Platform work, algorithmic management and data protection: what is the role of trade unions?

By Diletta Porcheddu

Tag: *#algorithmicmanagement #dataprotection #platformwork #tradeunions*

On June 14, 2022, the conference **"Work ahead: labor in the platform economy"** was held in Brussels. The event was organized by the **Foundation for European Progressive Studies (FEPS)** in collaboration with the **Friedrich-Ebert Stiftung's Competence Center Future of work** and the support of the **European Trade Union Confederation (ETUC).**

The event was aimed at exploring the dynamics that led to the European Commission's Proposal of a Regulation on the harmonization of European Union rules on artificial intelligence and a Proposal for a Directive aimed at improving the working conditions of so-called "platform workers".

More importantly, the organizers' intent was to **provide the point of view of "progressive" European scholars on the text of both acts**, currently in the midst of the Union's legislative process. In fact, the event's agenda consisted of two parts, one dedicated to **interventions by academic speakers** and the other to **several round tables into which event participants were divided in order to create "working groups."** These groups were asked to **promote policy indications with regard to the Commission's proposals,** to be presented in the final part of the event to Brando Benifei, a member of the European Parliament (PD, S&D Group) and of the EP Commission in charge of the matter.

During the first part of the conference, Professor **Vili Lehdonvirta** (Oxford Internet Institute) pointed out **that digital platforms often fill gaps in national legal systems**, **acting as "legislators" in the context of the working relationships which see them involved.** However, their "digital government" does not take the form of a democracy, since workers do not participate in the definition of its laws. Rather, it is an autocracy, or a "Cloud Empire" given the frequent **lack of accountability of the platform operators** towards national legal systems. The issue concerning the regulation of digital platforms activities was also highlighted by **Oliver Philipp and Inga Sabanova** (FES Competence Center on the future of work) who presented a mapping **of the platform economy carried out during 2021.** The research findings showed how, within European Member States, **neither a common definition of "platform work", nor national registers of active platforms within the country exist:** this makes **the regulation and enforcement of standards regarding the working conditions of platform workers extremely complex**.

The roundtables scheduled during the conference covered topics such **as the role of gender and migration in the context of digital work**, legal and nonlegal obligations that should necessarily be imposed on platform operators, and **ways to strengthen collective protections in a context of progressive digitization of labor relations.**

The last roundtable, "**Slave to the algorithm? Strategies to empower labor relations in the digital workplace**" was chaired by **Jeremias Adams-Prassl** (University of Oxford) and **Joanna Bronowicka** (European University of Viadrina). In general, the participants **expressed satisfaction with the "collective protections" provided by the directive on platform work** (on this subject, see D. Porcheddu, Proposal for a directive on platform work: algorithmic management and collective

protection, ADAPT Bulletin February 28, 2022) although it was made clear **how adequate protection in this regard should be provided to all workers who suffer the impact of algorithmic management on their employment relationship**: therefore, a **broadening of the scope of the directive was suggested.**

The moderators' inputs also focused on ways to promote the "**human-in-command approach" to algorithmic management,** which is deemed as necessary by the European Economic and Social Committee (EESC): according to the participants, these may include **the use of the relevant provisions of the GDPR (e.g., Art. 22 para. 3, Art. 80 para. 2),** but also collaboration among **trade unions, technical experts in the field, labor inspectorates and national authorities dealing with data protection**.

The importance of **promoting a participatory approach** to the introduction of algorithmic management and people analytics systems within workplaces was also stressed, particularly with regard to the potential effects that **the massive and systematic processing of workers' personal data could have on their labor relations and working conditions.**

Union involvement in the management of such issues appears, therefore, to be crucial: however, relevant literature has shown that, even in countries where trade unions possesses effective co-determination rights regarding the use of technological devices and software in monitoring workers' behavior and performance (such as Germany), **the approach of collective bargaining still tends to be "defensive"** - thus aimed at limiting as much as possible the use of workers' data for employment-related purposes - **rather than participatory** (see, I. Armaroli, E. Dagnino, A seat at the table: negotiating data processing in the workplace. A national case study and comparative insights, Comparative Labour Law and Policy Journal, 2019, Vol. 41, No. 1).

In order to foster a radical change in trade unions' approach to issues related to digitization and new methods of data processing, **unionists' training** acquires significant importance: however, the difficulty of involving a wide audience in training projects related to issues that still appear "far away" from the everyday life of many, but also the limited economic resources available to some unions make this kind of initiatives particularly rare.

Regarding ADAPT's contribution in this area, between 2022 and 2024 it will be involved, as a research partner, in a **project co-funded by the European Union, called GDPiR - Managing Data Processing in the workplace through industrial relations,** coordinated by Italian metalworking trade union Fim-CISL. The project will involve a partnership composed of **trade unions, universities and research centers** operating in Turkey, Slovakia, Belgium, Germany and the Netherlands, which will collaborate in order to create **special training paths, mainly aimed at trade unionists, related to the consequences on the processing of workers' personal data as a result of innovation and digitization of production processes within the manufacturing sector** from the advent of Industry 4.0. onward.

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