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The Digitalisation of Tools for Workers' Representation in Europe and Spain: A First Approach

Abstract: The unstoppable digitalisation of work also brings with it alterations at the collective level of labour relations. On the one hand, the dispersal of the workforce entails the breaking of traditional ties of proximity, which engendered solidarity among workers. On the other hand, however, new technologies can contribute decisively to the development of representation activity, also being a fruitful field for collective bargaining. Through a synthetic examination of comparative law, several of these possibilities are presented, and how they fit with Spanish law is analysed. Among the subjects addressed are digital tools that can favour tasks in representation. In addition to the legislative dimension, the study takes into account the latest developments in jurisprudence and collective bargaining.
Keywords: collective bargaining, digitalisation, information and consultation, telework, workers' representatives

1. A world of work that is becoming digitalised… and individualised?

Recent data indicate that the world of work is digitalising by leaps and bounds, and not only in mechanical production processes. During the lockdowns resulting from the pandemic, about 40% of people started teleworking (Eurofound, 2020); by 2021, the number of such people had more than doubled, compared to 2019. Technological improvements alone could trigger this centrifugal momentum. Sometimes they also join forces with the personal preferences of individuals, who see teleworking

as a better way to reconcile their work activity with their family responsibilities. In this last aspect, the gender dimension is particularly important, since women are more likely to be teleworkers (Casas Baamonde, 2021; Maneiro Vázquez, 2023).

In many cases, there is a certain non-economic cost. Consider the direct clash that digitalisation creates with the right to rest time, by the possibilities of communication through new technologies being made omnipresent: this has led to the emergence of the right to disconnection. This is an area where the European Parliament, in its resolution of 21 January 2021 (European Parliament, January 2021) along with other proposals, has called on social partners to take action within three years. The high political value of this measure should be seen in the light of the fact that it is one of the very few occasions on which the Parliament has used the mechanism of Article 225 TFEU, which allows it to act as a legislative initiator, breaking the Commission's monopoly.

From this perspective, the 2020 European Framework Agreement on Digitalisation does not avoid the risks for workers that arise from flexible work organisation introduced by digitalisation. The text gives employers responsibility for health and safety and contains a catalogue of measures that national social partners can incorporate into their practices. These include respect for working time, the creation of working-time rules, including the avoidance of out-of-hours contact, the private use of digital tools during working time, the rationalisation of working hours, compensation for extra work and the prevention of isolation at work.

Other dangers are less obvious but equally harmful. For example, the rise of teleworking brings with it the rise of digital surveillance tools, a subject that has been widely studied. The walls of the home, which the liberal state worked so hard to build, may thus be shaken by corporate interests. Where is the capacity of workers' representatives to control these home searches, as in the case of physical searches? In this sense, the above-mentioned Framework Agreement focuses on the control exercised over workers. In itself, it can be seen as a development of the General Data Protection Regulation, which in its Article 88 empowers collective bargaining to adopt more specific rules to ensure the protection of individuals' rights. The measures envisaged here are more restricted: the focus is on workers' representation, which should be allowed to deal with issues such as data, consent, privacy and surveillance. In addition to this, workers' representatives should be provided with digital tools to fulfil their roles in the new scenarios. A final caveat is the need to collect data only for specific and transparent purposes.

In addition to the above, teleworking brings with it a loss of proximity and personal relationships with the rest of the workforce, especially when the whole working day is spent in this way. It has even been argued that digitalisation brings with it 'a trend towards the individualisation of the employment relationship and a re-commercialisation of the employment relationship' (Martín Artiles & Pastor Martínez, 2022). This situation is further accentuated when telework takes on transnational

dimensions or is carried out through digital platforms, the modality known as crowdwork, in which physical contact is non-existent. This consequence undoubtedly has repercussions in the field of collective representation, whatever the proportion of this way of working is. It is 'a kind of disaggregation that translates into a manifest rupture of the unity of collective action that is linked to an ongoing process' (Mercader Uguina, 2020, 17). The problems that have been detected in the field of digital platforms and that have been an obstacle to the emergence of effective interlocutors are now also being transferred to ordinary labour relations. Indeed, many issues concerning the representation of workers in a digitalised world of work remain unresolved, or even unasked.

