2021, 3-4, p. 429 ff.

[3] With regard to the revival of the active role played by collective bargaining, which does not hinder but accompanies, guides and limits change, when necessary, see Ingrao, *Dagli algoritmi alla IA agentica. Le operazioni ermeneutiche dei CCNL sulla qualificazione del rischio*, in *LLI*, 2025, 2, r.39 ff.; For a study on company and regional collective bargaining and artificial intelligence, see Peruzzi, *Governare l'IA nei luoghi di lavoro: traiettorie della contrattazione collettiva aziendale e territoriale*, in *LLI*, 2025, 2, r 55 ff.

[4] Forlivesi, *La rappresentanza e la sfida del contropotere nei luoghi di lavoro*, in *LD*, 2020, 4, p. 673 ff.

cellence and Trust[5], which outlines the EU's strategy for "trustworthy" and "safe" AI development, "the design and implementation of AI systems in the workplace directly impacts workers and employers". Consequently, the involvement of social partners is regarded as "a crucial factor in ensuring a human-centered approach to AI in the workplace".

This is also reflected in the European Social Partners Framework Agreement where social partners acknowledge that the most effective approach to harnessing the benefits of digitization while mitigating its risks is to implement a joint, circular, and dynamic process, striving for a continuous balance between workers' and employers' interests[6].

Recent European studies further corroborate the assertion that the involvement of collective actors is imperative to ensure better working conditions in innovative and digitalized environments. The findings of these studies indicate a positive correlation between the presence of worker representation within companies that use AI technologies and the existence of enhanced working conditions[7].

However, it is also crucial to consider the well-documented developments that have shaped trade union relations in the food delivery sector across various national levels. In this context, grassroots movements emerged in response to the initial absence or difficulties of traditional trade unions in reaching platform workers and addressing their needs. These movements have frequently functioned as either a substitute for or in collaboration with established union organizations, thereby addressing a significant deficit in worker representation[8].

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[5] European Commission, Bruxelles, 19.2.2020, COM(2020) 65 final.

[6] European Social Partners Framework Agreement on Digitalisation. See, among others, SENATORI, *The European Framework Agreement on Digitalisation: a Whiter Shade of Pale?*, in ILLeJ, 2020, 2, 13, pp. 160-175; BATTISTA, *The European Framework Agreement on Digitalisation: a tough coexistence within the EU mosaic of actions*, in ILLeJ, 2021, 1, 14, pp. 105-121; ROTA, *Sull'Accordo quadro europeo in tema di digitalizzazione del lavoro*, in LLI, 2020, n. 2, p. 25 ff.

[7] CAZES, *Social dialogue and collective bargaining in the age of artificial intelligence*, in *OECD Employment Outlook 2023 artificial intelligence and the labour market*, p. 221 ff.

[8] See, among others, MARRONE, *Rights against the machines! Food delivery, piattaforme digitali e sindacalismo informale*, in LLI, 2019, 5, 1, p. I.3 ff.; PACELLA, *Le piattaforme di food delivery in Italia: un'indagine sulla nascita delle relazioni industriali nel settore*, in LLI, 2019, 5, 2, p. 181 ff.; MARTELLONI, *Individuale e collettivo: quando i diritti dei lavoratori digitali corrono su due ruote*, in LLI, 2018, 4, 1, p. 18 ff.; TASSINARI, MACCARONE, *Riders on the storm. Workplace solidarity among gig economy couriers in Italy and the UK*, in *Work, Employment and Society*, 2019; PURIFICATO, SCELSI with the supervision of SENATORI, SPINELLI, *Representing and Regulating Platform Work: Emerging Problems*

2.   *Scope and Methodology*

Based on these premises, this paper aims to deepen the analysis of the relationship between AI and collective actors from two perspectives, both of which have the potential to increase the power of the employer's counterpart.

The first perspective considers AI as a technology capable of influencing every dimension of human life, including work. AI affects the way work is managed, organized and performed, and thus shapes working conditions. This reality underlines the need for action to ensure the development and diffusion of AI systems that are "trustworthy", as defined by the European legislator, *i.e.* that respect the fundamental rights enshrined in the Charter of Fundamental Rights of the European Union and are inherently "non-deterministic".

From this perspective, collective actors, as key stakeholders, can play an active role in protecting workers and promoting the responsible use of AI. In order to explore this issue, the paper examines the AI Regulation and relevant European legislation to assess the level of protection offered.

The second perspective considers AI as a potential tool for trade union renewal. In response to changes in the world of work – such as the disruption of traditional space-time coordinates and the evolving nature of industrial relations, particularly in terms of the prerogatives of the various actors involved – these changes inevitably affect the ability of trade unions to connect with workers, defend their interests and maintain the effectiveness of traditional organizing and action strategies. In this context, AI can serve as a catalyst for the revitalization of trade unions. By leveraging advanced analytics, digital communication platforms, and predictive systems, collective actors could better identify emerging worker needs, enhance mobilization capacity, and strengthen representation, thereby redefining the role of unions in a constantly evolving labour landscape.

To investigate this potential, the paper analyzes existing practices – including those that have been the subject of case law – as well as experimental initiatives implemented by trade unions, exploring whether there is room for further development and expansion of these practices.

The following paragraphs will focus on analyzing the two perspectives in detail.

Specifically, the first part (paragraphs 3 to 5) aims to examine the role and forms of intervention granted to collective actors by the European legislator, starting with an analysis of the provisions set out in the AI Act[9]. Despite its legal basis – Articles 16 and 114 TFEU – framing it as an instrument for harmonizing the internal market with respect to the protection of individuals with regard to the processing of personal data, the regulation also pursues the objective of monitoring, assessing, and mitigating the risks associated with the use of AI systems in sectors such as "employment, management of workers, and access to self-employment". In this context, collective actors are recognized as potential stakeholders, with avenues for intervention aimed at ensuring transparency in specific segments of the AI value chain.

