Chiara Cristofolini
Digital Trade Unionism in the Making?
Insights from the Italian Experience[*]

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1. *Introduction: workers' representation in the digital era*

Digitalisation stands as one of the main drivers of work environment transformation[1]. With the increasing adoption of innovative technologies, enterprises are reshaping conventional business approaches and traditional employment structures. On the one hand, companies are relying more on

[1] TULLINI, *La digitalizzazione del lavoro, la produzione intelligente e il controllo tecnologico nell'impresa*, in TULLINI (eds.), *Web e lavoro: profili evolutivi e di tutela*, Giappichelli, 2017, p. 3 ff.; VALENDUC, VENDRAMIN, *Digitalisation, between disruption and evolution*, in *Transfer*, 2017, 23, 2, p. 121 ff.; TEBANO, *Lavoro, potere direttivo e trasformazioni organizzative*, Editoriale Scientifica, 2020; NOVELLA, *Impresa*, in NOVELLA, TULLINI (eds.), *Lavoro digitale*, Giappichelli, 2022, p. 5 ff.; EUROFOUND, *Digitisation in the workplace, Luxembourg:* Publications Office of the European Union, 2021; DELFINO, *Artificial Intelligence, Robotics and Fundamental Rights*, in *ILLeJ*, 2023, 16, 2, p. 35 ff.

flexible and precarious forms of employment[2]. On the other, there is a heightened demand for diverse work arrangements, such as remote and ICT-based mobile work. Initially seen as an exception in the workplace, remote work has surged in prominence, especially following the unprecedented global changes generated by the Covid-19 pandemic[3].

One common thread running through all such developments is the gradual disappearance of the workplace as a physical space. The massive introduction of information and communication technologies has given factories and offices a radically different shape as compared to the past. An increased number of workers – be they standard or non-standard – perform their activities in virtual offices or using hybrid modes (*e.g.*, working from home a few days a week). They work on-demand via apps (*e.g.*, riders and Uber workers), or are geographically dispersed in different locations (*e.g.*, posted workers). As a result, the shape, pace, and space of workers' daily routines are changing: in a growing number of cases, the presence of employees in offices or factories is no longer a categorical imperative.

Such workplace transformation poses significant challenges to workers' representation models[4]. Traditionally, trade unions strongly relied on in-per-

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[2] Such as gig work and platform work. *See* ALOISI, *Platform work in Europe: Lessons learned, legal developments and challenges ahead*, in *ELLJ,* 2022, 13, 1, p. 4 ff.; ROSIN, *Platform work and fixed-term employment regulation*, in *ELLJ* 2021, 12, 2, p. 156 ff.; GUMBRELL-MCCORMICK, *European Trade Unions and "Atypical" Workers*, in *IRJ,* 2011, 3, p. 293 ff.; DELFINO, *Lavoro mediante piattaforme digitali, dialogo sociale europeo e partecipazione sindacale*, in *federalism.it*, 2023, 25, p. 171 ff.

[3] *See* the various contributions on remote work contained in SANTAGATA DE CASTRO, MONDA (eds.), *Il lavoro a distanza: una prospettiva interna e comparata*, QDLM, 2022, 13; SENATORI, SPINELLI, *(Re-)Regulating Remote Work in the Post-pandemic scenario: Lessons from the Italian experience*, in *ILLeJ*, 2021, 14, 1, p. 209 ff.; MESSENGER, *Some reflections on the experience of telework during the Covid-19 pandemic: a paradigm shift and its implications for the world of work*, in COUNTOURIS, DE STEFANO, PIASNA, RAINONE (eds.), *The future of remote work*, Brussels: ETUI aisbl, 2023, p. 19 ff.

[4] 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.; D'AVINO, *Workers' representation and union rights in the fourth industrial revolution: the Spanish case*, in this journal, 2022, 2, p. 45 ff.; NISSIM, SIMON, *The future of labor unions in the age of automation and the dawn of AI*, in *Technol. Soc.*, 2021, 67, 101732. BORELLI ET AL., *Lavoro e tecnologie. Dizionario che cambia, "Digital Workplace"*, Giappichelli, 2022, p. 81; DONINI, *Il luogo per l'esercizio dei diritti sindacali: l'unità produttiva nell'impresa frammentata*, in *LLI*, 2019, 5, 2, p. 98 ff.; MONDA, *Lo Statuto alla prova di "Industria 4.0.": brevi riflessioni sulla c.d. disintermediazione sindacale*, in RUSCIANO, GAETA, ZOPPOLI L. (eds.), *Mezzo secolo dallo Statuto dei lavoratori*, QDLM, 2020, p. 345 ff.

son interactions: union representatives would meet employees at the factory entrance or in production facilities and offices to directly discuss employment issues and present membership applications. The increased physical distance hinders conventional methods, making it more difficult for trade unions to engage and connect with workers.

These issues have led to a flourishing debate on the impact of digitalisation on collective labour relations, highlighting the need for trade unions to adapt their practices to the new environment[5]. Within this framework, scholars have recently begun investigating the role played by digitally driven strategies in overcoming the impact of physical distance[6]. Technology and digital devices are considered appropriate tools to strengthen the representative function of trade unions, especially in supporting the engagement of non-standard, hybrid and digital workers.

Building on this literature, the paper aims to contribute to the emerging debate on trade union renewal strategies, investigating the case of Italian trade unions. I start by highlighting the characteristics that make CGIL (Italian General Confederation of Labour), CISL (Italian Confederation of Trade Unions) and UIL (Italian Labour Union) theoretically well-suited for examining the digitally driven strategies and responses adopted to cope with the blending of physical and digital workspaces (§. 2). Then, I discuss the ability of such unions to act in the digital space. Firstly, I show the impact of

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[5] Literature investigates the impact on the traditional industrial relations system (*see* BACCARO, HOWELL, *Trajectories of Neoliberal Transformation: European Industrial Relations since the 1970s*, CUP, 2017) and the challenges to the trade unions' power of representation (VANDAELE, *Will Trade Unions Survive in the Platform Economy? Emerging Patterns of Platform Workers' Collective Voice and Representation in Europe*, ETUI Working Paper, 2018; RECCHIA, *The collective representation of platform workers: struggles, achievements and opportunities*, in LO FARO (ed.), *New Technology and Labour Law. Selected topics*, Giappichelli, 2023, p. 153 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.).

[6] PANAGIOTOPOULOS, BARNETT, *Social Media in Union Communications: An International Study with UNI Global Union Affiliates,* in *BJIR,* 2014, 53, 3, p. 508 ff.; ETUC, *Digitalisation and workers participation: What trade unions, company level workers and online platform workers in Europe think*, 2018, available at: https://www.etuc.org/sites/default/files/publication/file/2018-09/Voss%20Report%20EN2.pdf; GEELAN, *The internet, social media and trade union revitalization: Still behind the digital curve or catching up?*, in *NTWE*, 2021, 36, 124 ff.; CARNEIRO, COSTA, *Digital unionism as a renewal strategy? Social media use by trade union confederations*, in *JIR*, 2020, 64, 1, p. 26 ff.; FORD, SINPENG, *Digital activism as a pathway to trade union revitalization*, in *IJLR*, 2022, 1-2, p. 48 ff.

digitalisation on the exercise of trade union rights in the workplace and the role played by collective bargaining in introducing digital union rights (§§ 3-4). Secondly, I discuss the use of digital communication tools to shape workers' collective will and collective interest (§ 5). Lastly, I draw some conclusions on the state and shape of the current union representation model (§ 6).

2. *Digitalisation for trade unions renewal: challenges and opportunities*

From the trade unions' perspective, digitalisation can be depicted as a two-faced Janus, generating both challenges and opportunities.

On the one hand, technology fosters fragmentation and disintermediation. Social media and digital devices promote direct relationships among employees, companies and consumers, providing immediate access to information as well as virtual platforms for communication. These developments empower individual workers but reduce their interest in intermediation and representation[7].