This problem exists in a work environment that is no bed of roses. At present, the representation of workers in the Member States of the European Union does not, on the whole, seem to be going through a particularly positive period. On average, there is currently only representation at workplace or company level in three out of ten European companies with more than ten employees (Eurofound, 2020). In some cases, this is due to a lack of tradition, such as in Estonia, Hungary or Ireland, but in others it is due to a decline in the importance of social partners, such as in Poland. In addition, a possible intensification of the weight of very small enterprises will make it particularly difficult to apply not only the more traditional model of collective labour relations, but also the new realities that are becoming a trend in some industrial relations models (Cruz Villalón, 2017). On a complementary level, the collective problems in so-called 'network companies' are not minor (Molina Navarrete, 2019). If we add to these statements the growth of economically dependent self-employment, clearly favoured by digitalisation, the scenario appears dark.

However, in contrast to the risks listed above, which largely affect the individual, there are also potential advantages at the collective level which arise from digitalisation, both for teleworkers and non-teleworkers. Participation in trade union elections could be encouraged if digital voting channels were created, for example. In the same vein, representation meetings, whether formal assembly meetings or not, could attract a larger audience if conducted digitally. The replacement of information distributed on paper by its digital equivalent is already a reality; in many EU Member States, such measures are beginning to take shape. The promotion of industrial democracy is not just a value in itself but can improve business productivity. In the words of the European Parliament (December 2021), 'the voice of workers must be a key component of the Union's efforts to ensure sustainable and democratic corporate governance and due diligence on human rights, including labour rights, climate change and the environment, as well as to reduce the use of unfair practices, such as labour exploitation and unfair competition in the internal market'.

In this regard, the existence of permanent, smoothly implemented information and consultation mechanisms can provide companies with a privileged information channel on their internal problems. This was highlighted by the 'fitness check' carried

out by the European Commission (2013) on EU legislation on information and consultation. In assessing the results of the implementation of the provisions of Directives 98/59/EC, 2001/23/EC and 2002/14/EC, the Commission document was very positive in its findings. According to the text, these mechanisms not only increase trust and partnership but mitigate conflicts in the company, involve employees in decision making and improve performance at the workplace. Moreover, they also lead to better management and, it is worth stressing, help in the anticipation of change. Doctrinally, it has been pointed out that workplace democracy is conducive to business innovation (Acharya et al., 2013). Given the many challenges facing businesses today, from the energy crisis to climate change, an ongoing practice of information and consultation can serve businesses as another tool with which to address these issues.

2. Digital tools and modes of employee representation: A brief comparative overview

The first aspect that this paper will address is the way in which employee representation is adapting to the digital environment, trying to determine which of the tools that have emerged with the digitalisation of work can be of benefit. Some of these already existed before the pandemic, others have emerged or have become more widespread, hand in hand with teleworking, motivated by Covid-19. The structure here will look at office work and teleworking, starting with the latter, taking into account its topicality, and the explicit recognition of rights in this field.

Recent evidence on the implementation of telework shows that there is no valid general formula for recognising rights linked to representation for all Member States. This is to be expected, as collective representation takes many different forms in Member States, reflecting different regulations, practices and even work cultures. However, such studies confirm the critical role of social dialogue and collective bargaining in the regulation of telework at company level (Eurofound, 2022). For this to be realised, however, representative bodies need to be in place. In countries where there is a decline in representation within companies, as is found in Poland – a paradigmatic case within the EU (Madrzycki & Pisarczyk, 2023) – the task becomes impossible. The opportunity for modernisation that was forcibly brought about by the pandemic dissipates in these scenarios. This does not seem to be the case in the Spanish legal system, which reacted explicitly in this matter, as will be seen.

In neighbouring countries where representative structures are consolidated, experience shows that significant progress is being made. It should be noted that about half of the EU Member States took legislative action on telework during the pandemic. Collective bargaining and the involvement of representatives in such a scenario have an important role to play in protecting workers; digital media will be

a decisive tool for this. According to the most comprehensive analysis (Eurofound, 2022), in countries where social dialogue is weakened, the resulting protection will be lower, in contrast to those that enjoy a high level of social involvement. The digitisation of collective practice itself can be an incentive for improvement in this respect.