The analysis, therefore, starts with the relevant provisions of the AI Act and expands to include European and Italian legal sources that form part of the same regulatory framework. These references include Regulation (EU) 2016/679 on the protection of individuals with regard to the processing of personal data and the free movement of such data (GDPR), the Directive (EU) 2024/2831 on improving working conditions in platform work (henceforth "Platform Work Directive"), as well as provisions within domestic law that govern processes and technologies potentially integrating AI systems, such as Article 1-bis of Legislative Decree No. 152/1997 and Article 4 of the Workers' Statute.

The second part of the paper (paragraphs 6 to 8) explores whether collective actors are adopting AI as a tool to enhance their connection with workers, better understand their needs, and ultimately increase union membership and unionization rates.

In order to achieve this objective, the analysis considers firstly practices where collective actors use digital tools to carry out trade union activities,

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[9] See, *inter alia*, BIASI, *Intelligenza Artificiale e diritto del lavoro: rischi (lavoristici), opportunità (occupazionali), sfide (regolative)*, in BASILE ET AL. (eds.), *Intelligenza Artificiale. Diritto, giustizia, economia ed etica*, Giappichelli Editore, p. 179 ff.; ALAIMO., *Il Regolamento sull'Intelligenza Artificiale. Un treno al traguardo con alcuni vagoni rimasti fermi*, in *federalismi.it*, 2024, 25, p. 231 ff.; SCAGLIARINI, SENATORI (eds.), *Lavoro, Impresa e Nuove Tecnologie dopo l'AI Act*, Quaderni Fondazione Marco Biagi, 2024; BIASI (eds.), *Diritto del lavoro e intelligenza artificiale*, Giuffrè, 2024; PERUZZI, *Intelligenza artificiale e lavoro. Uno studio su poteri datoriali e tecniche di tutela*, Giappichelli. See also the essays pubblished in *RGL*, 2024, 4, pp. 511-618 and the section *Intelligenza Artificiale e regolamentazione legale e negoziale dei rapporti di lavoro*, in *LDE*, 2025, 3.

alongside national court rulings on their legitimacy. The focus then shifts to practices in other countries, where collective actors are not merely using digital tools, but are actively leveraging AI to enhance their strategies and outreach.

3. *Spaces for Collective Actors Action According to Art. 26 of Regulation (EU) 2024/1689*

3.1. *"Information" in the AI Act*

One of the few provisions of the AI Act relevant to this analysis is Article 26, titled "Obligations of deployers of high-risk AI systems". According to this provision, continuous monitoring of AI systems by individuals, along with transparency and the adoption of accountability measures by the deployer, are identified as key strategies for mitigating the risks these systems may pose to individuals' security and fundamental rights[10].

Within the field of investigation, these purposes can be considered essentially referred to two instruments by Article 26, which also provide for the intervention of collective actors: the information and the data protection impact assessment.

Article 26(7) specifically addresses the obligations of employers acting as deployers when using or intending to use high-risk AI systems in the workplace, as defined in Annex III, No. 4 of the analyzed regulation. This provision mandates that employers inform both workers and their representatives about the use of such systems. It further specifies that this information should be provided, where appropriate, in accordance with Union and national laws and practices governing the information and consultation of workers and their representatives.

This formulation contrasts with the approach taken in the European Parliament's amended version of the same regulation[11]. In paragraph 5a of the former Article 29, the text explicitly required the deployer to start worker information and consultation procedures, as set out in Directive 2002/14/EC, before using the AI system. Additionally, once the system was

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[10] Concerning Article 26 of AI Act, see among others ZOPPOLI L., *Tecnologia, socializzazione, partecipazione e poteri collettivi dopo l'AI Act*, in *federalism.it*, 2025, 14, p. 283 ff.

[11] ALAIMO, *Il Regolamento sull'Intelligenza Artificiale: dalla proposta della Commissione al testo approvato dal Parlamento. Ha ancora senso il pensiero pessimistico?*, in *federalismi.it*, 2023, 25, p. 133 ff.

operational, the provision stipulated that all affected workers should receive adequate and ongoing information.

Firstly, the comparison highlights that the approved text deletes any specific reference to existing legislation, replacing it with a more general reference to "the rules and procedures laid down by Union and national law and practice". This shift broadens the potential scope of the information obligation, extending it beyond generalist directives to include those with a more specific focus, such as directives on workplace health and safety[12] or collective redundancies.

Secondly, the distinction between the right to information and consultation and the right to information itself is blurred, evolving into an indefinite duty of information for the deployer. Depending on the circumstances, this duty may be fulfilled either alternatively or cumulatively towards workers and their representatives.

As outlined in recital 92, this informational obligation not only encompasses the two distinct rights mentioned above but also appears to introduce an employer's duty to inform both workers and their representatives about the "planned deployment of high-risk AI systems [in] the workplace". This measure aims to safeguard the fundamental rights enshrined in the Charter of Fundamental Rights of the European Union.

However, this obligation should be understood as residual nature, as the deployer is only required to fulfill it "where the conditions for [the] information or information or information and consultation obligations in other legal instruments are not fulfilled".

This would amount to affirming the establishment of a "minimum right" for workers and their representatives, including those in undertakings and establishments that do not meet the minimum dimensional requirements set by Directive 2002/14/EC for its enforceability. Similarly, this right could extend to self-employed workers – at least during the access-to-employment phase – considering that Annex III, no. 4 of the AI Regulation identifies high-risk AI systems as those used in "employment, [the] management of workers and [the] access to self-employment," including the stages of selection and recruitment.

The approach taken in Article 26(7) of the AI Regulation, which appears to "smooth over" the differences between various informational in-

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[12] Peruzzi, *Sistemi automatizzati e tutela della salute e sicurezza sul lavoro*, in *DSL*, 2024, 2, pp. 91-92.

struments, seems to account only for their similarities while overlooking their functional distinctions.