The most recent developments suggest that the problem of disintermediation is now coupled with that of digital disruptors. According to a TUC report, in the last few years there has been an explosion in "new non-traditional actors providing ways for workers to access support and advice at work, or to come together to campaign or self-organise"[8]. Some of these so-called digital disruptors are still in the start-up stage, but others are already engaging hundreds of thousands of workers. Such developments suggest that

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[7] *See* NEGROPONTE, *Being Digital*, Alfred A. Knopf, 1995; SAUNDRY, STUART, ANTCLIFF, *Broadcasting discontent - Freelancers, trade unions and the internet*, in *NTWE*, 2007, 22, 2, p. 178 ff.; WELLMAN, *Physical Place and Cyberplace: The Rise of Personalized Networking*, in *IJURR*, 2001, 25, 2, p. 227 ff.; KERR, WADDINGTON, *E-communications: An aspect of union renewal or merely doing things electronically?*, in *BJIR*, 52, 4, 2014, p. 658 ff.; CALVELLINI, *Nuove tecnologie e partecipazione diretta dei lavoratori: problemi e prospettive*, in GARGIULO, SARACINI, *cit.*, pp. 17-23. On the issue of disintermediation see also the detailed analysis by CARUSO, *La rappresentanza delle organizzazioni di interessi tra disintermediazione e re-intermediazione*, in *WP C.S.D.L.E. "Massimo D'Antona".IT -326/2017*.

[8] TUC DIGITAL LAB, *Unions and digital disruption*, February 2021, pp. 4-5. As a result, the TUC called on trade unions to engage with digital innovation, drawing on lessons from the ways these so-called digital disruptors operate.

intermediation might not disappear in the digital age, but trade unions may no longer be the (only) actors representing the interests of workers.

However, the literature suggests that digitalisation can also be a harbinger of opportunities. Scholars emphasise that information and communication technologies (ICTs) could play a significant role in enhancing trade union functions: providing innovative devices to support and organise collective actions, promoting collective bargaining, developing new trade union services, and creating national and international cooperation networkers with relevant stakeholders to promote workers' rights[9].

Digital union tools have become more relevant by virtue of the diversity and fragmentation of workplaces. Technology allows to overcome the physical barriers to communication, and it may be used to engage the growing number of workers situated in virtual environments or dispersed across different locations[10].

Globally, trade unions are starting to explore the opportunities of technological developments as part of their renewal strategies. In the UK, for instance, trade unions are using technology such as apps and interactive platforms to address the challenges posed by the "digital disruptors"[11]. In 2019, the Trade Union Congress (TUC) established a dedicated Digital Lab to create strategic principles for unions navigating digital transformation and to identify best practices.

The Italian trade union system presents interesting features for furthering the discussion on the opportunities and challenges of digitally driven strategies to defend the interests of workers and cope with the blurring of physical workplaces.

Firstly, Italian trade unions are considered to be comparatively strong

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[9] SAUNDRY, STUART, ANTCLIFF, *cit.*, p. 179; SHOSTAK, *CyberUnion: Empowering Labour through Computer Technology*, M. E. Sharpe, 1999; WARD, LUSOLI, *Dinosaurs in Cyberspace?: British Trade Unions and the Internet*, in *Eur. J. Commun.*, 2003, 18, 2, p. 147 ff.; DIAMOND, FREEMAN, *Will unionism prosper in cyber-space? The promise of the internet for employee organization*, in *BJIR*, 2002, p. 569 ff.

[10] FORD, SINPENG, *cit.*, p. 48 ff.; CABEZA, *Representation, Trade Union Activity and Technologies*, in *Onati Socio-Leg. Ser*, 2019, 9, 1, p. 96 ff.

[11] TUC DIGITAL LAB, *cit.*; SIMMS, HOLGATE, ROPER, *The Trades Union Congress 150 years on*, in *Empl. Relat*, 2019, 41, 2, p. 331 ff. On the Spanish case, *see* D'AVINO, *cit.*, pp. 47-48; on the Australian case, *see* FORSYTH, *The future of Unions and worker representation. The digital picket line*, Hart Publishing, 2022, pp. 96-97.

in terms of collective bargaining coverage and union density rate. According to the ICTWSS database, collective bargaining has almost 100% coverage, and trade union density amounts to 32.5%. Although the latest empirical studies question the official density figure – pointing to an overestimation by around ten percentage points[12] – the overall positive data make the Italian case an experience from which valuable lessons can be drawn.

At the same time, the three most representative trade unions, CGIL, CISL and UIL, are operating in an increasingly challenging environment. Since the 1990s, their representative power has been eroded by the growth of grassroots unionism, such as COBAS and USB[13]. Moreover, looking closely at the trade union membership figures, it emerges that the membership is increasingly composed of pensioners. In CGIL, pensioners have been the major category since 1993; in CISL, the number of pensioners exceeded that of employed people for the first time in 1998[14].

The competitive landscape and the high rate of pensioners determine distinct challenges for the historically most representative Italian trade unions. Indeed, this scenario can drive CGIL, CISL and UIL in two opposite directions: it could trap them in the here-and-now, given the lower digital skills of older people, or it could act as a trigger for innovation, showing the need to expand the membership. As the impact of digital transformation on the workforce continues to grow[15], it is reasonable to conclude that prospective

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[12] BATUT, LOJKINE, SANTINI, *"Which side are you on?" A historical study of union membership composition in seven Western countries*, in *IR*, 2023, 63(2), p. 12 ff.

[13] On such independent, rank-and-file organisations, *see* ARMENI, *Gli extraconfederali. Cobas e autonomi: chi sono, cosa pensano, cosa vogliono*, Roma: Lavoro, 1988.

[14] CARRIERI, FELTRIN, *Al bivio. Lavoro, sindacato e rappresentanza nell'Italia d'oggi*, Interventi Donzelli, 2016, pp. 32-34.

[15] Firstly, 56% of workers now use at least one of the typical tools of advanced technologies, such as automated machinery and information-sharing computer systems (*see* CANAL, GOSETTI, LUPPI, *Qualità del lavoro e digitalizzazione. Riflessioni aperte sul caso italiano*, in *SINAPPSI*, 2024, 2, pp. 74-75). Moreover, 1.5% of the population aged between 15 and 64 work through digital platforms, standing halfway at the European average, which amounts to 3% (see ISTAT, *Il lavoro tramite piattaforma digitale: differenze per età, genere e titolo di studio*, 2022, 21st February 2024). Lastly, the number of agile workers and smart workers has exponentially increased compared to the pre-Covid period, with almost all large companies (96%) introducing forms of remote working (such data are discussed by the Observatory on Smart Working of the School of Management of the Polytechnic University of Milan, and are available at the website: https://www.osservatori.net/it/ricerche/comunicati-stampa/smart-working-italia-numeri-trend).

members are also experiencing significant effects due to digitalisation. This trend underscores the necessity for the implementation of digital renewal strategies.

All these features make the Italian case particularly compelling. While the data show that the three most representative trade unions have successfully organised and represented workers in factories in the past, the new context indicates that many challenges are still ahead.

3. *Workplace representation from a digital perspective*

The Italian Constitution expressly protects freedom of association and the right to organise. Article 39(1) states that "Trade unions may be freely established", thereby safeguarding both the individual and the collective dimensions in a complementary and mutually reinforcing manner[16]. The constitutional protection is further strengthened by the 1970 Workers' Statute (Law No. 300 of 20th May 1970), which affirms the right of all workers to form and belong to trade unions and to engage in union activities within the workplace (Article 14).

The Workers' Statute introduced a system for representing workers at the company level through the so-called "*rappresentanze sindacali aziendali*" (company trade union representatives, RSAs). According to Article 19, RSAs can be established in a production unit at the initiative of employees who are represented by the trade unions that have stipulated the collective agreements applicable in that unit or that have participated in the collective bargaining process[17].