The comparative analysis carried out for this paper indicates that some Member States, although of course not all of them, have started to implement measures which adapt modes of representation to the digital age, organised around the harmonised notion of information and consultation. Some are moving towards teleworking, others are opting for more general regulation. Although the pandemic was a catalyst which greatly accelerated these practices, there were already interesting precedents. In France, for example, it had already been possible to organise works council meetings by videoconference since 2015, if the collective agreement so stipulated. It was during the pandemic that, in most cases, the French legislature intervened urgently to allow the continuity of collective relations through digital tools (Ordonnance n° 2020–1441 2020). Some of these measures were, admittedly, temporary, but others have endured in law.

In Germany, Covid-19 led to the adoption of changes concerning this digital representation. The changes were implemented through the *Betriebsrätemodernisierungsgesetz*, which altered the *Betriebsverfassungsgesetz*, the central regulation on employee representation. The main aim of the reform was to enable various bodies to meet for necessary decision making and to make remote participation possible (Betriebsverfassungsgesetz, Art. 30(2)). Another important point was the relaxation of the rules of procedure by allowing the use of electronic means, not only paper. Despite having been adopted in reaction to the pandemic, these rules are still in force.

In other countries, such as Estonia, the Netherlands or Portugal, legislatures adopted similar rules facilitating digital meetings, and even the effective implementation of information and consultation rights through these tools. In Estonia in particular, such meetings have become the norm, and are no longer an exception due to the health emergency. In Portugal, as of 1 January 2022, the law recognises the right of workers' representatives to use a digital bulletin board (Código do Trabalho, Art. 465(2)), a space within the company intranet where representatives can share news, communications, information or other texts on trade union activity and the socio-economic interests of workers. The right to use mailing lists for the dissemination of this information to teleworkers is also recognised (Código do Trabalho, Art. 169(3)). The same right to a digital bulletin board has been established in the collective agreement of the Italian postal service (*Poste Italiane*) of 2021, a sign of the usefulness of collective bargaining in this field in the face of the law's silence.

An additional aspect of the French legislation is also worth mentioning: all information provided to workers' representatives in companies with more than 50 employees must be stored in a database (the *Base de Données Économiques, Sociales*

et Environnementales) (Code du travail, Arts. L. 2312–18, L. 2312–36 and L. 2312–21). In companies with more than 300 employees, this database must be in digital format.

In other countries, however, such as Austria and Romania, there are no specific rights similar to these, but neither are there legal obstacles to their implementation. In the cases indicated above, it has been the courts that, interpreting the existing rules, have ruled positively on the feasibility of using digital tools for the development of collective bargaining or consultation with representation.

3. Digital media and methods in the field of workers' representation: The situation in Spain

The above is only a non-exhaustive sample of good practices in comparative law. As is always the case with such a presentation, it should be read with caution. Some of the major novelties are already familiar in the Spanish legal system, others are received with scepticism and some arouse interest.

It should be noted that, in Spain, Law 10/2021 of 9 July on Remote Work has given significant weight to the collective dimension. It has done so in such a way that 'it has standardised remote work and collective bargaining as an essential institution of labour law, a sign of identification of this legal territory and of its demands for self-regulation and self-government in its constitutional significance […] The most innovative aspects of the new regulation are really entrusted to collective bargaining' (Casas Baamonde, 2020, p.1433). Within this framework, Article 19 expressly regulates the collective rights of remote workers, including teleworkers. Individual rights are not the subject of this paper, however, and the focus of the analysis will shift to the impact that this provision, and others in the same law, have on the representation of workers and their working environment at the digital level.

In this piece of legislation, three different aspects must be distinguished. In the first section, equality in collective rights is recognised, 'a neutral recognition, insofar as it does not provide more powers than those already recognised by legal and conventional rules' (Rodríguez-Piñero Royo & Calvo Gallego, 2020, p.1468), in connection with the establishment to which they are attached. The most relevant aspect for this study of this first section of the article is precisely this link with the workplace, in its dimension as an electoral unit. As has been pointed out (Cordero Gordillo, 2022), a unilateral affiliation made by the company can lead to problems when calculating minimum thresholds, a certain corporate gerrymandering that would allow some people to be excluded from the electoral process or, on the contrary, to dissolve them into a unit that is irrelevant to their interests.

