



Final Conference: “Shaping the Future of Work in a Digitalised Services Industry through Social Dialogue”, 16-17 November 2021



The European Services Workers Union

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1 | Introduction

1.1. Conference details

This two-day conference brought together UNI-affiliated trade union officials and representatives to discuss the outcomes of the 2019-2020 UNI Europa project *Shaping the Future of Work in a Digitalised Services Industry through Social Dialogue*. Between 45-55 people attended the conference on each day, including several researchers and EWC members. The project aimed to identify cutting-edge practices and thinking to support social partners in developing their approaches to three specific topics, with a particular focus on collective bargaining and social dialogue. These topics corresponded to the three sessions conducted during the conference: lifelong learning and skills; restructuring; and self-employment.

Each session was addressed by an ‘outside’ expert in the topic area, along with a speaker from UNI Europa. Substantial time was given to questions and comment from the floor; however, in this report, in the interest of concision, some of the speakers’ responses are incorporated into the main sections. Sessions also featured breakout discussions to address aspects of the topic in greater detail, from which the key points were subsequently fed back to the conference.

1.2. Opening remarks from UNI Regional Secretary Oliver Roethig

The focus of the conference was to address how trade unions can enter into a negotiating setting on the key topics highlighted by the project. In **lifelong learning (LLL)**, emergent priorities include working to get trade union representatives for LLL within companies, ensuring access to a variety of training for all workers, and ensuring that companies engage in long-term planning, for which collective agreements will be crucial. On another topic, **restructuring** processes need to be addressed through solidarity, a proactive approach and, above all, through collective bargaining. In the context of the European single market and multinational companies, it is important that this work is coordinated across borders. Finally, the project clarified that trade unions need to become much more “conscious” about reaching out to and organising with freelancers and **the self-employed**, in a context of rising self-employment within the services industry. This includes combatting the misclassification of bogus self-employed work, as is especially prevalent in the platform economy. At the same time, the project has found that, crucially, collective bargaining and prospective legislation in this area must be underpinned by the core principle that self-employed workers should enjoy the same fundamental rights as any other workers, with the freedom to organise and undertake collective bargaining.

2 | Lifelong learning and skills

2.1. Trade union engagement with LLL: the why, what, and how – Presentation by Jeff Bridgford (King’s College London)

It should be a trade union priority to ensure that workers and unemployed people are able, first, to acquire the knowledge, skills and competencies to find employment, on the basis of initial training, and, subsequently, to keep jobs and succeed in the labour market, through continuing training. At present, a huge set of changes in the world of work – from technological innovation, climate change and globalisation to the COVID-19 pandemic – are making increasing demands on individuals to acquire new skills. In this learning process, a union is the only trustworthy interlocutor for workers; the only body that can look after their interests and act on their behalf.

Why do trade unions engage in skills development and lifelong learning?

Firstly, to provide a valuable service to union members and potential members, and to enhance membership activity and representation. Secondly, to engage employers and public authorities on issues of mutual interest; both require skilled workers, and this kind of engagement can provide an opportunity to strengthen social dialogue and collective bargaining.

What activities do trade unions engage in within lifelong learning?

They can play an important advisory role. First, in skills anticipation: assessing what skills are required by employers and public authorities in the short, medium and long term, and what skills workers want or need to acquire. Second, with regard to training standards, curricula, training programs and assessment procedures for initial training; here, unions can look beyond the immediate needs of the employer to ensure that apprentices and workers are offered quality training and the possibility of recognised qualifications, to provide for career progression.

Trade unions can also be more directly involved in LLL. In certain countries, such as Italy and Belgium, unions are involved in sectoral training funds, and are able to draw in the money and use it to set up training programs. Beyond this, unions may be involved in the actual provision of training, or its monitoring; in some countries, unions participate in the process of registering enterprises for apprenticeship training. At the workplace level, unions may also negotiate paid time off for continuing training and, more generally, workers' entitlement to training opportunities.