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[16] Without claiming to be exhaustive, *see* the pivotal works of GIUGNI, *Art. 39*, in BRANCA (ed), *Commentario della Costituzione*, I, Zanichelli-Il Foro, p. 257 ff.; RUSCIANO, *Lettura e rilettura dell'art. 39 della Costituzione*, in *DLM*, 2013, 2, p. 263 ff.; NAPOLI, *Il sindacato*, Vita e Pensiero; NOGLER, *Dal «principio lavorista» al diritto costituzionale sull'attività umana: primo abbozzo*, in DELLA MORTE, DE MARTINO, RONCHETTI (eds.) *L'attualità dei principi fondamentali della Costituzione dopo settant'anni*, il Mulino, 2020, p. 190.

[17] Following a referendum, Article 19 was initially amended by Presidential Decree 28th July 1995, n. 312 (ALLEVA, *Quesiti referendari e proposte di innovazione legislativa*, in *RGL*, 1994, 1, p. 537 ff.). Moreover, in 2013, the Constitutional Court (Const. Court., 23rd July 2013, No. 231) declared the constitutional illegitimacy of such article insofar as it does not provide that workplace representation may also be constituted by trade unions which, although not signatories to the collective agreements applied in the production unit have nevertheless participated in

This system has since been enriched by the introduction of "*rappresentanze sindacali unitarie*" (unitary workplace union structure, RSUs), following the inter-confederal agreement of 23rd July 1993, between Confindustria and CGIL, CISL, UIL. RSUs are elected by all employees, regardless of their union affiliation, and are formally independent from trade unions. The single channel of representation at the company level – *id est*, the RSU – has been further refined by the inter-sectoral agreement on representation between Confindustria and CGIL, CISL and UIL of 14th January 2014. This agreement marked a shift to a more pluralistic approach that aimed at loosening the grip of the three main union confederations over company-level representation, especially through RSAs[18]. Nonetheless, CGIL, CISL, and UIL still play an influential role within RSUs, because workers' representatives are often elected from candidates of trade union lists[19].

Therefore, both RSAs and RSUs are essential parts of the Italian trade union model of workplace representation.

The Worker's Statute confers upon these bodies a broad spectrum of rights, including the right to conduct unlimited meetings outside of regular hours and to hold paid assemblies during working hours (subject to the limits outlined in Article 20 of the Statute or the relevant collective agreement). Furthermore, these bodies are entitled to organise on-site referendums (Article 21, Workers' Statute), to use the union notice boards (Article 25, Workers' Statute), and to recruit members in the workplace (Article 26, Workers' Statute).

These provisions have been instrumental in enabling union representa-

the negotiations relating to the same agreements. Among the many contributions on the subject, *see* the analysis of Carinci F., *Il buio oltre la siepe: Corte costituzionale 23 luglio 2013, n. 231*, in *DRI*, 2013, 4, p. 899 ff.; Pessi R., *Rappresentanza e rappresentatività sindacale tra contrattazione collettiva e giurisprudenza costituzionale*, in *DRI*, 2013, 4, p. 950 ff.; Caruso B., *La Corte costituzionale tra don Abbondio e il passero solitario: il sistema di rappresentanza dopo la sentenza n. 213/13,* in *RIDL*, 2013, 4, p. 900 ff.; Del Punta R., *L'art. 19 Statuto dei lavoratori davanti alla Consulta: una pronuncia condivisibile ma interlocutoria*, in *LD*, 2013, 4, p. 527 ff.; Liso F., Magnani M., Salomone R., *Opinioni sul nuovo art. 19 dello Statuto dei lavoratori*, in *DLRI*, 2014, 1, p. 105 ff. *See*, also, Zoppoli A., *Art. 19 dello Statuto dei lavoratori, democrazia sindacale e realismo della Consulta nella sentenza n. 213/2013*, in Zoppoli L., Zoppoli A., Delfino (eds.), *Una nuova costituzione per il Sistema di relazioni sindacali?*, Editoriale Scientifica, 2014, p. 415 ff.

[18] The innovations are discussed at length by Zoppoli L. *Le nuove rappresentanze sindacali unitarie e il gattopardo democratico*, in *RIDL*, 2014, 3, p. 65 ff.

[19] Damiani, Pompei, Ricci, *Opting Out, Collective Contracts and Labour Flexibility: Firm-Level Evidence for the Italian Case*, in *BJIR*, 2020, 58,3, pp. 558-562.

tives to expand their influence in workplaces. However, the rise of digitalisation has prompted a debate on the adequacy of the 1970 Workers' Statute[20]. Its provisions were indeed primarily designed for physical work environments, encompassing aspects such as the exercise of union rights within the "production unit" and the trade unions' prerogative to "affix" union materials on boards. The rigid "material" requirements hinder their applicability in a digital context, posing challenges to the capacity of trade unions to effectively safeguard the interests of workers in the workplace.

In response, since the mid-1990s, social partners have engaged in negotiations on the digitalisation of the rights established by the Workers' Statute[21]. Until recently, however, these collective agreements were exceptions to the norm, which typically mandated that union rights be exercised only on-site[22]. This situation reflected the lower level of digitalisation in Italy, which fell behind in the EU Digital Economy and Society Index and in the digital competencies ranking[23]. Nevertheless, following the national trend – that positions Italy at the top of the overperforming countries by virtue of the progress in the past 5 years – the transition towards digitalisation has ac-

[20] MAGNANI, *Nuove tecnologie e diritti sindacali*, in *LLI*, 2019, 5, p. 4; MONDA, *cit.*, p. 345 ff.; MARAZZA, *Tecnologie digitali, poteri datoriali e diritti dei lavoratori. Brevi annotazioni introduttive*, in BELLAVISTA, SANTUCCI (eds.), *Tecnologie datoriali, poteri datoriali e diritti dei lavoratori*, Giappichelli, 2022, p. 9; ANIBALLI, *Diritti e libertà sindacali nell'ecosistema digitale*, Edizioni Scientifiche Italiane, 2022, p. 29 ff.; TAMPIERI, *È antisindacale il divieto assoluto di volantinaggio «elettronico» tramite la e-mail aziendale*, in *LG*, 2023, p. 831.

[21] The first dispute on the issue dates back to Pret. Milano (Magistrate's Court of Milan), 3rd April 1995, in *RIDL*, 1995, 2, p. 758, on which BELLAVISTA, *Il diritto di affissione ex art. 25 St. lav. e i sistemi aziendali di comunicazione elettronica con i dipendenti*.

[22] The pace of digital transformation in the Italian industrial relations system was slow, especially when compared to other experiences. In the United States and the United Kingdom, the debate on e-unions started as early as 2000, when scholars began to examine the ability of trade unions to face the challenges and seize the opportunities presented by digitalisation (*see* FREEMAN, *The advent of Opens Source Unionism?*, in *CPOIB*, 2005, 1 (2-3), 2005, p. 79 ff; WARD, LUSOLI, *cit.*, p. 147 ff.; DIAMOND, FREEMAN, *cit.*, p. 569 ff.). In Germany, the Reform of the Works Constitution Act of 23rd July 2001 (*Gesetz zur Reform des Betribsverfassungsgesetzes* – BetrVerf-Reformgesetz, BGBl. I 2001 S. 1852) already introduced the information and communication technology (*Informations-und Kommunikationstechnik*) among the goods and equipment that the employer must make available to the work councils (§ 40 BetrVG) (recently on the topic DÄUBLER, *Interessenvertretung durch Betriebsrat und Gewerkschaften im digitalen Betrieb*, HIS-Schriftenreihe, Bund Verlag).

[23] ISTAT, *Cittadini e competenze digitali*, 22th June 2023, p. 2.

celerated in recent years, flowing into a profound change with the Covid-19 pandemic[24].

The pandemic crisis triggered a digital renewal. During this time, trade unions were prevented from, *inter alia*, holding on-site assemblies (Article 20, Workers' Statute) and referendums (Article 21, Workers' Statute), using the union notice boards (Article 25, Workers' Statute) and recruiting members within the workplace (Article 26, Workers' Statute). Social partners responded to the restrictions by prompting a sudden digitalisation, either through collective agreements or informal practices[25]: in many cases, RSAs and RSUs started to use the electronic union notice boards (including virtual spaces on the company intranet or cloud)[26], as well as to hold online assemblies, referendums, and consultations[27].