The creation of an electoral college through collective bargaining, on the basis of the general provisions of Article 71 of the Estatuto de los Trabajadores (ET), has been

a matter of debate in the doctrine since before digitalisation burst onto the labour market. An examination of the reality shows that, unless there is an error or omission, no collective agreement in Spain includes this possibility. The requirement in Article 71(1) ET that a hypothetical new college be created 'according to the professional composition of the sector of productive activity or of the company' seems to be a severe obstacle. The very little case law on the subject has only pointed out that the "fringe agreement"[1] is not an appropriate tool for this creation, as it deals with 'a matter which, by its very nature, can only be regulated by a unitary agreement for the whole company' (Judgment of the Supreme Court, 2004). Once the source of such a regulation is known, the possible debate moves on to the basis of the novelty. The simple fact of working remotely does not seem to be a sufficient reason to justify the creation of the specific electoral college. Digitalisation would be a simple 'how' that does not alter the 'what' that is at the basis of the creation of this differentiated college, that is in any case 'almost unheard of in practice' (Cabeza Pereiro, 2009, p. 120).

Irrespective of this possibility, the provision gives collective bargaining an important role in guaranteeing these rights in the absence of even subsidiary indications in the legislation (Domínguez Morales, 2021). One of these may be the introduction of agreed criteria for the said affiliation (Cordero Gordillo, 2022), which would eliminate unilateralism. Unless there is an error or omission, little has been done in this respect, except in the collective agreement of the company Financiera El Corte Inglés, EFC, SA (Convenio Financiera, 2021), which, in its article 44.8, states that 'unless expressly agreed otherwise, teleworking staff must be assigned to the same workplace where they carry out their face-to-face work'. The solution probably responds to the circumstances of the aforementioned company, but it is not exportable as a general rule; in any case, it is a first step. All in all, this seems to be an area in which collective bargaining can bear considerable fruit, including in terms of personnel management and not only in terms of security. The price is, of course, the acceptance of the curtailment of corporate unilateralism.

In turn, the second section of the provision recognises powers for workers' representatives that are perfectly in line with the contents set out in the framework of comparative law and which, as has been pointed out, 'in reality means recognising rights that Spanish labour legislation had not hitherto provided for' (Rodríguez-Piñero Royo & Calvo Gallego, 2020, p.1469). It is an open clause referring to 'the elements necessary for the development of their representative activity'. Article 19.2 specifies two of these elements, which in any case constitute an open list: 'access to communications and electronic addresses for use in the company' and 'the implementation of the virtual bulletin board'.

1 A fringe agreement ("*convenio franja*") is a collective agreement aimed at a group of workers with a specific professional profile.

The reference in the Law 10/2021 to the use of these means only if they are compatible with remote working has been noted with concern (Domínguez Morales, 2021). What interpretation should be given to this indication? In order to give substance to this provision, the most reasonable interpretation is not to restrict its use excessively. There is already sufficient case law from the courts on the use of these means outside the field of teleworking that can be easily transferred to this field.

Another possible area for future disagreement is who should bear the cost of implementing these rights. These differences are already apparent in the doctrinal treatment of the issue, divided between those who argue that it is not possible to claim the creation of this IT infrastructure from the employer (Cordero Gordillo, 2022) and those who see it as feasible (Nieto Rojas, 2020). If, again, one accepts the validity of the existing doctrine for ordinary work for the field of telework, the question seems to be resolved.

From a subjective point of view, it is also necessary to point out that the literal wording of the provision limits the right to elected representatives, not to trade union officers. It has been argued, however, that the right also belongs to sections of the most representative trade unions or those that have a presence in elected bodies (Cordero Gordillo, 2022). It does not seem that this issue will be the subject of particular controversy, and this interpretation is likely to be successful in practice.

Finally, the third paragraph of Article 19 of Law 10/2021 has content which, from a digital point of view, is differentiated into two parts. Firstly, it seeks to guarantee the effective participation of remote workers in collective activities. Here, the provision of means for the organisation of video meetings for workers' representatives can easily be accommodated.