Applying a "difference filter" would require distinguishing between two categories of information: the first serving the sole purpose (at least ostensibly) of enabling workers to understand the employer's decision-making processes, and the second involving the active participation of workers' representatives[13].

In the first scenario, the employer would be bound by a "mere" duty of information, aimed at ensuring oversight of managerial power – in this case, exercised through algorithmic management. This type of information obligation aligns with that established in Directive (EU) 2019/1152, as well as the "minimum" information to be provided to workers and their representatives in residual cases. However, a critical divergence emerges regarding the timing of the information: in the first case, the information would be provided ex post (*i.e.,* after the system is deployed), whereas in the latter case, the rule appears to require information to be shared prior to the commissioning and use of the high-risk AI system.

The second category of information, by contrast, encompasses the rights to information and consultation as genuine instruments of worker participation in company processes. These mechanisms can effectively "interfere" with the otherwise unilateral exercise of employers' powers, counterbalancing the potential "monopsonic" control inherent in algorithmic management.

Despite the evident functional differences between these instruments, it cannot be ruled out that even the "mere" information the employer is required to provide to collective bodies may, in certain circumstances – particularly when combined with other instruments – serve as a powerful tool, not only within the judicial arena but also in shaping workplace dynamics and reinforcing worker protections.

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[13] The definition of employee representatives' involvement could coincide with that provided in Directive 2001/86/EC, which encompasses "any mechanism, including information, consultation, and participation, through which employees' representatives may exercise an influence on decisions to be taken within the company".

3.1.1. The "Minimum Right" to Information for Workers and Their Representatives

Regulation bears certain similarities with the right to information in terms of its function, but differs in terms of its subjective scope. In contrast to the Transparency Directive, which is limited to employee representatives, the AI Regulation extends its scope to employee representatives as well as to individual employees.

By opting for this approach, the European legislator ensures the logical continuity between the AI Regulation and Article 9 of the Platform Work Directive[14] which requires Member States to mandate that digital platforms inform both individuals performing platform work and employees' representatives about the use of automated decision-making and monitoring systems.

This "double entitlement to the right to information"[15] is also reflected in Article 1-bis of Legislative Decree No. 152/1997, as reworded by the so-called Transparency Decree[16], which transposed Directive (EU) 2019/1152 on transparent and predictable working conditions in the European Union, later amended by Legislative Decree No. 48/2023 and converted into Law No. 85/2023.

Article 1-bis imposes on employers a duty to provide information on the use of fully automated decision-making or monitoring systems, addressing both workers and "company trade union representatives or [of] the unitary trade union representation and, in the absence of such representatives, [of] the territorial offices of the trade union associations that are comparatively more representative at national level"[17]. The provision also recognizes the right of workers, or their company or territorial trade union representatives, to request additional information[18].

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[14] Art. 9 is entitled "Transparency with regard to automated monitoring systems and automated decision-making systems".

[15] See Recchia, *Condizioni di lavoro trasparenti, prevedibili e giustiziabili: quando il diritto di informazione sui sistemi automatizzati diventa uno strumento di tutela collettiva*, in *LLI*, 2023, 1, C. 44. See also Tebano, *I diritti di informazione nel D.Lgs. n. 104/2022. Un ponte oltre la trasparenza*, in *LDE*, 2024, 1, p. 1 ff.; Donini, *Informazione sui sistemi decisionali e di monitoraggio automatizzati: poteri datoriali e assetti organizzativi*, in *DLM*, 2023, 1, 85 ff.; Zilli, *La via italiana per condizioni di lavoro trasparenti e prevedibili*, in *DRI*, 2023, I, p. 30 ff.

[16] Legislative Decree 27 June 2022, no. 104.

[17] Art. 1-bis, par. 6, of the Legislative Decree no. 157/1970.

[18] Art. 1-bis, par. 3, of the Legislative Decree no. 157/1970. This tool has been widely

As noted in the literature[19], this obligation to inform collective actors carries significant potential for empowering worker representatives in the context of AI and automated systems. This potential becomes even more evident when read jointly with Article 4 of the Workers' Statute, to which Article 1-bis explicitly refers in the final part of paragraph 1.

Specifically, while AI systems and digital platforms might ostensibly be classified as mere "work instruments", access to information about their operation could enable collective actors to challenge this classification. Where these systems also serve as tools for monitoring workers, such access could pave the way for negotiations with company representatives to authorize their use, in line with the requirements of the Workers' Statute.

Regarding the content of the information to be provided by the deployer, Article 26(7) of the AI Regulation offers no explicit guidance. Even if one were to assume that the requirements for employer-deployers should also apply to non-employer deployers – as outlined in Article 26(11) – this would only partially address the gap. Paragraph 11 limits its scope to high-risk AI systems that "make decisions or [that] assist in making decisions affecting natural persons". However, AI systems deployed in the workplace may impact employees in other ways, including through monitoring and surveillance functions[20].

As a result, the information obligation toward workers and their representatives would only align with the AI system's purpose, the types of decisions made, and the right to receive explanations in certain cases. Furthermore, the right to information would be limited in scope, as paragraph 11 specifies that information must be provided only to the natural person subject to decisions made or assisted by high-risk AI systems – excluding broader categories of workers who may nonetheless be affected by the system's operation.

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used by the union to launch a series of actions aimed at obtaining the judgment of digital platforms for not providing adequate information to collective subjects on automated systems. See, Trib. Palermo 31 March 2023; Trib. Palermo 20 June 2023; Trib. Turin 5 August 2023.

[19] RECCHIA, *cit*.

[20] Although one would choose a broad interpretation of the term "decisions" to include recruitment, assignment of tasks, termination of employment, monitoring would still remain outside the scope of Art. 26(11).