Lastly, in some countries, unions also play the role of guiding and motivating workers looking to participate in continuing training: for example, workers who haven't previously been very successful in education and training, who may be cautious about admitting that they lack the skills that required for new areas of work, and/or are working in an environment of competition among workers to ensure that they keep their jobs (a common contemporary phenomenon).

How can trade unions support skills development and lifelong learning?

- By contributing to the deliberations of the intersectoral tripartite regulatory/advisory bodies at national level or at European level (Advisory Committee for Vocational Training), in addition to national intersectoral tripartite training strategies: e.g., Alliance for Initial and Continuing Training in Germany or Improving Vocation Training strategy in Denmark.
- By negotiating national or sectoral bipartite collective agreements, such as the national interprofessional agreement in France in 2013, which provided the basis for the 2014 law on vocational training (a similar interprofessional agreement was signed in October this year).
- By contributing to the deliberations of sectoral bipartite regulatory advisory bodies: for instance, in Denmark, trade committees (sectoral but also occupational) are primarily responsible for the design and implementation of apprenticeship training; and in Italy, Joint Interprofessional Funds for Continuing VET are present in around eighteen different sectors.
- In countries where apprenticeships exist, social partners may negotiate apprentice wages through collective agreements, such as in Austria, Denmark and Germany.
- Through representation at the workplace level: 1) many countries have works councils, in which the issue of skills development is increasingly present; 2) there are some examples¹ of agreements between employers and union representatives to support workplace learning.

¹ NL, the Italian energy multinational, signed an agreement with three trade unions to establish an experimental program combining on- and off-the-job training. The program leads to a technical diploma that includes theoretical contents in tune with industrial needs and practical, technical work linked to the needs of the world of work. The agreement covered issues including duration of the apprenticeship, remuneration, holidays, sick leave, termination and the role of in-company trainers.

- In the UK, where there is no statutory right to bargain on training and no employer obligation to provide training, the 2002 Employment Act provides for (elected and recognised) union learning representatives (ULRs), who promote, support and arrange learning and training.

What issues affect the involvement of trade unions in skills development and LLL?

First, limited access to governance structures. Many of the above opportunities for trade unions exist on the basis of legal underpinning relating to how certain institutions work, what they should do and who should be members of them. Where unions are not represented in such structures, alternative ways of working and ways of thinking are required. Second, some unions lack staff with the right skills and experience to dedicate to the more technical aspects of skills development. This does not have to be a barrier *if* there are other (often government-led) organisations that can support and advise unions in these deliberations: e.g., the [BIBB](#) in Germany, the [SBB](#) in the Netherlands, or [SOLAS](#) in Ireland.

How can trade unions be supported in skills development and LLL?

Mr Bridgford signposted his writings for trade union publications², which have been circulated among conference attendees. The documents address issues including: union strategy, the content of workplace agreements, country-specific skills systems, funding for initial and continuing training, skills anticipation and how to survey workplaces for learning needs.

2.2. Project insights and proposals on building structural support for LLL – Presentation by Annika Flaten (UNI Europa)

In this project area, the focus was on studying the trends, the best practices, and the barriers within skills development and lifelong learning, alongside the role of trade unions. There were three stages: **1)** literature review; **2)** online survey and interviews of union representatives from various European countries; **3)** a workshop, in which the results of the former two stages were discussed – particular points of focus being the access of all workers to upskilling and lifelong learning and trade union influence over the content of training and future job profiles.

Regarding the insights arising from the project, there was broad consensus among the affiliates on two issues in particular: that the facilitation and funding of workers' lifelong learning and continuous skills development is above all the responsibility of employers, and to a lesser degree of governments, and that lifelong learning should, of course, be a part of collective bargaining. There were also suggestions that, in a similar way to pension schemes, employers could facilitate life learning through contributions to a sectoral skills fund.