The emergency phase compelled social partners to overcome the technical problems, such as the provision of technological infrastructure, and the legal issues, such as compliance with privacy rules[28]. But most importantly, the crises

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[24] UE COMM., *Digital Economy and Society Index (DESI) 2022*, Report, 2022, p. 17 *available at: https://digital-strategy.ec.europa.eu/en/policies/desi.*

[25] In Italy, it was the social partners who reacted promptly, as shown by the guidelines issued by Fiom-CGIL, Fim-CISL, Uilm, Federmeccanica, and Assistal on 18th June 2020, acknowledging the use of IT tools for exercising specific trade union rights. This contrasts with Germany, where specific provisions were introduced in response to the Covid-19 pandemic permitting meetings to be held online (§129, BetrVG as amended first by the *Gesetz zur Stärkung der Impfprävention gegen Covid-19 und zur Änderung weiterer Vorschriften im Zusammenhang mit der Covid-19 Pandemie* – 10.12.2021, BGBl. I S. 5162, and then by *Gesetz zur Stärkung des Schutzes der Bevölkerung und insbesondere vulnerabler Personengruppen vor Covid-19* – 16.09.2022, BGBl. I S. 1454).

[26] *See* for instance, national collective agreement, Assotelecomunicazioni-Asstel and Slc-CGIL, Fistel-CISL, Uilcom-UIL, 12 November 2020; company agreement, Tim s.p.a. and Slc-CGIL, Fistel-CISL, Uilcom-UIL, UGL Telecomunicazioni, 4th August 2020; company agreement, ENI s.p.a. and Filctem-CGIL, Femca-CISL, Uiltec-UIL, 28th October 2021.

[27] *See* company agreement, Intesa Sanpaolo s.p.a. and Fabi, First-CISL, Fisac-CGIL, Uilca-UIL, Unisin, 29th April 2020; company agreement, Tim s.p.a. and Slc-CGIL, Fistel-CISL, Uilcom-UIL, UGL Telecomunicazioni, 4th August 2020; national collective agreement, ABI and Fabi, First-CISL, Fisac-CGIL, Uilca-UIL, Unisin, 21st December 2020; company agreement, ENI s.p.a. and Filctem-CGIL, Femca-CISL, Uiltec-UIL, 28th October 2021; national collective agreement, Assolavoro and Felsa-CISL, Nidil-CGIL, Uiltemp, *Accordo in materia di proroga e rinnovo delle disposizioni urgenti per fronteggiare l'emergenza epidemiologica Covid-19*, 10th February 2021. On the topic: DONÀ, MAROCCO, *Diritto di assemblea ex art. 20 St. lav. e nuove tecnologie digitali*, in *LLI*, 2019, 5, 2, p. R7 ff.; CASSAR, *Lavoro 2.0 e diritti sindacali: spunti di riflessione e proposte operative su tele-assemblea e referendum sindacale online*, in *LP*, 2020, 7-8, p. 422 ff.

[28] In many cases, the enterprises agreed to provide trade unions with the necessary plat-

led social partners to overcome cultural resistance. As a result, after the pandemic phase, the trend towards expanding the use of technology still remains.

This progression is largely attributed to the growing remotisation of work. Social partners have recognised that workers without a designated workplace, such as teleworkers, encounter significant challenges in accessing union materials and information related to union activities, particularly when they are disseminated solely through trade union notice boards located in company offices or during in-person assemblies. As a result, an increasing number of national collective agreements and company agreements stipulated by branch trade unions affiliated with CIGL, CISL and UIL address the specific needs of remote workers, ensuring that they are afforded the same union rights and freedoms as their on-site counterparts[29].

This trend is also affecting those sectors characterised by the geographic dispersion of employees, such as the agency work industry[30], reflecting the growing recognition among CIGL, CISL and UIL of the need to digitally organise workers to tackle the challenges arising from the absence of a traditional workplace.

However, advancement in this area remains highly fragmented. The spread of digitalisation is not uniform across all sectors and territories; it is rather significantly influenced by the bargaining power of the respective trade unions. A significant example is the renewal of the collective agreement within the cooperative sector, signed on 26th January 2024, which notably lacks any provisions for digital trade union rights[31].

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forms and technology to exercise trade unions' rights (*see* ANIBALLI, *Observatory on the digitalisation of Industrial Relations*, Report, September 2023, p. 6). However, trade unions have made efforts to develop their own technological network. For instance, CGIL created the platform Polis (now FuturaLab) to hold assemblies and union elections. This platform was subsequently tested for negotiations and elections of the company's workers' representatives.

[29] *See*: national collective agreement, Confindustria Energia and Filctem-CGIL, Femca-CISL, Uiltec-CISL, 21st July 2022, Part I, Section A, "Industrial Relations", let. d); national collective agreement, Conflavoro Pmi and Fesica-CONFSAL, 28th February 2022; company agreement on smart working, Fastweb s.p.a. and Slc-CGIL, Fistel-CISL, Uilcom-UIL, UGL Telecomunicazioni, 27th September 2023; company agreement, Cellniex Italia s.p.a and Slc-CGIL, Fistel-CISL, Uilcom-UIL, 1st April 2022.

[30] The collective agreement for staffing agencies provides for electronic notice boards for the dissemination of information, as well as a telematic platform for the exchange of information between the trade union and employers called SIU (Article 1 and Article 53, Assolavoro and Nidil-CGIL, Felsa-CISL, UilTemp, 15th October 2019).

[31] National collective agreement, Associazione Generale Cooperative italiane – solidarietà,

Moreover, the digitalisation transformation does not cover all the rights protected by the Workers' Statute. Only a limited number of agreements acknowledge, for instance, the right of workers to participate in online assemblies. The focus has primarily been on the right to use a union board, as outlined in Article 25 of the Workers' Statute or to implement new tools for recruitment.

4.   *Workplace elections and online voting*

The broad-based involvement of employees at the company level also requires that they actively exercise their right to establish RSAs or RSUs. However, the shift towards flexible and remote work arrangements led to a digital task management conducted outside of the traditional workplace, which may limit workers' physical presence on-site during election days. Consequently, there is an increasing demand for workplace elections to incorporate online voting alongside conventional methods of in-person voting at the ballot box.

On this matter, it is important to note that Italy lacks a comprehensive legal framework governing collective bargaining. Instead, the regulation has been developed autonomously through a series of agreements established among the three historically most representative union confederations – CGIL, CISL, and UIL – and employer associations such as Confindustria[32].

In particular, the electoral procedure for establishing RSUs is currently governed by the inter-confederal agreement of 10th January 2014, which does not mention online voting. On the contrary, most rules implicitly entail analogue voting[33]: some provisions include references to the "production unit",

Confcooperative Federsolidarietà, Legacoopsociali and Fp-CGIL, Fp-CISL, Fisascat-CISL, Fpl-UIL; Uiltucs-UIL, 26th January 2024.

[32] The most relevant agreement on the matter is the inter-confederal agreement of 23rd July 1993 between Confindustria and CGIL, CISL and UIL which, as indicated above, introduced the RSUs. Further inter-confederal agreements followed, including those of 2009, 2011, 2013, and 2014. The three framework agreements adopted by the social partners between 2011 and 2014 produced new rules for collective bargaining, which remain in place today.

[33] See BONALUMI, *Testo unico sulla rappresentanza e votazioni digitali. Questioni aperte e prospettive*, in *Federalismi*, 2023, 21, pp. 175-176; ANIBALLI, *Diritti e libertà sindacali nell'ecosistema digitale*, cit., p. 178 ff.

and others to the existence of multiple voting locations in case of several production sites[34].

During the pandemic, this framework did not prevent trade unions from using online voting. Although only a few cases involved collective agreements or guidelines that explicitly endorsed, even indirectly, the use of electronic voting[35], digital devices were employed to facilitate elections for the workers' representatives in the company.