3.1.2. Rights to Information and Consultation

Moving on to the level of information and consultation rights, as mentioned above, the current wording of Article 26(7) replaces the explicit reference to Directive 2002/14/EC with a more generic reference to "where applicable" referring to "rules and procedures laid down in Union and national law and practice on information of workers and their representatives". This change may have implications for interpretation.

Within the scope of the general information and consultation procedure, the "case" that would trigger the application of Directive 2002/14/EC is defined in Article 4(2)(c), which states that information and consultation must be carried out on "decisions likely to lead to substantial changes in work organisation …" – provided the dimension requirements of undertakings outlined in Article 3 are met. Indeed, the introduction or modification of an AI system within company technologies or automated systems of digital platforms can impact work organization, leading to the need to activate information and consultation procedures[21].

Substantially, though not formally[22], the approach adopted by the AI Act aligns with that of the Platform Work Directive18, which, in Article 13, refers the regulation of information and consultation rights entirely to Directive 2002/14/EC. It also introduces the right for workers' representatives to be assisted by an expert to examine the subject of the information and consultation process and draft an opinion.

Both documents confirm the original choice of the European legislator to limit the scope of information and consultation rights to employee

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[21] Regarding the link between AI Act, GDPR and Directive 2002/14/EC, see Corti, *Intelligenza Artificiale e partecipazione dei lavoratori. Per un nuovo umanesimo del lavoro*, in *DRI*, 2024, 3, p. 628 ff.

[22] The Platform Work Directive uses a completely opposite approach from the approach taken by the AI Act in referring to existing legislation on the matter. Indeed, Article 13 provides that "This Directive is without prejudice to Directive 89/391/EEC as regards information and consultation and to Directives 2002/14/EC or 2009/38/EC of the European Parliament and of the Council (18).

Member States shall ensure that information and consultation, as defined in Article 2, points (f) and (g), of Directive 2002/14/EC, of workers' representatives by digital labour platforms also covers decisions likely to lead to the introduction of or to substantial changes in the use of automated monitoring systems or automated decision-making systems.

For the purposes of this paragraph, information and consultation of workers' representatives shall be carried out under the same arrangements concerning the exercise of information and consultation rights as those laid down in Directive 2002/14/EC …".

representatives. Specifically, Article 26(7) does not include any provisions addressing the situation of self-employed workers, who are also entitled to fundamental rights and should, as such, be protected against the misuse of high-risk AI systems. As a result, such workers should be considered entitled to the more general "minimum right" to receive information.

Having clarified the applicable procedure and its scope, it is important to define the content of the information that must be provided to employees' representatives to ensure that information and consultation rights are effectively exercised. It is essential to establish what information the deployer possesses and, consequently, what can be shared during the consultation process. Since this information can often be highly technical, consideration must be given to the extent to which employees' representatives can understand it well enough to carry out a meaningful consultation.

Regarding the first aspect – identifying the information in the deployer's possession – it can reasonably be assumed that this primarily includes the instructions for use, which the supplier is obliged to provide. These instructions must be concise, complete, accurate, clear, relevant, accessible, and easy to understand. Additionally, if the deployer assumes the role of a supplier, as outlined in Article 25, further information may be generated.

Among the instructions referred to in Article 13(2) are:

"(b)the characteristics, capabilities and limitations of performance of the high-risk AI system, including:

(i) its intended purpose;

(ii) the level of accuracy, including its metrics, robustness and cybersecurity referred to in Article 15 against which the high-risk AI system has been tested and validated and which can be expected, and any known and foreseeable circumstances that may have an impact on that expected level of accuracy, robustness and cybersecurity;

(iii) any known or foreseeable circumstance, related to the use of the high-risk AI system in accordance with its intended purpose or under conditions of reasonably foreseeable misuse, which may lead to risks to the health and safety or fundamental rights referred to in Article 9(2);

(iv) where applicable, the technical capabilities and characteristics of the high-risk AI system to provide information that is relevant to explain its output;

…

(d) the human oversight measures referred to in Article 14, including

the technical measures put in place to facilitate the interpretation of the outputs of the high-risk AI systems by the deployers;

…

(f) where relevant, a description of the mechanisms included within the high-risk AI system that allows deployers to properly collect, store and interpret the logs in accordance with Article 12".

It is evident that such information is indicative of a high degree of complexity and technicality. In the event of its identification by law or, as might be the case in Italy, by collective bargaining as information to be provided to workers' representatives, the effectiveness of the information itself could be compromised. Consequently, the involvement of experts, in conjunction with targeted training for both representatives and workers, appears essential.

Article 4 of the AI Act[23] addresses this issue, albeit only in relation to workers, by requiring deployers to ensure an adequate level of AI literacy for personnel using AI systems. However, the regulation does not explicitly reference workers' representatives, seemingly delegating the acquisition of technical skills to external training initiatives.

3.2. *Data Protection Impact Assessment*

In the context of procedures to be initiated ex ante regarding the use of high-risk AI systems in the workplace – particularly those involving workers' representatives – Article 26(9) of the AI Act explicitly requires a data protection impact assessment. Specifically, this provision states that when the use of high-risk AI systems involves the processing of personal data, the deployer – and, therefore, the employer – is obligated to conduct a prior data protection impact assessment, as governed by Article 35 of Regulation (EU) 2016/679. This obligation arises due to the fact that the "nature, object, context, and purposes" of the data processing present a high risk to the rights and freedoms of natural persons[24].

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[23] Art. 4 of AI Act: "Providers and deployers of AI systems shall take measures to ensure, to their best extent, a sufficient level of AI literacy of their staff and other persons dealing with the operation and use of AI systems on their behalf, taking into account their technical knowledge, experience, education and training and the context the AI systems are to be used in, and considering the persons or groups of persons on whom the AI systems are to be used".