Four proposals were developed through the project, as detailed in the project report, concerning how national trade unions can gain more structural support for lifelong learning:

- 1** Clearly define the different **forms** of lifelong learning, and the different **groups** of workers for whom these are intended. The former include: continuing training; further education; retraining in order to acquire qualifications for another job, or to enhance job security; and re-entry qualifications and training during or following a long absence from the area of work.
- 2** Promote lifelong learning through **collective agreements**; 90% of survey respondents supported this and called for agreements to be concluded at company and sectoral levels. Some affiliates cited examples of such agreements, while others noted that even the tabling of such

² See <https://www.unionlearn.org.uk/sites/default/files/publication/Developing%20Workplace%20Learning.pdf> and https://www.ilo.org/wcmsp5/groups/public/---ed_emp/---emp_ent/documents/publication/wcms_761035.pdf.

initiatives through social dialogue had met with resistance from employers. The key issues to be included in agreements, according to respondents, were: paid leave for employees to participate in training; specification of the skills needed to meet/maintain job requirements and increase employability; definition of training content; specification of both the hours in which training will occur and the number of training hours during working time; funding; easy access to training for all workers (this should be integrated into the company's overall strategy and planning); and sanctions in the case that the employer does not comply with requirements on training. It was acknowledged that such conditions would not be easy to achieve in many countries, due to the reluctance of employers to negotiate on LLL issues, but also because for some trade unions, these issues are not yet a priority.

③ Explore additional **collaborative initiatives** between social partners, since collective agreements often do not reach all workers (especially the self-employed, SME employees in some sectors, and those with lower formal qualifications) and, for various reasons, many workers do not exercise their rights in this area. There is a strong need for advice to SMEs on how they can best support the lifelong learning of their employees.

④ Promote LLL through **laws and regulations**: for instance, unions could lobby for legislation to set legal minimum requirements for the training of workers, including aspects such as statutory training leave, retraining, and training for the unemployed.

In addition, the project's survey of union representatives posed the question of the appropriate level at which social partners should be involved in LLL: the majority of respondents said that lifelong learning should be organised and facilitated first and foremost at the national level, secondarily, at the sectoral level, followed by the company level, and the European level. At the same time, the involvement of social partners at the European and national levels was perceived to offer the possibility of allowing an overall LLL environment that would "drive" and support these issues within companies: in the context of the European single market, it could create a level playing field and guarantee equal treatment of all employees; at national level, it could help to address issues of (equal access to) funding. However survey respondents acknowledged that the actual implementation of European and national policies takes place at the regional sectoral and company level, such as through the definition of specific skills requirements or the incorporation of LLL into collective bargaining.

Regarding education systems, when affiliates were consulted on whether current formal systems – primary, secondary and post secondary education – required the addition of a "fourth pillar" for lifelong learning, there was no clear consensus. The main perspective emerging from discussion was that while formal education can provide an entry to the labour market, the rapid changes and transitions in skills requirements resulting ongoing current technological changes may mean that it does not guarantee long-term employability; hence, skills development and LLL are crucial in enabling workers to to keep a job and to pursue a career.

2.3. Session Q&A and breakout discussions

What mistakes do trade unions tend to make regarding lifelong learning and training?

Jeff Bridgford (JB): For some trade unions, education and training is a priority, but for others it is not; this situation is understandable, given that many unions are working in difficult circumstances and are occupied with issues to do with their own survival. However, it is important that unions have discussions around LLL and skills development in order to identify the key issues in this area. It is often the case that union confederations, deciding that they lack the expertise to be involved in education and training, nominate the teaching unions to represent them in all such

discussions. This can be problematic for a number of reasons (for one, teaching unions' central concern is protecting and improving the conditions of their *own* members).

Annika Flaten (AF): While there is often a need for trade unions to be innovative in order to win successes with LLL, it is also possible to use traditional paths of collective bargaining and social dialogue to raise issues of skills and training: for example, in discussions on the working environment and health and safety, or in negotiations over restructuring and job losses.