Following the conclusion of the emergency period, this practice persists in specific digitalised sectors, such as telecommunication and banking. This is on the argument that digital devices facilitate more straightforward consultations with workers, allowing for the inclusion of those not physically present at the employers' premises, thereby potentially enhancing voters' turnout[36].

However, the regulatory uncertainty is triggering conflicts on the legitimacy of the elections, so much so that, on several occasions, online voting has been questioned before the Committee of Guarantors[37].

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[34] *See* the Third Section, "Disciplina della elezione della RSU", of the Second Part, "Regolamentazione delle rappresentanze in azienda" of the Agreement.

[35] The national collective agreement signed by Assotelecomunicazioni-Asstel and Slc-CGIL, Fistel-CISL, Uilcom-UIL, on 12th November 2020, entirely bargained and signed remotely, recognised the right of the Electoral Commission to determine the electoral procedure, provided that the system promotes the "highest workers participation" (Article 8, (5)). The company agreement Vodafone Italia s.p.a. and Slc-CGIL, Fistel-CISL, Uilcom-UIL, 29th October 2020, specifies that the right to assembly include that of voting online. The company agreement Olivetti s.p.a., and Slc-CGIL, Fistel-CISL, Unilcom-Uil, UGL Telecomunicazioni, 28th September 2020, as well as the company agreement ENI s.p.a. and Filctem-CGIL, Femca-CISL, Uiltec-UIL, 28th October 2021, state that remote works and on-site workers should enjoy "the same trade union rights and freedoms".

[36] Daniele Carchidi (Slc-CGIL), *Innovazione digitale nella partecipazione Sindacale*, Webinar, 5th December 2023. Research studies conducted in the early 2000s in the UK provide evidence for this premise, showing that the use of online ballots for pre-strike elections led to increased participation in strikes and higher acceptance rates of collective agreements (*see* Diamond, Freeman, *cit.*, p. 569 ff. On the topic of online voting, *see* also Greene, Kirton, *Possibilities for remote participation in trade unions: mobilising women activists*, in *IRJ*, 2003, 34, 4, p. 319 ff.).

[37] Article 20, Section 2, inter-confederal agreement of 10th January 2014, states that appeals against the decisions of the Electoral Commission shall be filed within 10 days to the Committee of Guarantors. This Committee is composed, at the provincial level, of a member designated by each trade union, which submitted a list of candidates concerned by the appeal, a representative of the local employers' association, and is chaired by the Director of the Territorial Directorate of Labour.

The Committee has so far taken the view that the inter-confederal agreement shall be interpreted extensively as long as the intention of the contractual parties and workers' fundamental rights are preserved. Therefore, it concluded that the online voting system is legitimate if it provides the same guarantees as analogue voting, namely the secrecy of voting, the privacy of users, and the identity of electors[38].

Nonetheless, the existing framework remains ambiguous. In the public sector, for instance, the competent authority for assessing trade union representativeness excluded, from the final count, votes cast through online voting methods. This decision was based on the claim that such methods are not explicitly mentioned or addressed by any framework agreement governing workplace elections[39].

Moreover, online voting presents unique challenges that do not occur in conventional voting methods. Indeed, information security reframes conventional issues such as privacy protection and secrecy of the voting process[40]. While a broad interpretation of the 2014 inter-confederal agreement – or, more precisely, an interpretation from an evolutionary standpoint – is theoretically valid, the actual evaluation of compliance with standards for confidentiality and computer security requires the establishment of clear benchmarks. And these benchmarks cannot be easily inferred from interpretation alone.

This is highlighted by the recent German draft bill to reform the *Betriebsverfassungsgesetz* (BetrVG, Works Constitution Act of 25th September 2001, as amended last in July 2024)[41]. The proposal introduces the possibility

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[38] The record of the Committee of Guarantors' meeting is available on the LinkedIn page of the Observatory on the digitalisation of Industrial Relations.

[39] A dispute emerged after USB-Pubblico impiego filed a complaint with the Provincial Committee of Guarantors. The Committee upheld the decision of the Electoral Commission to use online voting to elect the unitary workplace union structure. However, the same results were later deemed invalid by the Joint Committee at ARAN due to the voting method used. On the issue *see*, BONALUMI, *cit.*, pp. 182-183. Regarding the role and functions of the Joint Committee, *see* Protocollo di intesa per la costituzione ed il funzionamento del Comitato paritetico di cui all'art. 43 del d.lgs. 165/2001 (tornata 2022-2024), adopted on 2nd November 2021.

[40] These issues are analysed by ANIBALLI, *Diritti e libertà sindacali nell'ecosistema digitale*, cit., p. 178 ff.

[41] Originally adopted in 1972, it was newly published on 25th September 2001 and last amended by Article 1 of the Act of 19th July 2024.

to vote online (§ 18a Ref-E-BetrVG) with the aim of making works council elections more resilient to digitalisation transformation[42].

The draft bill goes beyond a mere legitimation of the use of online voting; it provides a detailed set of comprehensive and stringent requirements designed to safeguard the integrity of the voting process. These provisions aim to ensure that each cast vote is secure and confidential, preventing any form of external interference and eliminating the risk of double voting. For instance, the draft bill mandates that elections must comply with the "Protection Profile for E-Voting Systems for non-political Elections" established by the German Federal Office for Information Security[43]. Additionally, when preparing and conducting the online voting, the election committee is required to adhere to the high protection standards set forth in the technical guidelines from the German Federal Office for Information Security[44].

The German Bill highlights that information security should not rely on individual agreements or be subject to case-by-case judgements. Instead, there should be a comprehensive framework applicable to all electoral procedures. Consequently, social partners will need to establish regulations for the electoral process to create a unified framework. This is crucial to prevent, as the most recent elections have shown[45], the voting method from becoming a new field of conflict.

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[42] Referentenentwurf des Bundesministeriums für Arbeit und Soziales und des Bundesministeriums für Wirtschaft und Kilmaschutz – *Entwurf eines Gesetzes zur Stärkung der Tarifautonomie durch dies Sicherung von Tariftreue bei der Vergabe öffentlicher Aufträge des Bundes und weitere Maßnahmen* (Tariftreuegesetz) presented at the beginning of September 2024, available at: https://www.bmas.de/SharedDocs/Downloads/DE/Gesetze/Referentenentwuerfe/tariftreueg esetz.pdf?__blob=publicationFile&v=3. The Draft Bill states that, as part of the trial of online works council elections, the option of casting votes electronically is to be created for the regular works council elections in companies where a works council already exists. Online voting is offered as an additional option alongside traditional voting methods (ballot box and postal voting). The decision to implement online voting in a particular company is to be made by the works council and the employer. The final decision on the use of online voting is to be made by the election committee responsible for conducting the works council election.

[43] *See* Bundesamt für Sicherheit in der Informationstechnik, *Protection Profile for E-Voting Systems for non-political Elections*, BSI-CC-PP-0121, 2023.

[44] *See* Bundesamt für Sicherheit in der Informationstechnik, *Technische Richtlinie TR-03169 IT-sicherheitstechnische Anforderungen zur Durchführung von nicht-politischen Online-Wahlen und-Abstimmungen*, 2023.

[45] For instance, in 2022 online voting was rejected during the election of the unitary workplace union structure in the company Luxottica (*see*: CISL QUOTIDIANO VENETO, *RSU*

5.   *Digitally driven strategies for workers' engagement outside the workplace*

The digitalisation of company trade union rights, discussed in the previous paragraphs, forms only one piece of a larger picture that revolves around the increased use of technology to shape workers' collective will and collective interest. The ongoing renewal process currently lacks the cohesive framework that characterises other trade union movements, where digital tools have been established for some time[46]. Nonetheless, digital trade unionism has emerged as a pivotal topic of discussion during the most recent organisational assemblies of CGIL, CISL and UIL[47]. The actions implemented by these confederations present a range of distinct characteristics, yet they converge on several key objectives.