[24] See Article 29 Working Party, Guidelines on data protection impact assessment and

For the purpose of these analysis, this accountability mechanism opens up potential avenues for the involvement of workers and their representatives. Article 35(9) requires the data controller to collect the views of the data subjects (workers) or their representatives (trade unions) regarding the intended processing.

At first glance, Article 35 of the GDPR does not appear to grant binding force to the opinions of data subjects or their representatives. However, as clarified by the Article 29 Working Party (WP29), the data controller is always required to seek the opinion of data subjects, unless doing so would be inappropriate – for example, if it were disproportionate, impracticable, or would compromise the confidentiality of business plans. In such cases, the WP29 explains that the data controller must provide a justification for not seeking those views. Therefore, in the absence of such "exceptional" circumstances, the data controller must seek the views of data subjects and justify any deviation from those views in the final decision[25].

The concrete modalities of the impact assessment under analysis, in particular as regards the involvement of data subjects' representatives, show clear parallels with the consultation procedure for workers' representatives. These similarities are evident at key stages, such as the collection of opinions and the justification for any deviation from the decision taken in relation to the opinion expressed by the collective actors.

This similarity is even more pronounced in the Platform Work Directive, where Article 8 requires digital work platforms, as data controllers, to carry out a personal data impact assessment in accordance with Article 35 of the GDPR. In particular, Article 8 and Recital 43 of the Directive explicitly use the term "consultation" to describe the forms of involvement of workers and their representatives in this process[26].

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determination of whether processing 'is likely to present a high risk' for the purposes of Regulation (EU) 2016/679, 4 April 2017 (as last amended and adopted 4 October).

[25] Ivi, 17.

[26] Recital 43 of the Platform Work Directive: "Taking into account the effects that decisions taken by automated decision-making systems have on persons engaged in work through digital platforms and, in particular, on digital platform workers, this Directive lays down more specific rules concerning the consultation of persons engaged in work through digital platforms and their representatives in the context of data protection impact assessments".

4. *Fundamental Rights Impact Assessment for high-risk AI systems: a missed opportunity for the involvement of collective actors?*

To ensure the protection of fundamental rights, Article 27 of the AI Act introduces a procedure to be applied when a high-risk AI system is first deployed and updated whenever the assessed factors change. This procedure is defined as a "Fundamental rights impact assessment for high-risk AI systems". The main objective of this tool is to identify specific risks to fundamental rights arising from the use of such AI systems, the individuals or groups that may be affected, and the measures to be taken if such risks materialize.

As in the case of the data protection impact assessment, this procedure also includes a stakeholder involvement phase. Recital 96 specifies that stakeholders may include "representatives of groups of persons ... affected by the AI system". This involvement could take place during both the impact assessment process and the design of risk mitigation measures.

It can be observed that this impact assessment could have served as a valuable tool to enhance the involvement of workers' representatives. However, its applicability is limited to public law organizations, private law entities providing public services and deployers of high-risk AI systems in the context of "access to and enjoyment of essential private services and essential public services and benefits". Consequently, it excludes deployers of AI systems in the workplace[27].

This interpretive result remains unchanged even in the light of paragraph 4, which states that the fundamental rights impact assessment complements the data protection impact assessment if "one of the obligations [required for the former] is already met through the data protection impact assessment". Contrary to some academic interpretations, this provision does not appear to "merge" the fundamental rights impact assessment with the Article 35 impact assessment of the GDPR beyond the explicitly defined scope.

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[27] According to the Art. 27, "Prior to deploying a high-risk AI system referred to in Article 6(2), with the exception of high-risk AI systems intended to be used in the area listed in point 2 of Annex III, deployers that are bodies governed by public law, or are private entities providing public services, and deployers of high-risk AI systems referred to in points 5 (b) and (c) of Annex III, shall perform an assessment of the impact on fundamental rights that the use of such system may produce" as a consequence AI systems in matter of "Employment, workers' management and access to self-employment" do not fall within its scope.

The recitals themselves, such as recital 48, explicitly refer to the impact that AI systems could have on fundamental rights in the employment context. This suggests that the lawmakers deliberately chose to exclude the applicability of the fundamental rights impact assessment when AI systems are used for the purposes listed in Annex III, point 4 – unless the fulfilment of the DPIA obligations incidentally addresses aspects relevant to the fundamental rights impact assessment, even if guided by a different purpose[28].

5. *Surveillance and Human Oversight*

The final issue to consider in this first part of the analysis is the interplay between surveillance and human oversight of AI systems and the decisions they make or support. While human oversight is essential for preserving anthropocentrism, the involvement of collective actors in implementing these mechanisms is almost absent in the AI Act, whereas it is continuous and pervasive in the automated systems covered by the Platform Work Directive, extending to every phase of their use.

With regard to human oversight, both the regulation[29] and the directive ensure that high-risk AI systems and automated procedures are supervised by natural persons. Both instruments require that supervision be entrusted to individuals with the necessary authority, skills and training, and that they be empowered to detect and address anomalies, malfunctions and unexpected performance[30] and "not use the high-risk AI system or otherwise disregard, override or reverse the output"[31]. In a similar way, the directive permits the discontinuation of the use of automated monitoring system or the automated decision-making system[32].

However, while the AI Act does not appear to provide for the involvement of representatives of the affected persons in this context, the Platform Work Directive introduces an "assessment of the impact of in-

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[28] See contra ZAPPALÀ, *Sistemi di IA ad alto rischio e ruolo del sindacato alla prova del risk-based approach,* in *LLI*, 2024, 1, 10, I.66.

[29] Art. 14.

[30] Art. 14, point 4, lett. A) of the AI Act.

[31] Art. 14, point 4, lett. D) of the AI Act.

[32] Art. 10 of the Platform Work Directive.

dividual decisions taken or supported by automated decision-making or monitoring systems". This assessment is to be conducted at least every two years, thereby ensuring regular and ongoing oversight. It explicitly involves workers' representatives, who also receive the information gathered during the assessment process.