How is LLL perceived by unions and employers? Broad transferable skills, a narrow diet of literacy and numeracy, job specific skills for the current employer, or critical citizenship?

JB: This depends on whether the country has a structure and framework that makes it difficult for employers to provide *only* a narrowly focused training agenda (such as “microcredentials” in the UK) and that instead ensures that they look at education in the round. In continuing vocational training, there is an argument for a balance between being able to acquire some specific skills and types of knowledge in a short time span and the possibility of a broader educational response; this is an approach that is already adopted in some countries.

AF: From the employer perspective, they have recruitment problems concerning ‘skills mismatch’, particularly relating to rapid ongoing digitalisation; for example, skills are a top priority in European social dialogue in the commerce sector.

The promotion of training can sometimes be seen with some suspicion by union members, who ask whether this really means seeking individual solutions for collective problems? Regarding generic skills, members may object that they possess these and that the real problem is the general workplace, managerial attitudes, pressures at work, etc.

JB: When trade unions are involved in discussions concerning LLL and training, it is important that they are focusing on training in a broader context and on reaching transparent decisions concerning the ways in which training opportunities are offered (rather than focusing on the provision of training for specific individuals). It is well known that, generally speaking, those within organisations who are the most educated will more often than not get the best training later on in their careers and that those who need training more, find it harder to access that training. But this is where trade unions come in; they are the ones who can identify these needs and who can articulate and argue for them vis-a-vis management.

Main points from breakout discussions

- ❖ While training is often seen as a win-win for all parties, it is still a contentious topic.
- ❖ There are huge differences between countries; different approaches to LLL have a major impact on worker engagement: e.g., rights to training, funding, when training takes place.
- ❖ It is a challenge to get low-skilled workers to take up training; they need to see the benefits.
- ❖ Employees are more likely to take up training if it is possible within working hours; this should be seen as a basic trade union demand.
- ❖ Who will pay for broad-based LLL for future employability and citizenship? In Norway, for example, employers would not go along with funding this.
- ❖ In Germany, while some collective agreements relating to digitalisation deal with LLL, it is generally not a major topic in collective agreements, compared to wages or working time.
- ❖ LLL may be seen as “dominated by a liberal approach” or being part of a “liberal agenda”.
- ❖ LLL is key to keeping up with the challenges of work. Is this understood in all trade unions?

3 | Restructuring

3.1. Restructuring and digital restructuring: impacts, best practices and social dialogue – Presentation by Sara Riso (Eurofound)

Consequences of restructuring for employees

Eurofound's analysis³ of data from the European working conditions survey (2015)⁴ found that restructuring is associated with:

- **Higher levels of** work intensity, self-reported stress, work-related absenteeism and presenteeism, exposure to adverse social behaviour (including bullying);
- **Lower levels of** satisfaction with working conditions, mental well-being, and job security;
- And, **on the positive side**, greater access to training paid for by the employer and work that involves new learning.

The strength of these associations was greater in situations of downsizing, but the associations remained even in workplaces that expanded in the restructuring process.

Informing and consulting with employee representatives during the restructuring process is a requirement for employers that is enshrined in a series of EU directives dating back to the 1970s. Yet, **only 78%** of employees in restructured workplaces reported having been informed about restructuring and **only 38%** had their opinion sought. Employees who reported having been consulted and informed were less likely to report the above-mentioned negative effects from restructuring. Other factors in the work environment ("buffers") that help to reduce the above negative effects include: perceived fair treatment, quality of the leadership, support from colleagues and management, and **union presence in the workplace**.

Restructuring and digital restructuring

Traditional restructuring usually involves the announcement of job losses or job gains, obliging employers to inform and consult employees. Digital restructuring, on the other hand, sometimes involves job losses or gains, but on other occasions is a more fluid process with no immediate redundancies. Relatedly, Eurofound research has found that job profiles evolve continuously over time. In one case study, digitalisation processes began in the early 2000s and led to the gradual replacement of about 45% of all job positions at a manufacturing plant: the jobs eliminated were mainly manual jobs, and roughly the same number of engineering and managerial positions were created, including for the purpose of data analysis. In this context, employee representatives have to be involved in discussions over restructuring and digitalisation "from the get go", even if there are no immediate signs of redundancies: tasks will change, job profiles will change, and job losses may occur more gradually.