In principle, the wording of the text of the Workers' Statute does not seem to allow online assemblies to be held, as its Article 78 restricts them to the workplace. However, the new legal text, as a subsequent and special law (Casas Baamonde, 2020), could cover them. Moreover, it would oblige the employer to provide the necessary means for this participation to take place. The use of a video-call system and the provision of a webcam would, in principle, comply with this requirement. However, the question arises as to what would happen in the case of a workers' representative who is not able to operate such a system. It can be assumed, in any case, that the general requirements for face-to-face meetings regarding quorums, time limit, etc., remain in force in this form.

Secondly, it should be noted that the guarantee is at the same time a limitation. What is protected is the exercise of the right to vote in works councils' elections. The limit derives from the requirement that such participation must be 'in person', according to the wording of the text. This is certainly a paradox as it requires travel, which, in some cases, does not fit well with the philosophy of remote working and does not in any way encourage greater participation. A recent judgment of the Audiencia Nacional has underlined, *obiter dicta*, the need for a literal inter-

pretation of this requirement (Audiencia Nacional, 2022). This situation has been criticised; Domínguez Morales (2021, p.150) states that 'all or most of the stages that the electoral procedure goes through could evolve towards digitalised elections in which physical presence at the workplace is irrelevant'. Undoubtedly, this indication of the necessity of being present in person has to be criticised.

The range of issues resulting from Law 10/2021 is thus set out, in more or less detail. What happens in this collective dimension to the rest of the jobs, where remote work is not carried out at all or only in an insignificant part of the working day? What happens in companies where face-to-face activity is maintained? Some of the points raised above will now be analysed: the virtual bulletin board and some common aspects of the practice of employee representation.

The use of email has already been extensively studied, including from the perspective of data protection, so it will not be dealt with here. In any case, due to its special connection with the matter under discussion, the Supreme Court's ruling of 21 April 2017 should be included here. In it, confirming the ruling of the Audiencia Nacional, it proclaimed the uselessness of email as an appropriate way to carry out the necessary consultations in a procedure of substantial modification of working conditions, 'without actually carrying out that process in which opinions are contrasted and assessed jointly among all the interlocutors who in the end may reach an agreement or disagree with the measure proposed by the employer' (Judgment of the Supreme Court, 2017). Email is therefore a tool for information, both for the company and for workers' representatives, but not for consultation.

As is well known, the recognition of some of these rights has its origins in the courts and in collective bargaining. It has been pointed out, on the one hand, that Law 10/2021 does not alter the outlook in any way: 'this obligation to provide digital means to make representation effective cannot be applied in generic terms, that is, it cannot be extended to staff who do not work remotely, in which case the case law on the use of company technology for the purposes of communication between representatives and those represented will continue to be applicable' (Domínguez Morales, 2021, p.152). On the contrary, it has been argued that 'this differentiation would not make sense, nor would it correspond to the practice of labour relations in Spain' (Rodríguez-Piñero Royo & Calvo Gallego, 2020, p.1469). In the absence of a pronouncement by the courts in this respect, the expansive option seems more in line with social reality and the objective of promoting collective activity defended in this paper.

As for the use of a virtual bulletin board in the first place, the legislation is silent on this issue. However, collective bargaining, prior to the Italian example mentioned above, had already pronounced on this issue. In any case, there are not many collective agreements that provide for the possibility of using a virtual bulletin board, not only in the case of telecommuters.

These include, but are not limited to, the most recent agreements: the Alicante provincial agreement for retailers, wholesalers and exporters of footwear, leather goods and travel goods (Convenio Minorista Alicante, 2020); the Nortegás Group agreement (Convenio Nortegás, 2020); the state-wide agreement for veterinary centres and services (Convenio Veterinaria, 2020); the agreement of Hermandad Farmacéutica del Mediterráneo, SCL, for work centres in Alicante, Almería, Barcelona, Madrid, Málaga, Murcia and Valencia (Convenio Farmacéutica, 2021); the state-wide agreement for the insurance, reinsurance and mutual insurance companies sector (Convenio Seguros, 2021); the state-wide agreement for the travel agencies sector, for the period 2019–2022 (Convenio Agencias, 2022); and the agreement for the offices and firms sector in the autonomous community of Madrid 2022–2024 (Convenio Oficinas Madrid, 2022). The sample is not particularly great, but it shows concrete achievements in very different realities. In any case, it should not be ruled out that the concession allowing the use of this type of board is being granted through unpublished or informally concluded company agreements, taking into account the purpose of the regulation and social reality (Nieto Rojas, 2022).