A divergence between the AI Act and the cited directive is evident in the configuration of the human review phase. It is important to note that it does not include a provision that would allow the affected person to request and obtain a full review of the decision made by the deployer based on the output produced by an AI system.

6.   *A few preliminary remarks on the case of Italy*

Just over a year after the AI Act came into force, Law No. 132/2025, entitled "Provisions and delegated powers to the Government on Artificial Intelligence," came into force in Italy, expressly dedicating Articles 11 and 12 to the subject of work.

In particular, Article 11, paragraph 2, resolves the reference to information by referring to the cited Article 1-bis of Legislative Decree No. 152 of May 26, 1997, without any reference to collective actors since it refers only to workers.

The Law on AI cannot be considered apart from the previous intervention of the European Delegation Law 2024, which delegates powers to the Government for the transposition of European directives, including Directive (EU) 2024/2831 on improving working conditions in work through digital platforms. In this case, Article 11 provides a list of certain guiding principles and criteria that the Government must follow when transposing the aforementioned Directive.

According to th letter f), these include a reference to "establishing the manner in which digital labour platforms inform persons who perform work through digital platforms, representatives of workers on digital platforms …".

In this sense, the law lends itself to a broad interpretation, as the request can be absorbed by the existing Article 1-bis mentioned above in the case of fully automated systems, as well as by the rights to information and consultation already regulated in Legislative Decree No. 25/2007. In the latter case,

there are two critical issues that could arise when the directive is actually transposed into our legal system.

The first concerns the scope of application, since, as noted, the directive confirms that its beneficiaries are limited to employees and their representatives; on the other hand, it does not refer to the minimum number of employees for companies, which is set at 50 employees by Legislative Decree No. 25/2007.

The second one concerns the actors entitled to these rights, namely workers' representatives. In fact, the organizational and structural characteristics of platform work hinder the establishment of "Rappresentanze sindacali aziendali" (RSA) and "rappresentanze sindacali unitarie" (RSU), thereby weakening the effectiveness of the legislative provisions, as they would lack a collective interlocutor through which dialogue could take place[33].

Finally, a critical issue could arise from the difficulty in this sector in concluding collective bargaining, which play a central role in defining information and consultation procedures[34].

This regulatory framework should then be integrated with the recently enacted law on rights of participation of workers[35]. As noted in the literature, this version of the law represents a weakened version of the proposed law, and this may also have an impact on (consultative) participation and the use of automated decision-making and monitoring systems. The reference to the latter as content of consultative participation was included in the proposal, while all references have been removed from the law[36].

7.   *The Digitalization of the Trade Union in the Workplace*

Turning to the second perspective outlined in paragraph 2, the hypothesis under consideration derives from the issue that the use of AI sys-

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[33] See also ALES, PALMIROTTA, PURIFICATO, SENATORI, *Country Report Italy*, in SUTTERER-KIPPING (ed.), *The EU Directive on platform work. Context, Commentary and Trajectories*, Nomos, forthcoming.

[34] DELFINO, *Lavoro mediante piattaforme digitali, dialogo sociale europeo e partecipazione sindacale*, in *Federalismi.it,* 2023, p. 174.

[35] Law 15 May 2025, no. 76.

[36] See, ALES, PURIFICATO, SENATORI, *Che ne è della partecipazione? Un primo commento (critico) alla l. n. 76 del 2025*, in *DLM*, 2025, 2.

tems generally amplifies the power imbalance in favour of employers. These sections explores whether – and how – the adoption of such technologies by collective actors could represent an opportunity to enhance their action in an explorative way. The potential outcomes of such empowerment could include a rebalancing of labour relations, a reduction in existing asymmetries, and a strengthening of the protection of workers' rights.

As highlighted in the literature, the rise of platform work initially exposed the limitations of traditional trade unions in reaching out to workers and addressing their needs with the rise of grassroots movements and the piloting of negotiating arrangements, including political solutions. This was primarily due to the unions' inability to communicate in innovative ways, to provide services and support in non-traditional formats, and to grasp the hybrid nature of platform work. However, this initial phase of crisis has been gradually overcome, partly through experimentation with innovative solutions, including the use of digital platforms and social networks[37].

The observations concerning platform work can also be seen in more traditional work contexts. The advent of information and communication technologies has precipitated a fundamental shift in the manner in which work is organized and performed, making workplaces increasingly "virtual" rather than strictly physical. This transformation extends the concept of the "productive unit" as the boundary for exercising trade union rights, with evident impacts on collective labor relations.

At the national level, the main trade unions have explored and implemented various solutions that use digital technologies – such as dedicated websites, applications and social networks – to maintain constant communication with members, provide support, define strategic priorities through

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[37]   See, among others, CRISTOFOLINI, *Digital Trade Unionism in the Making? Insights from the Italian Experience*, in this journal, 2024, 2, p. 395 ff.; MASSAGLI, *Intelligenza artificiale, relazioni di lavoro e contrattazione collettiva. Primi spunti per il dibattito*, in *LDE*, 2024, 3, p. 1 ff.; MONTEROSSI L., *Tecnologie digitali, nuovi modelli di organizzazione del lavoro e sfide per il sindacato*, in *federalismi. it*, Focus, Lavoro, Persona, Tecnologia, 9 agosto 2023, p. 237 ff.; ALES, *The impact of Automation and Robotics on Collective Labour Relations: Meeting an Unprecedented Challenge*, in GYULAVARI, MENEGATTI, *Decent Work in the Digital Age. European and Comparative Perspective*, 2022, Bloomsbury Publishing, p. 39 ff.; GARGIULO, SARACINI, *Riflettendo su parti sociali e innovazione tecnologica: contenuti, ratio e metodo*, in GARGIULO, SARACINI (eds.), *Parti sociali e innovazione tecnologica*, QDLM, 2023, p. 9 ff.; CARNEIRO, COSTA, *Digital unionism as a renewal strategy? Social media use by trade union confederations*, in *JIR*, 2020, 64, 1, p. 26 ff.; MAGNANI, *Nuove tecnologie e diritti sindacali*, in *LLI*, 2019, 5; MARAZZA, *Social, relazioni industriali e (nuovi percorsi di) formazione della volontà collettiva*, in *RIDL*, 2019, 1, p. 57 ff.

participatory processes and provide information on working conditions and the content of collective agreements[38].