Regarding sectoral trends, data from the European Restructuring Monitor (2020-21) indicates that among cases of *large-scale* digital restructuring, financial services has seen a very high number involving job losses (>30 cases of losses vs. <10 cases of gains) compared to other sectors. By contrast, in the information and communication sector, cases of digital restructuring that involved job gains far outweighed those involving job losses and were very high by comparison with other sectors (>40 cases of gains vs. <10 cases of losses). This latter trend is also present to a far smaller degree within professional services.

³ <https://www.eurofound.europa.eu/nb/publications/annual-report/2018/impact-of-restructuring-on-working-conditions>

⁴ <https://www.eurofound.europa.eu/surveys/european-working-conditions-surveys/sixth-european-working-conditions-survey-2015>

Good practice

Eurofound's research on good practice in restructuring (2008)⁵ and, more recently, in digitalisation processes (2021)⁶ emphasise elements such as active employee involvement in decision-making, effective communication, HR policies/strategies, and training. In restructuring, fairness of policies and procedures was found to be particularly important in relation to organisational commitment and trust. The research also recommended the monitoring of working conditions in order to support the wellbeing of employees throughout the restructuring process and to allow for necessary adjustments: for example, during digitalisation, when impactful technologies are introduced, health and safety precautions will need to be considered.

Social dialogue

According to Eurofound's Delphi survey of experts (2021)⁷, social dialogue has a role in the implementation of all of the above elements during digital restructuring. Companies with a social dialogue process (with formal employee representation) secure more positive outcomes for employees and greater employee "buy-in" during restructuring processes, mitigating feelings of job insecurity and creating greater acceptance of new technology.

In its case studies, Eurofound observed that digitalisation is an area in which social dialogue struggles to extend its influence, with negotiations remaining very much focused on more traditional topics such as wages. Here, Ms Riso noted that a "shift in mindset" is required. Additionally, Eurofound was unable to observe *systematic* monitoring of change during restructuring or digitalisation processes; among the former, it was limited to whether the process stayed within the confines of the agreement, and there was no feedback mechanism to allow social partners to learn from the restructuring experience; among the latter, there is a need for proper monitoring of the impacts of new technologies (such as Internet of Things) on workers' fundamental rights to privacy and data protection, as well as the agreed limits on their use.

At national level, when one looks at innovation strategies for digitalisation, there is little evidence of the involvement of social partners in shaping those strategies and very little emphasis on the quality of work resulting from these processes. This situation needs to be addressed not least because its (negative) consequences will trickle down to other levels, including company level.

3.2. COVID-19, remote working and how unions confront the new challenges of restructuring – Presentation by Mark Bergfeld (UNI Europa)

Since the launch of this project in 2019-2020, there has been a more serious disruption to the world of work than any of us could have foreseen: notably, the so-called "**remote work revolution**" and the enlargement of the rift between those workers now called "essential workers", working on the front lines, and those working remotely. In the first instance, this new reality demands that we continue to undertake scenario-building research within the sector, so that we have such scenarios on our radar when they occur. Regarding the topic at hand, the present situation has brought into question our prior assumption as trade unionists that (digital) restructuring ultimately always comes down to increasing shareholder value. Now, external circumstances, rather than internal organisational challenges have forced companies to restructure in ways that would not otherwise have been likely. At the same time, the crisis has raised new questions surrounding ownership: more and more private equity companies are

⁵ www.eurofound.europa.eu/observatories/emcc/comparative-information/erm-case-studies-good-practice-in-company-restructuring

⁶ <https://www.eurofound.europa.eu/publications/report/2021/digitisation-in-the-workplace>

⁷ See '6' above.

buying up publicly listed companies on the cheap, and a range of mergers and acquisitions are taking place.