Firstly, there is a concerted effort to enhance and streamline processes

Luxottica, Femca Cisl primo sindacato, https://maglietteblu.it/wp-content/uploads/2022/07/Corriere-delle-Alpi_FEMCA_CISL_primo_sindacato.pdf); in another case, the RSU had decided to hold the next election online, but Uilm opposed this decision (*see* UILM, *St di Agrate: voto elettronico per l'elezione delle RSU?, No, grazie*, available at https://www.uilmnazionale.it/st-di-agrate-voto-elettronico-per-lelezione-delle-rsu-no-grazie/).

[46] Digital transformation is a significant focus for the renewal strategies of British trade unions. It is based on the idea that investing in technology and developing new tools "can help make the organisation of hard-to-reach workers more economically viable" (TAIT, *Future Unions: Towards a Membership Renaissance in the Private Sector*, The Changing Work Centre, November 2017, pp. 10-11). Moreover, digital tools are seen as essential for engaging young workers (COATMAN, *The Missing Half Million: How Unions Can Transform Themselves to be a Movement of Young Workers*, TUC, January 2020) and fostering a "sense of community" among geographically dispersed workers (BROCK, *Getting Organised: Low-Paid Self-Employment and Trade Unions, The Changing Work Centre*, June 2019, p. 12). Lastly, technology is viewed as a crucial means to tackle the challenges posed by digital disrupters (TUC DIGITAL LAB, *cit.*, pp. 7-11). For further reference *see*: SIMMS, HOLGATE, ROPER, *cit.*, p. 331 ff.; FORSYTH, *cit.*, p. 126 ff.

[47] The organisational assembly takes place every four years and focuses on administrative matters relevant to achieving the union's strategic agenda. At the latest events, trade unions discussed the reform of their communication system to speed up the use of modern and digital channels. *See*, for instance, CGIL del Trentino, *CGIL 2030. Il lavoro crea il futuro, Organisational Assembly*, 2021, p. 23, *https://www.cgil.tn.it/news/detail?id=5146*; CISL-Scuola, *Documento conclusivo. Assemblea Organizzativa Nazionale*, 18th October 2023, *https://www.cislscuola.it/uploads/media/asse-org-18102023-doc-finale.pdf*; Fnp-CISL, *Guidiamo il cambiamento. Assemblea nazionale organizzativa*, 16-17th November 2023, https://www.pensionati.cisl.it/public/pdf/pdf_1095_ASS.%20ORG.%20FNP%202023%20relazione%20Segretaria%20nazionale%20Foresi.pdf; CISL, *Guidiamo il cambiamento. Assemblea Organizzativa Nazionale CISL*, 5-6th December 2023, p. 9 https://www.faicisl.it/attachments/article/4226/Fai%20Proposte%20n.%207-9%20Luglio-Settembre%202023.pdf.

and procedures to support operational efficiency and reduce costs. Secondly, a critical focus is placed on engaging members and delegates with tailored communications. Thirdly, these initiatives strive to create a sense of community across geographic distances. This includes a commitment to connecting with a diverse array of workers, such as gig workers, platform workers and remote workers. The latter objective is particularly significant in the context of this paper, as trade unions introduce digital tools specifically designed to address workplace fragmentation. This is all the more relevant given the existing legislative gaps in workplace representation[48]. Indeed, as discussed earlier, the Workers' Statute fails to support the participation of digital or hybrid workers, as the rules governing assemblies, referendums, and union boards require their physical presence.

Among the first forms of the digital-led renewal strategy is the use of interactive websites, social media, and other digital channels to keep members, *friends*, and *followers* informed on trade union activities. Company issues, once confined to the employers' premises, have gained greater public attention. Workers' representatives are in the position to employ digital technologies (*e.g.* websites, newsletters, Facebook, x-twitter, YouTube, Instagram, WhatsApp and Telegram channels etc.) to share internally – among members and other union delegates – and externally – among prospective members, *followers*, *friends* and other social stakeholders – information "on matters of trade union and labour interest" (Article 21, Workers' Statute) or "concerning trade union activity" (Article 22, Workers' Statute) and more generally, on issues of trade union relevance and interest to workers or employers[49].

As a result, these channels of communication play an increasingly relevant role in shaping the process and the results of negotiations, as well as the outcomes of referendums[50]. Furthermore, these channels are used to support

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[48] On the topic, *see* MONDA, *cit.*, p. 345 ff.; MAGNANI, *Nuove tecnologie e diritti sindacali*, cit., p. 3; RECCHIA, *Alone in the crowd? La rappresentanza e l'azione collettiva ai tempi della sharing economy*, in *RGL*, 2018, 1, p. 156; VOZA, *Il lavoro e le piattaforme digitali: the same old story?*, in *WP C.S.D.L.E. "Massimo D'Antona".INT-336/2017*, p. 8.

[49] MARAZZA, *"Social", relazioni industriali e (nuovi percorsi di) formazione della volontà collettiva*, in *RIDL*, 2019, 1, p. 57 ff.; MARAZZA, *"Social media" e Relazioni industriali. Repertorio di questioni*, in *LLI*, 2019, 5, 2, p. 1 ff.; BINI, *Il social network: da luogo a soggetto della rappresentanza sindacale digitale?*, in *LLI*, 2019, 5, 2, p. 9 ff.

[50] For instance, Fisac-CGIL, First-CISL and Uilca-UIL use social media to launch widespread campaigns aimed at informing and consulting workers about the collective bargaining process. Once the agreement is reached, social media are used to communicate the content of

collective actions[51] and trade union policy initiatives[52], with the understanding that effective communication strategies can significantly influence public engagement. Digital channels have also been applied in trade union recruitment, with the launch of social media campaigns based on catchy material and slogans prepared by communication departments[53].

These developments offer promising avenues for promoting trade unions' democratic legitimation through enhanced transparency. Recent studies underscore the connection between transparency, accountability and the democratic legitimacy of organisations. Transparency serves as a meaningful tool for fostering consensus among union members, facilitating informed participation in decision-making processes that affect them. In this context, technologies are relevant, as they enable the sharing of documents and information about union activities with members and with the wider community. Moreover, the commitment to transparency builds a culture of accountability[54]. It empowers members to assert their rights and to understand the dynamics of power within the organisation, allowing for the ongoing evaluation of its various forms[55].

However, to fully benefit from these innovative practices, trade unions shall overcome the fragmentation of the current information and commu-

the agreement and the benefits resulting from the negotiations (these considerations emerged during the interview conducted with the branch trade union Uilca). Moreover, Fiom-CGIL, Fim-CISL and Uilm-UIL have recently involved their members in the preparation of the list of topics for national collective bargaining, launching a ten-question online survey among those employed in the metallurgic sector (*see* the news "Fiom-Fim-Uilm, campagna di ascolto per rinnovo ccnl" 14th December 2023, available at the website: https://www.collettiva.it/copertine/lavoro/fiom-fim-uilm-campagna-di-ascolto-per-rinnovo-ccnl-swaoodcr).

[51] On the role of social media in supporting collective actions, *see* LA TEGOLA, *Social media e conflitto: i nuovi strumenti dell'attività sindacale*, in *LLI*, 2019, 5, 2, p. 146 ff.

[52] An interesting example is the "ASTEnetevi" campaign, promoted by Flai-CGIL, Terra!, daSud and Filiera Sporca, which led to the signing on 28th June 2017, of a Memorandum of Understanding between the Ministry of Agricultural Policies, Federdistribuzione and Conad, aimed, among other things, at overcoming the practice of reverse auctions or double discounting. In this case, social media have played a fundamental role, enabling trade unions to target a broad audience of employees, consumers, and clients.

[53] UIL, for instance, has created different materials for different platforms: Facebook, Instagram, and Twitter see: https://terzomillennio.uil.it/campagna-di-tesseramento-2024/.