This evolution of trade union action, in their "2.0 version", raises the question of whether such activities fall within the scope of existing legislation, in particular the provisions of the Workers' Statute. On this point, both lower and higher courts have repeatedly ruled, essentially affirming that the exercise of trade union activity through digital technologies is compatible with the framework established by Law No. 300/1970.

The Italian Supreme Court (judgment no. 35643 of 22 December 2002[39]) ruled on a case of "electronic leafleting" by company representatives using company e-mail. The Court determined that "the evolution of communication methods that has progressively established itself in recent decades, even within company communities, leads to the conclusion that email is included in the notion of spaces designated for trade union communications".

The Court further stated that "the evolution of telematic communication methods and the greater effectiveness achieved through reaching individual workers via their personal email inboxes should be considered a necessary update of the mode of communication, aimed at ensuring the real effectiveness of trade union activity", while still respecting Article 26 of the Workers' Statute – namely, "without prejudice to the normal conduct of company business" and provided that the employer is required, pursuant to Article 25 of the same law, to provide appropriate spaces in places accessible to all workers within the production unit.

This judicial approach provides an evolutionary interpretation of existing legislation, which extends the concept of trade union "space". References to innovative ways of exercising certain trade union prerogatives are also beginning to emerge in the collective bargaining process. A notable example is the recent Lamborghini integrative and participation agreement for the years 2023-2026, which introduces the "digitalization of the union

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[38]   Regarding proselytism and the use of company email, and online collective bargaining, see ANIBALLI, *Diritti e libertà sindacali nell'ecosistema digitale*, Edizioni Scientifiche Italiane, 2022.

[39]   See TAMPIERI, *È antisindacale il divieto assoluto di volantinaggio "elettronico" tramite la e-mail aziendale*, in *Il lavoro nella giurisprudenza*, 2023, p. 824 ff.; ANIBALLI, *Digitalizzazione dell'attività di proselitismo e delle comunicazioni sindacali: opportunità e limiti nella cornice statutaria*, in *Giustizia Civile*, 2022, 1, p. 235 ff.; Other rulings on the topic: Cass. civ. sez. lav., 13/09/2024, no. 24595; Cass. civ. sez. lav., 17/03/2023, no. 7799; Cass. civ. sez. lav., 05/12/2022, no. 35644.

notice board" (Article 2.6). This agreement entails the migration of the trade union notice board to the company intranet, accompanied by the establishment of a digital communication channel accessible via a dedicated application installed on workers' mobile devices. This configuration ensures that not only trade union communications, but also internal company information and human resources systems, are accessible to workers in a timely manner.

8. *From Digital Tools to AI-Powered Advocacy: Exploring Trade Unions' Evolving Technological Landscape*

In the cases previously described, the technologies used by trade unions can be defined as 2.0, as they are based on basic information technologies that do not include AI. According to the definition provided by the AI Act, AI is characterized by its ability to infer patterns and learn from data.

From this perspective, it is possible to see how AI can be used by collective actors for different purposes, which can broadly be referred to as negotiation in the strict sense, preparatory activities for the negotiation phase, which may include "access to big data and company statistical series to better refine bargaining strategies and calibrate them to the actual state of companies"[40], as well as, finally, administrative, support, and consulting services[41].

Regarding the first possible development of the use of AI by collective actors, i.e., as an agent of agency, no practices have been identified at the time of writing[42]. However, concerns have been raised about the compatibility of the nature and function of collective bargaining with the use of AI as a negotiating agent, in terms of voice, legitimacy of consent and relational aspects, as well as the conflict and/or consultation that surround negotiations[43]. Moreover, an anthropocentric approach to the use of Artificial Intel-

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[40] Caruso, *Il sindacato tra funzioni e valori nella "grande trasformazione". L'innovazione sociale in sei tappe*, in *WP C.S.D.L.E. "Massimo D'Antona"*, 394/2019 p. 89.

[41] Zoppoli L., *Il diritto del lavoro dopo l'avvento dell'intelligenza artificiale,* in *DLM*, 2024, 3, p. 417.

[42] OECD, *Shaping Transitions to Decent Work: Social Dialogue for a Better Future*, OECD Publishing, 2024.

[43] Adamczyk, Surdykowska, *Delegating the Undelegable? Agent-Based AI and the Limits of Artificial Collective Bargainers*, in Palmirotta, Purificato, Senatori (eds.), *AI and Employment:*

ligence, such as that adopted at European level, would conflict with the total delegation of the negotiating process to the technology itself.

On the second aspect, there are, however, examples from some large American companies where AI has been used as a tool to prepare for the negotiations that are ultimately conducted by humans. In this sense, it has been observed that the empirical results that AI provides to the parties can potentially limit freedom and democracy, since the data itself can be understood as objective and as the best solution and, consequently, influence the final choices. In a similar way, the capacity of automated systems to process available information quickly, providing an automatic interpretation of preferences, with a consequent reduction in the contradictory nature of the process, can be accepted by the parties in exchange for the efficiency with which possible solutions are processed[44].