Recent years have also seen the emergence of a **permanent state of restructuring**, no longer implemented *only* on the basis of economic crises or major macro trends, such as climate change and digitalisation, but taking on unprecedented and ever shorter cycles. For example, in the facility management, cleaning and security sector over the last two years, there have been three waves of restructuring at G4S, and two waves at ISS, including divestments and sell-offs.

The pandemic context: working from home

The pandemic situation has presented new questions and new demands from workers and employees regarding work-life balance. Many workers, particularly those (often women workers) who have people to care for or attend to at home, appreciate the newfound work-life balance of being able to prepare meals in between working hours or put on a load of laundry, etc. However, we are not seeing an increase in autonomy in the labour process itself; in fact, management is tightening up their expectations, and more and more workers are reporting being contacted outside of their regular hours [Ms Riso echoed these points in the session Q&A, noting Eurofound's ongoing research in this area]. Thus, it is not surprising that more progressive governments (such as in Portugal) have announced that they are forbidding employers from contacting employees outside of office hours. This development represents a massive legislative victory, as something that trades unions have long been fighting for under the banner of the 'right to disconnect', established through various collective agreements in the services sectors, whether in France, Germany, or a number of other countries.

The second problem in this area is **how trades unions access the workforce** (and organise and represent them) in the present context and whether demands can be placed on employers to provide the necessary infrastructure to this end. For instance, at one large German textiles/sports company, there is an ongoing legal case concerning whether the recognised trade union (with which the company has an agreement) should have its own Yammer communication network on the company server or whether they have to provide their own infrastructure. In broader terms, it has become apparent that the 20th century "office" model of work that we once knew no longer exists as it did, and will never return to its pre-COVID state.

Third, we see the emergence of a **two tier workforce**, especially in countries where there are no sectoral collective agreements and where there is weak legislation: companies are employing new workers on different contracts and using home working to lower wages and lower working conditions. Finally, with regard to new **psychosocial risks**, it is clear that those working from home are not the winners from the crisis; whether working alone in their kitchens, or having to attend to older persons or children who might also be at home, for example. More than ever, these workers need the collectivism and solidarity that a union can provide.

Automation and artificial intelligence

While we often think about automation in the services sector in terms of job losses, what we actually see, and what various European Commission-funded studies show, is a net jobs gain in the sector. So, this is not a time for trades unions to retreat and become defensive, but it's actually time to move forward and put our agenda front and centre; indeed, the labour shortages being experienced at the moment give us increased leverage to advance our own agenda.

However, it is important to ask what kinds of new jobs are being created and whether these are quality jobs that can provide people with a decent living. Unfortunately, this is often not the case, since the automation of processes within offices and the introduction of artificial intelligence is creating new jobs both up and *downstream* in the services value chain. Mary Grave, an MIT

researcher, has called this the emergence of “**ghost work**”: hidden work or ‘invisible’ work that is no longer taking place within the company HQ or within the company vicinity, but is often being done by contractors and freelancers working on lower wages, with worse working conditions and paying their own social contributions, etc. This type of work can have a pull effect on wages within the sector at large and it is up to the European trade union movement to make sure that we put organising these non-unionised workers front and centre of our agenda, asking ourselves, “How do we make sure that these workers, especially young workers, are going to be the union members of tomorrow?”

Platform workers

The debate around these types of workers has received widespread attention: for example, regarding the manner in which companies like Uber delivery try to undermine existing terms and conditions by mischaracterizing these workers as self-employed. Nonetheless, it is important to recognise that using these types of workers is not going to become the dominant employment model. Instead, what is happening is that large employers are using the same platform technologies to allocate work within their companies, and workers are having to compete for different tasks and jobs. This situation increases stress levels, means that workers continuously need to be logged on, and means that they are subject to indirect control. As they work from home, these workers do not have direct contact with their colleagues and it is very difficult to build solidarity. Moreover, if you do not have contact with your boss, or your boss is an algorithm, it is even more difficult when you have questions concerning how to manage a task. Another broadly applicable issue is that these platform systems have the capacity to surveil and monitor workers beyond the scope of the tasks at hand, and to introduce ratings systems.