As for databases, such as the one mentioned above in relation to French legislation, Spanish law, whether statutory or bargained, does not contain any mention of them or anything similar. Perhaps this is due to the legislature's recognition that workers' representatives have sufficient capacity to be the custodians of what has been received. The rights to information would therefore be short-lived, and the custody of the materials received would belong to the representation. At this point in Spain, there would not be a right in principle to a retroactive request for information.

This scenario, which makes sense when there is continuity, fails, however, when there are major changes in the composition of representative bodies. And if these changes are accompanied by a certain amount of bad faith, a situation may arise in which the new employee representation lacks the necessary background to implement its role. In this case, which differs from the one described in the previous paragraph, a French-style database could make sense. It must be acknowledged, in any case, that it has not been possible to locate any judgment in which this question has been raised before the Spanish courts, but it could happen.

It is obvious that this is not a priority issue in a possible future reform. Its economic cost is anyway negligible once the use of the company intranet by workers' representatives has been enabled. For this reason, it seems most appropriate to propose the inclusion of a database as a possible part of collective bargaining *ad futurum* and not to consider any legislative amendment necessary.

To close this section, it is worth noting the interesting idea of using the popular application Bizum (Domínguez Morales, 2021) to collect dues. Given the anecdotic nature of the use of this tool, it seems even more appropriate for contributions to resistance funds, as already put into practice by the trade union CCOO in a recent strike, as well as by other organisations (Comisiones Obreras de Andalucía, 2021).

Conclusion

All that has been discussed in this paper is only a sample of the challenges facing workers' representation in a decade of digitalisation. Many of the issues have been merely sketched out and would merit study in a monograph, as is evident from the increasingly abundant Spanish literature on the subject. The aim here is to offer a synthesis of the situation, using comparative law as a possible guide. However, it is clear that the problems in the collective dimension of digitalisation do not end here. The previous sections have described laws and collective agreements, mentioning good practice and judicial pronouncements. In this closing section, a doubt concerning territory will be added to this catalogue of rights: in which jurisdiction, with which applicable law, can and should rights be applied? The existence of multinational companies and the very phenomenon of transnational teleworking make this reflection indispensable in a world such as the digital one, which blurs borders. Most EU Member States take into account the size of the workforce when creating representative structures or assigning functions to them. What happens in the case of multinational companies or those where part of the workforce voluntarily chooses to work from another country? Do they still form part of the electorate? What happens in the case of work on digital platforms where there is a real transnational diaspora and the only connection is digital? What happens if the thresholds for representation in various states are exceeded as a result of workers' movements? It is difficult to argue that the rights to information and consultation, enshrined in Article 27 of the Charter of Fundamental Rights of the European Union, can be called into question simply because work is carried out through electronic means.

Another possible line of research concerns the subjective scope of these rights: to what extent are self-employed workers, especially those who are economically dependent, likely to benefit from the protection described above? Most international texts recognise the extension of collective rights to atypical work, insisting in many cases on the necessary protection of new forms of work. However, the real extension of the rights to information and consultation is not clear. Some supranational pronouncements have pointed to the possibility that these groups may benefit from collective bargaining. Will the greater right and not the instrumental right be extensible? This question is particularly relevant in cases of economic dependence with considerable integration in the productive dynamics of the contracting party. It is an issue that has not yet been dealt with extensively by the doctrine and offers a new challenge to the delimitation of the boundaries of labour law, in this case in its collective dimension.

But beyond these possibilities, and finally focusing on existing regulation in Spain, the great challenge is the development of collective bargaining. The theoretical proposals made in this paper, or in future ones, are minimal compared to the effective contributions that productive interaction between social partners can bring.