Furthermore, regarding the adoption of AI-powered technologies to enhance communication with their members and carry out specific activities, it is interesting to note that the experimental use of AI systems, in particular chatbots, has been observed in other countries by both traditional trade unions and informal worker coalitions[45]. In these contexts, the deployment of chatbots was not limited to the provision of services[46], but rather involved a reconfiguration to embody an organizational ethos. This strategic use of AI has been demonstrated to contribute to increasing the resources and capabilities of unions, thereby providing a compelling case study on the strategic leveraging of AI to support collective action.

One pertinent example is chatbots, which use natural language processing (NLP) or machine learning (ML) technologies to process data and provide different types of responses. A distinction can be made between "declarative" chatbots, which are designed to perform a single function (e.g. providing assistance or services), and "predictive" chatbots, which act as virtual assistants capable of learning and adapting to users' needs.

Governance, Rights, and Organisational Change, in *Bulletin of Comparative Labour Relations*, forthcoming.

[44] *Ibid*.

[45] FLANAGAN, WALKER, *How can unions use Artificial Intelligence to build power? The use of AI chatbots for labour organising in the US and Australia*, in *New Technology, Work and Employment*, 2021, 36, pp. 159-176.

[46] Some chatbots developed in Italy by trade unions provide more basic assistance services to their members. Examples include Uilli, a technology developed by Uil, and DigitaCGIL, a digital platform created by CGIL.

In the cases analyzed, the chatbots used by collective actors were not merely declarative tools. Unions were actively involved in the back-end design phase, collaborating with IT engineers to shape the information provided and define the approach to workers' queries. This collaborative process ensured that the chatbot's responses were aligned with the union's objectives and workers' expectations.

The distinguishing characteristic of these experimental chatbots is that they function as more than mere repositories of pre-set answers. Instead, they are designed to initiate conversations with workers, allowing unions to gather insights into workers' needs and offer tailored assistance. In this way, the chatbots effectively become an infrastructural resource for collective actors.

This experimentation has highlighted both the benefits and challenges of using such technologies. On the one hand, chatbots have strengthened the participation of marginalized members, fostered more interactive engagement across the membership base, enhanced the unions' ability to map workplaces, and facilitated the early detection of sensitive situations (e.g., workplace harassment). Furthermore, the use of chatbots contributed to fostering collective cohesion and reinforcing the democratic nature of union processes. On the other hand, technological malfunctions or limitations could cause frustration and a sense of "abandonment" among workers, producing the opposite effect of what unions aim to achieve. Similarly, the transformation of interactions – with human-to-human exchanges being replaced or filtered through a digital tool – could potentially alienate workers if not carefully managed.

However, chatbots would not be the only way AI could be integrated into trade union activities.

Workers' organizations could leverage AI to analyze and process the vast amounts of data they collect, using these insights to foster internal reflection on their strategies – identifying which initiatives to launch, which issues to prioritize, and which groups of workers to engage with more effectively. Example could be the use of constantly updated databases to catalog good practices and suggest possible solutions during negotiations, or the collection of workers' needs through dedicated forums, could be enhanced by AI. The AI could process this information to draft proposals, which workers' representatives could then assess and refine for negotiation purposes.

Even the European Trade Union Confederation (ETUC), in its tool-box for navigating the digital revolution, acknowledges the potential of digital tools to strengthen union action. In point 5, addressing the challenge of "attracting and retaining members", ETUC highlights the use of digital solutions. Point 2 emphasizes the importance of data-driven decision-making, enabled by innovative database management. Finally, point 3 more broadly stresses the need for trade unions to find ways to "keep pace with technological progress".

The use of AI systems by trade unions raises important questions regarding their regulation, particularly in relation to the application of the AI Act.

At the European level, AI systems like chatbots or tools for collecting and processing workers' data for predictive purposes do not appear to qualify as "high-risk" systems under the AI Act. These technologies would not seem to fall within the list of systems outlined in Annex III, nor would they meet the criteria set out in Article 6(1).

Depending on their specific functionalities, such systems could instead be classified as general-purpose AI. In any case, Article 50 of the regulation would likely apply, as it requires that providers of "AI systems intended to interact directly with natural persons" must ensure those individuals are informed that they are engaging with an AI system. Furthermore, the provisions of the General Data Protection Regulation (Regulation (EU) 2016/679) would remain applicable, particularly regarding the handling of personal data.

9. *Final remarks*

The implementation of AI systems in the workplace could amplify the existing power imbalance between the parties in the employment relationship, intensifying the employer's control, decision-making, and disciplinary powers. To safeguard workers' fundamental rights in these evolving contexts, the European lawmaker has introduced provisions that involve workers' representatives as stakeholders. This participation occurs through "weak" forms of information and consultation (I&C) and the broader right to receive information, aiming to promote greater transparency.

However, this fragile balance could be partially restored by strengthening trade unions – a process that may be supported by the strategic adoption

of AI systems, both in their interactions with workers and within the union's internal organization, as well as through the strengthening of collective bargaining. The synergistic use of such technology could positively influence union representativeness, reducing the emergence and consolidation of alternative forms of self-organization and, in turn, potentially increasing union density.

For these theoretical considerations to translate into practical outcomes, it is crucial to overcome cultural resistance within trade unions. Embracing this evolution of the representative paradigm would require unions to proactively adopt AI tools and promote training campaigns, fostering genuine engagement and equipping their members to navigate this technological shift.

Abstract

The paper analyzes the relationship between artificial intelligence systems and collective actors from two perspectives: on the one hand, the impact of AI on relations between different actors; on the other, the potential of technology as a tool for strengthening trade union action. The first part examines the forms of intervention recognized for workers' representatives under the new AI Act, with a particular focus on information obligations, impact assessments, and human oversight and supervision mechanisms. The second part explores how trade unions are getting their activities digital, including trying out AI-based tools like advanced chatbots and predictive systems to help with organizing and bargaining. A trustworthy and safe use of AI systems by collective actors could serve to rebalance information and power imbalances, strengthening their ability to represent workers in new forms of digital work.

Keywords