Problems, challenges and opportunities for trades unions

It is important that we recognise that the learning cycles for trades unions are much longer than those of business and capital (who do not have to make decisions on the basis of democratic discussion); as such, unions need to join together in dialogue and continuously reassess the situation in order to learn from cutting-edge practices and equip ourselves to respond to the new challenges raised by business. Instead of becoming “helpdesks of restructuring”, where our representatives are put in the position of simply communicating the company’s bad news, we must be the ones putting forward the hopeful message of building solidarity between workers outside and inside the company, young workers and older workers, skilled workers and ‘unskilled’ workers. We can put forward a bold vision of organising workers all along the value chain, as our FSU colleagues have done in Ireland, organising games workers, or our colleagues at Finansforbundet have done, organising fintech workers.

Lastly, the project has revealed that the main priorities of our affiliates, and of UNI Europa overall, are precisely to facilitate more sharing of best practices, more (relevant) sectoral research, and more struggle on the legislative front (which we are actively building through our legislative **campaigning wing, particularly on the issue of public procurement**).

3.3. Session Q&A and breakout discussions

Contribution from Jonathan Payne (De Montfort University)

There appear to be good examples of positive restructuring and partnership around the high-road, better jobs, but how do you go beyond this, to persuade recalcitrant employers (the ‘long tail’) that this is the path to follow? It seems to me that you need union power at multiple levels to put beneficial constraints on employers; you need unions on the company boards, so that they can be involved with decisions early on. The situation looks very different depending upon whether you are in the UK or whether you are in Germany or the Nordic countries, where these possibilities

are present. In the UK, workers' representatives are not on the boards and unions are not collectively bargaining over training, so we are in a really difficult position.

Response from Mr Bergfeld

Jonathan's question pinpoints a key element for discussion: the reality that we do not have board-level trade union representation – and the institutional access it affords – in all European countries. To address what we can do in this context, it is important to refer to recent restructuring processes at G4S. A joint effort between the European Works Council, the national union (GMB) and UNI at the global level ensured that unions at these different levels were asking very similar questions and raising the same strategic objectives. This meant that at each point during the restructuring, management could not evade certain questions or consultative processes and, at the same time, they knew that the union movement was a common front, and they could not 'pick it off' at one or the other organisational level (which is often the case).

In this way, despite not having anyone on the board, as unions, we were able to get most of the information that we needed and to inform employees about the potential steps we could take. We had a strategy to safeguard jobs, and we also deployed a shareholder strategy, going over the heads of management to communicate directly with the shareholders, to the tune of: "This is what we're demanding from the company; you have a decision to take at the next shareholders convention; we want you to be aware of such and such issues; please raise these questions with management." As part of this communication strategy, in the absence of institutional level representation (in which case, you would not need to go to the media), we 'fought' our way into the weekend edition of the Financial Times, thereby raising the issue with the wider investor community. Although much remains to be desired concerning the G4S restructuring process, wherein the company often took the legally minimum required measures, our strategy meant that we pushed hard in making sure that with each twist and turn in the process. Even though two companies were bidding for a takeover of G4S, they could not evade us, since we had the city takeover code covered and were making use of the provisions contained within that.