To achieve this objective, a change is needed, not of a legislative nature but of mentalities. It is necessary for both sides of the social dialogue to conceive of the existence of a new model that brings us closer to other realities where it has generated prosperity: an implementation of information and consultation rights and of collective bargaining that brings collaboration and productivity, to the benefit of companies and workers.

REFERENCES

Acharya, V., Baghai, R. P., & Subramanian, K. V. (2013). Labor laws and innovation. *Journal of Law and Economics*, *56*(4), 997– 1037.

Cabeza Pereiro, J. (2009). *Las elecciones sindicales.* Bomarzo.

Casas Baamonde, M. E. (2020). El Derecho del Trabajo, la digitalización del trabajo y el trabajo a distancia. *Derecho de las relaciones laborales*, *11*, 1413–1437

Casas Baamonde, M. E. (2021). Trabajo de las mujeres y digitalización. *Revista de Derecho Laboral vLex*, *4*, 67–88.

Code du travail (French Labour Code), of 25 September 2017.

Código do Trabalho (Portuguese Labour Code of Portugal), Act 7/2009 of 12 February.

Comisiones Obreras de Andalucía. (2021, 18 January). *CCOO pide el apoyo a la caja de resistencia de la plantilla de Aernnova tras 30 días de huelga indefinida*. https://andalucia.ccoo.es/noticia:553006-CCOO_pide_el_apoyo_a_la_caja_de_resistencia_de_la_plantilla_de_Aernnova_tras_40_dias_de_huelga_indefinida.

Cordero Gordillo, V. (2021). Trabajo a distancia y derechos de representación colectiva. *Temas laborales: Revista andaluza de trabajo y bienestar social*, *157*, 123–139.

Cruz Villalón, J. (2017). El futuro del trabajo y su gobernanza. *Temas laborales: Revista andaluza de trabajo y bienestar social*, *137*, 13–39.

Domínguez Morales, A. (2021). Derechos colectivos de los trabajadores a distancia en el Real Decreto-Ley 28/2020 de 22 de septiembre: problemas de aplicación práctica. *Trabajo, Persona, Derecho, Mercado: Revista de Estudios sobre Ciencias del Trabajo y Protección Social*, *3*, 143–174.

Estatuto de los Trabajadores (Spanish Workers' Statute), Royal Decree-Law 2/2015 of 23 October.

Eurofound. (2020). *Industrial relations: Developments 2015–2019*. Challenges and prospects in the EU series. Publications Office of the European Union.

Eurofound. (2022). *The rise in telework: Impact on working conditions and regulations*. Publications Office of the European Union.

European Commission. (2013, 26 July). *Commission staff working document: 'Fitness check' on EU law in the area of information and consultation of workers* (SWD (2013) 293 final).

European Parliament. (2021, 16 December). Resolution on Democracy at Work: A European Framework for Employees' Participation Rights and the Revision of the European Works Council Directive (2021/2005(INI)).

European Parliament. (2021, 21 January). Resolution with Recommendations to the Commission on the Right to Disconnect (2019/2181(INL)).

Gesetz vom 14.06.2021 – BGBl. I 2021, Nr. 32 vom 17.06.2021, S. 1762.

Gesetz zur Förderung der Betriebsratswahlen und der Betriebsratsarbeit in einer digitalen Arbeitswelt.

Judgment of the Audiencia Nacional of 12 December 2022 (ECLI:ES:AN:2022:5781).

Judgment of the Supreme Court of 17 May 2004 (ECLI:ES:TS:2004:3333).

Judgment of the Supreme Court of 21 April 2017 (ECLI:ES:TS:2017:1760).

Law 10/2021 of 9 July on Remote Work.

Madrzycki, B. & Pisarczyk, Ł. (2022). The impact of the pandemic on collective relations in Poland. *Studia Iuridica*, 95, 354–374

Maneiro Vázquez, Y. (2023). *Cuidadores, igualdad y no discriminación y corresponsabilidad: la (r)evolución de los derechos de conciliación de la mano de la Directiva (UE) 2019/1158*. Bomarzo.

Martín Artiles, A. & Pastor Martínez, A. (2022). Nuevas formas de representación colectiva. Reacción a la digitalización. *Cuadernos de Relaciones Laborales*, *38*(2), 345–366.