[54] Transparency is understood as a distinct characteristic of materials: while a glass wall is transparent, a brick wall is not. In this sese, ARENA G., *La trasparenza nell'amministrazione condivisa*, in GORI, SENSI (eds.), *La trasparenza per gli enti di terzo settore*, Pisa University Press, p. 65.

[55] CARRIERI, FELTRIN, *cit.*, pp. 92-93.

nication systems. The three Italian confederations, CGIL, CISL and UIL, are composed of two intertwined dimensions (vertical–branch and horizontal–confederal), each divided into three different stages (territorial, regional and national). The existing union's communication and information system often replicates such a union structural framework, with almost every association opening one or more communication channels. For example, CGIL alone currently has more than 1050 Facebook accounts, to which Twitter accounts, Instagram, YouTube, and websites must be added[56].

On the one hand, such diversification of information sources may help to contain the problem of echo chambers and algorithm content selection related to social media[57]. These digital tools often have algorithms showing users similar content to their prior engagements and content they will likely engage with in the future[58]. This creates echo chambers, where users only access information or opinions that reflect and reinforce their own, limiting their exposure to diverse perspectives and news. Different platforms have different algorithms and target audiences. Therefore, the existence of various virtual spaces increases the chances of reaching and engaging more diverse people.

On the other hand, however, a disjointed framework can lead to fragmentation, primarily due to the risk of information overload. This occurs when the public is confronted with an excess of information disseminated through multiple formats and channels[59]. The sheer volume of information hinders an individual's capacity to utilise these materials effectively. Even when generally accessible language is employed, it remains unlikely that individuals will fully comprehend the presented information[60].

[56] The number results from the research conducted on CGIL Facebook profiles. Regarding the number of websites, a similar approach is applied: besides the national confederation website, there are many other websites for the regional associations, local associations, and the branch trade unions.

[57] PANAGIOTOPOULOS, *Towards unions 2.0: rethinking the audience of social media engagement*, in *NTWE*, 2012, 27, 3, p. 178 ff.

[58] PUGLISI, PARRA-ARNAU, FORNÉ, REBOLLO-MONEDERO, *On content-based recommendation and user privacy in social-tagging system*, in *CS&I*, 2015, 41, p. 17 ff.

[59] BAWDEN, ROBINSON, *The dark side of information: Overload, anxiety and other paradoxes and pathologies*, in *J. Inf. Sci.*, 2009, 35, p. 182.

[60] This is because information overload often involves losing control over a situation. *See* AUXIER, VITAK, *Factors Motivating Customization and Echo Chamber Creation Within Digital New Environments*, in *SM+S*, 2019, 5, 2, p. 3.

This situation creates a transparency challenge. Transparency does not imply indiscriminate publicity; instead, often, the quantity of data often undermines the quality of information. As highlighted by constitutional jurisprudence, an overload of information does not assure transparency; rather, it creates a "bulimic effect", resulting in "opacity by confusion"[61]. The more information that is disseminated, the more difficult it becomes for recipients to discern what is pertinent and to grasp the overall flow of publicly available data. Therefore, to prevent publicity from generating opacity instead of transparency, information must be filtered according to the criteria of utility and purpose.

Trade unions are becoming increasingly aware of these issues. It is by no coincidence that CGIL has focused on the need to streamline and homogenise the system by integrating the overall information and communication framework[62], or that UIL has developed a digital platform conceived as a virtual space where members, delegates and citizens are involved in discussions and participatory dialogue[63].

Moreover, building on the Covid-19 pandemic experiences, the three most representative trade unions are leveraging technology to create participatory devices that actively involve members in defining union strategic priorities[64]. One noteworthy development is the creation of Apps that provide information on trade union activities "anytime, everywhere". The Apps deliver updated news more effectively and timely, and they allow real-time communication between trade unionists and members, overcoming geographic distances, as well as the space and time restrictions that usually apply

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[61] With these words Const. Court., 23rd January 2019, n. 20, par. 5.3.1, commented by SITZIA, FAMELI, *Diritto alla riservatezza e trasparenza: la Corte costituzionale e il "test di proporzionalità"*, in *LPA*, 2020, 1, p. 203 ff. On the issue of over-information see the detailed analysis by BYUNG–Chul, *Transparenzgesellschaft*, Matthes & Seitz, 2012, it. transl. *La società della trasparenza*, Nottetempo, 2014, pp. 83-84, for whom "The more information is released, the less intelligible the world becomes".

[62] CGIL del Trentino, *CGIL 2030. Il lavoro crea il futuro, Organisational Assembly*, 2021, p. 23, https://www.cgil.tn.it/news/detail?id=5146.

[63] In 2021, UIL launched the digital platform called "Terzo Millennio".

[64] The most relevant platforms are digitacgil.it; NoiCISL; Sindacato-Networkers.it; VivaCe; "Idea Diffusa". As the literature highlights, participatory and deliberative democracy plays an increasingly relevant role. *See* MANCINI, *Il sindacato di fronte all'economia di internet: "Idea diffusa", l'intelligenza collettiva della Cgil*, in *LLI*, 2018, 1, R. 48.

to workplaces. Trade unions have developed general Apps[65] to daily inform workers on trade union and labour matters and provide them with relevant documents, such as the collective agreements in force. Additionally, thematic Apps have been introduced to address specific topics, such as health and safety, keeping workers and union representatives informed and involved[66].

Most of these platforms and Apps also offer digitalised or hybrid union services aimed at increasing union membership by bridging personalised services with collective engagement[67]. This approach enables trade unions to connect with unorganised workers outside their workplaces and engage individuals who may not be particularly sensitive to workers' solidarity or loyal to unions. As a result, digital and hybrid services are relevant in linking individual protection with the collective labour movement, counteracting the risk of disintermediation and compensating for the blurring of workplace boundaries[68]. Although the process is still in its early stages, particularly regarding digital enrolment[69], the overall trend indicates a growing expansion of digital services.

It emerges from the foregoing that technology is becoming increasingly

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[65] Examples of general Apps are: APP Flc CGIL Palermo; APP Silp-CGIL; APP Spi-CGIL; APP Flai-CGIL; APP Fiom-CIGL; APP PoliziaPenitenziaria-FP-CGIL; APP VVF-CGIl; Spi-Lombardia; APP Noi-CISL; APP CISL-Funzione Pubblica; APP CISL-Scuola; APP CISL Veneto; APP MyFisascat; APP Fisascat-CISL Firenze; APP We Fai-CISL; APP Fisascat-Cisl Veneto; APP UIL Veneto; APP UIL-FPL; APP-UilTrasporti; APP-TerzoMillennio UIl; APP-UIlSgk.

[66] An example in this regard is the "Spazio Sicurezza" App by Filctem-CGIL Emilia Romagna, which aims to support the daily activities of workers' safety representatives. The App contains up-to-date information on occupational health and safety legislation and a compendium of collective agreements and State-Region agreements. Another example is the App Sportello Salute Sicurezza CISL Milano Metropoli.

[67] These services range from legal and tax counselling to discounts on travel, banking, insurance, social security and welfare services. Especially CISL and UIL, since the 1990s, have been trying to counteract the membership decline by implementing trade union services. On the topic, *see* FELTRIN, MASET, *Come resistere al declino. L'opzione dei servizi nei Sindacati*, in *QRS*, 2010, 3, p. 177 ff.; CRISTOFOLINI, *Profili organizzativi e trasparenza finanziaria dei sindacati rappresentativi. Uno studio comparato*, FrancoAngeli, 2021, p. 93 ff.

[68] REGO, RAMOS, *Can Electronic Vote Bring Workers Closer to Trade Unions? The Case of Portuguese Teachers*, in *ERRJ*, 2022, 32, p. 49 ff. On the topic, see the interesting example of CGIL Bergamo, examined by IMBERTI, La *nuova "cassetta degli attrezzi" del sindacato tra spazi fisici e luoghi digitali: l'esperienza di Toolbox Cgil di Bergamo*, in *LLI*, 2019, 5, 2, p. 117 ff.