Mercader Uguina, J. R. (2020). Nuevos escenarios para el Estatuto de los Trabajadores del siglo XXI: digitalización y cambio tecnológico. *Trabajo y derecho: nueva revista de actualidad y relaciones laborales*, *63,* 1–28.

Molina Navarrete, C. (2019). Empresas complejas y derechos colectivos: parcial y atormentada transparencia jurídico-laboral de la posición organizativa del 'empleador indirecto'. *Trabajo y derecho: nueva revista de actualidad y relaciones laborales*, 52, 67–76.

Nieto Rojas, P. (2020). Derechos colectivos de los trabajadores a distancia: ¿Pueden enviarme información sindical? ¿Puedo negarme? ¿Cómo y dónde voto? *El Foro de Labos,* https://www.elforodelabos.es/2020/10/derechos-colectivos-de-los-trabajadores-a-distancia-pueden-enviarme-informacion-sindical-puedo-negarme-como-y-donde-voto/

Nieto Rojas, P. (2022). La disrupción digital y su impacto en los medios de acción sindical. In J. R. Mercader Uguina & A. De la Puebla Pinilla, (Eds.), *Cambio tecnológico y transformación de las fuentes laborales. Ley y convenio colectivo ante la disrupción digital* (pp. 355–380). Tirant lo Blanch.

Ordonnance n° 2020–1441 du 25 novembre 2020 portant adaptation des règles relatives aux réunions des instances représentatives du personnel.

Resolución de 15 de diciembre de 2021, de la Dirección General de Trabajo, por la que se registra y publica el Convenio colectivo general de ámbito estatal para el sector de entidades de seguros, reaseguros y mutuas colaboradoras con la Seguridad Social. (Boletín Oficial del Estado, 310, 163697).

Resolución de 19 de abril de 2021, de la Dirección General de Trabajo, por la que se registra y publica el Convenio colectivo de Financiera El Corte Inglés, EFC, SA (Boletín Oficial del Estado, 108, 54415).

Resolución de 22 de julio de 2022, de la Dirección General de Trabajo de la Consejería de Economía, Hacienda y Empleo, sobre registro, depósito y publicación del Convenio Colectivo del Sector de Oficinas y Despachos – (Boletín Oficial de la Comunidad de Madrid, 192, 3).

Resolución de 22 de junio de 2020, de la Dirección General de Trabajo, por la que se registra y publica el Convenio colectivo del Grupo Nortegás (Nortegás Energía Distribución, SAU, NED España

Distribución Gas, SAU, NED GLP Suministro, SAU, y Nortegás Energía Grupo, SLU) (Boletín Oficial del Estado, 189, 49816).

Resolución de 29 de diciembre de 2021, de la Dirección General de Trabajo, por la que se registra y publica el Convenio colectivo laboral de ámbito estatal para el sector de agencias de viajes, para el período 2019–2022. (Boletín Oficial del Estado, 12, 3555).

Resolución de 3 de agosto de 2020, de la Dirección General de Trabajo, por la que se registra y publica el Convenio colectivo estatal de centros y servicios veterinarios. (Boletín Oficial del Estado, 219, 69559).

Resolución de 30 de septiembre de 2021, de la Dirección General de Trabajo, por la que se registra y publica el Convenio colectivo de Hermandad Farmacéutica del Mediterráneo, SCL, para los centros de trabajo de Alicante, Almería, Barcelona, Madrid, Málaga, Murcia y Valencia. (Boletín Oficial del Estado, 246, 125298).

Resolución de 5 de marzo de 2020 de la Dirección Territorial de Economía Sostenible, Sectores Productivos, Comercio y Trabajo la que se dispone el registro oficial y publicación del Convenio Colectivo provincial de comercio minoristas, mayoristas y exportadores de calzado y artículos de piel y viaje (Boletín Oficial de la provincia de Alicante, 52, 2525/2020, 1).

Rodríguez-Piñero Royo, M. & Calvo Gallego, F. J. (2020). Los derechos digitales de los trabajadores a distancia. *Derecho de las relaciones laborales*, *11*, 1448–1472.