[69] In several cases, the membership application must still be filled out in writing and handed over to the trade union office or a trade union delegate. CGIL and CISL offer the possibility to fill out a pre-registration form on the website.

important for Italian trade unions. The current model of workers' representation – or the means to "furthering and defending the interests of workers" (Article 10, ILO Freedom of Association and Protection of the Right to Organise Convention, n. 87 1948) – encompasses three key functions: negotiating working conditions through collective bargaining; counterbalancing employers' power through strikes and collective actions; and protecting the individual interests of workers by providing various services. Digital transformation has influenced all these functions to varying extents, prompting organisational renewal.

6.   *Conclusions: multi-speed digital trade unionism*

The actions and tools examined in the previous paragraphs mark the steps of the comprehensive renewal process that CGIL, CISL, and UIL have been undergoing in recent years. As emphasised, the digital transformation of Italian trade unions began later than in other countries and initially progressed at a slower pace. However, the pandemic has accelerated this renewal, leading to the introduction of additional representation tools and the expedited development of existing processes.

The conventional model of representation, characterised by workplace assemblies, union leafleting, and face-to-face consultation, certainly remains relevant and should not be abandoned. While digital tools can provide valuable benefits, they do not serve as a comprehensive solution for all problems and come with their own challenges for trade union representation. Simply reaching out to more people does not ensure meaningful engagement with workers. Additionally, the use of digital platforms, such as social media, which may contribute to individualism and deresponsabilisation, which may impede, rather than promote, workers' solidarity.

Consequently, it is essential to regard conventional and digital tools not as opposing entities but as complementary resources. As there is no one-size-fits-all model of representation, digital trade unionism should not replace traditional methods. Instead, it should enhance them by facilitating the engagement of workers who might otherwise be unreachable. In other words, trade unions should adopt a 'hybrid' model: when traditional union practices prove inadequate, alternative organisational strategies rooted in the core values of unionism should be employed.

This perspective is consistent with the general organisational principle embraced by CGIL, CISL and UIL, which advocate for tailored solutions for specific groups of workers requiring collective representation. For instance, unions have already developed dedicated forms of representation for atypical workers, such as Nidil–CGIL, Felsa–CISL, and Uiltemp–UIL[70]. Furthermore, some unions have established self-organised sections and dedicated services for migrant workers[71]. At the present time, the workplace dynamics of flexibility and fragmentation present trade unions with new challenges that require new, tailored solutions. Digital tools may play a significant role by enabling unions to extend their reach beyond the physical boundaries of employers' premises, thereby engaging workers who operate in virtual spaces or are scattered across various locations.

In these cases, new technologies serve not just as innovative communication tools; they become instrumental for carrying out traditional union tasks, that is, effectively organising and representing workers. This is evident in their mandate to further and defend "the interests of workers" (Article 10, ILO, Freedom of Association and Protection of the Right to Organise Convention, n. 87 1948) and safeguard "[their members'] interests" (Article 12, CFREU). Therefore, trade unions need to combine traditional and digital tools to enhance their 'union toolbox' and develop an effective representation model.

From this perspective, Italian trade unions are making significant strides. Digital devices are no longer only used for information purposes but as a proper and innovative representation model and a contemporary way to exercise trade union rights.

However, many issues remain open. First, digital trade unionism is not spreading uniformly across all sectors, regions, and worker groups. The analysis of CGIL, CISL and UIL's digital presence paints a yet multi-speed process. The most innovative practices, such as digital trade union company rights

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[70] COLELLA, *Dal sindacato tradizionale al sindacato atipico? Strategie per la rappresentanza dei "nuovi" attori nel mercato del lavoro italiano. Il caso di NIdiL-CGIL*, in *SL*, p. 49 ff.; DURAZZI, *Inclusive unions in a dualized labour market? The challenge of organizing labour market policy and social protection for labour market outsiders*, in *Soc. Policy Adm.*, 2017, 51, 2, pp. 271-272.

[71] DE LUCA, POZZI, AMBROSINI, *Trade unions and immigrants in Italy: how immigrant offices promote inclusion*, in *JIR*, 2018, 60, 1, p. 101 ff.; DI NOIA, *Un'agorà digitale per la rappresentanza (e la formazione di una "coscienza di classe") dei lavoratori stranieri in agricoltura*, in *LLI*, 2019, 5, 2, p. 80 ff.

or Apps and platforms, are mainly implemented in already strongly unionised sectors (such as the metallurgic sector) or highly digitalised fields (including IT and banking). Additionally, these advancements are more common in prosperous and industrialised regions (such as Lombardy and Emilia-Romagna) and among large multinational enterprises. Last but not least, digital innovation is mainly driven by financially strong branch trade unions (*e.g.* Fiom-CGIL, Uiltucs) or local unions (*e.g.* CISL Milano; Filctem-CGIL Emilia Romagna). In contrast, smaller and weaker unions, as well as small and medium-sized enterprises, especially in less industrialised areas, are falling behind, exacerbating the digital divide.

This patchworked spread of digitally driven tools highlights, first of all, the need to reform Law No. 300 of 20th May 1970 in order to adapt trade union rights to the realities of the digital age. In today's framework, digital tools play a relevant role in the continued existence of trade unions and are instrumental in promoting the right for "everyone to form and to join trade unions" (as stated in Article 12, CFREU). This is in accordance with the principles outlined in Article 39 of the Italian Constitution and Article 14 of the Workers' Statute.

Furthermore, the establishment of digital rights represents a fundamental requirement for conducting effective collective bargaining, which is protected under Article 39 of the Italian Constitution, Article 28 of the CFREU, and several ILO conventions, including the Collective Bargaining Convention n. 154, 1981. The bargaining power of trade unions is closely linked to their membership volume; as such, ensuring tools to reach and engage a large number of workers is essential. Consequently, the need for reform is consistent also with Principle 8 of the European Pillar of Social Rights, which explicitly encourages Member States to enhance the capacity of social partners to foster social dialogue, thereby reinforcing the role of trade unions in contemporary society.

To balance the rights of trade unions with those of companies, workers' representatives shall have access to the company's technological infrastructures to perform their activities "without prejudice to the normal course of business" (Article 26, Workers' Statute and Article 41(1), Cost.). This access should include a range of digital communication channels, such as company emails, digital union boards, and intranet platforms. Currently, these rights are only recognised in specific sectors where trade unions have successfully negotiated collective agreements that explicitly grant them. This creates a

significant disparity, as many employees, particularly in less unionised or fragmented sectors, lack these fundamental rights.

Legislative intervention is necessary but not sufficient on its own. The multi-speed picture of trade union digitalisation reveals that organisational renewal is also essential. The various measures and tools investigated in this paper highlight trade unions' growing awareness of the transformative potential of digitalisation. Yet, for digitalisation to effectively serve as a viable means, trade unions must also address the existing territorial and sectoral fragmentation. This requires a proactive approach that encompasses multiple avenues of action.

Given that this process remains largely uncharted, establishing rigid renewal agendas is premature at this stage. Nevertheless, at least two actions seem crucial. Firstly, trade unions should integrate workers' digital rights into their collective bargaining demands to promote uniformity. Secondly, they should organise training programmes for trade unionists on the impact of digitalisation. Such programmes should cover a broad range of skills, ensuring that participants are empowered to leverage tools such as social media, mobile applications, and digital platforms to enhance their organisational influence and reach. By fostering a deeper understanding of these technologies, trade unions will be better prepared to adapt to the rapidly evolving digital landscape.

Abstract

Digitalisation is transforming the workplace, leading to greater fragmentation and the merging of physical and digital environments. This paper explores digital trade unionism as a strategy to address these challenges through a comprehensive analysis of the three historically most representative trade unions in Italy: CGIL, CISL, and UIL. It examines the digital initiatives implemented both inside and outside the workplace, emphasising the role of collective bargaining in establishing digital rights. Furthermore, the paper highlights the growing use of digital communication tools to shape and represent collective interests. In conclusion, the paper provides insights into the current state and evolution of the Italian union representation model.

Keywords