Main points from breakout discussions

- ❖ Digitalisation can be used as an excuse for cutting costs and jobs.
- ❖ Layoffs mean less members, and less power to negotiate on the part of unions.
- ❖ It is important to keep building expertise on this issue and sharing good practice.
- ❖ There is evidence of anticipating restructuring in some union branches within companies – although not joined up at higher levels – and there are some examples of struggle.
- ❖ It is not enough to fight back against restructuring: we need to invest in anticipating it.
- ❖ Management think that people can be moved around like pawns on a chess board, but one 'piece' cannot transform into another just like that.
- ❖ "It is difficult to anticipate restructuring when management only communicates with us at the last minute, and when everything has already been decided".
- ❖ "We need to win the right of unions to be consulted prior to restructuring processes". At EWC level – and at national level in a number of countries – this right exists, but in practice this doesn't seem to happen; improved enforcement of regulations is needed.

4 | Self-employment

4.1. Trade unions and the self-employed: collective bargaining and legal obstacles – Lionel Fulton (Labour Research Department)

The picture across Europe

The current modest growth in self-employment conceals the reality that some groups are falling in numbers (those running small grocery shops, or self-employed agricultural workers, for example) and that this is being offset by growth in self-employment in some services sectors.

Most countries in Europe now have unions with significant numbers of self-employed people in them: Austria, Belgium, Denmark, Finland, France, Germany, Ireland, Italy, Lithuania, Netherlands, Norway, Serbia, Slovenia, Spain, Sweden, Turkey, and the UK. However, seven countries – grouped largely in central and eastern Europe – do not: Bulgaria, Czech Republic, Hungary, Latvia, Poland, Romania, and Slovakia (the latter has unions for the self-employed, but these are unions for business people and not part of the trade union confederation). For some unions, it is still the case that self-employed people are not people that they are looking to represent. For example, Germany's (and Europe's) largest union IG Metall only changed their rules in 2015 to allow the recruitment of the self-employed.

Four types of unions for the self-employed

- Unions for traditionally (and now increasingly) **self-employed occupations**: artists, actors, musicians, journalists, media professionals, translators, interpreters, tour guides (NUJ UK has a freelance branch with 4,000 members).
- Unions set up specifically to recruit new more **precarious workers**: UIL-TEMP, NIDL CGIL, FELSA CISL (all three from Italy), Sindikat Prekarcev (Slovenia), Independent Workers' Union of Great Britain (UK – not affiliated to the TUC).
- Unions **specifically including the self-employed**: UPTA-UGT (Spain), FNV ZZP (Netherlands), vIVAce (Italy – an association), wBREw (Poland); these unions also help workers with specific self-employment issues such as taxation.
- **Large unions seeking to recruit** the self-employed (may have self-employed sections): GpA (Austria), IG Metall, Ver.di (Germany), UNIONEN (Sweden), GMB (UK).

Why should unions engage in collective bargaining for the self-employed?

There are three main reasons: it is a way of improving pay and living standards for the self-employed, a way of protecting employees against cheap/unfair competition from the self-employed, and it gives the self-employed a reason to join unions (the other bodies seeking to represent the self-employed are not involved in collective bargaining).

Obstacles: “anti-competitive” rulings

European and national authorities may, however, suggest that if you are organising the self-employed, you are not organising workers who have the right to join together and bargain, but you are in fact organising groups of undertakings, which constitutes illegal interference with competition (even a “cartel”).

In Denmark, rulings in 2002 and 2010 contributed to reducing the number of freelance journalists covered by collective agreements. Similarly, in the Netherlands, a competition authority ruling in 2007 prohibited unions from negotiating on behalf of orchestral workers, leading to a CJEU case in 2014, since which time a very restrictive approach is still being taken. Meanwhile, in Germany,

recommended rates were not permitted during a period, as the practice was deemed anti-competitive, and, in Ireland, the situation was similar following a competition authority ruling in 2004, which was subsequently reversed in 2017. For similar reasons, unions in Sweden also decided not to produce recommended rates.

Four main ways of gaining collective bargaining rights for the self-employed

1 Bargaining rights based on occupation

- Legislation may allow specific types of occupations to be excluded from anti-competition law: e.g., actors, musicians, performers, journalists, delivery workers.
- *Austria*: freelance journalists are covered by an overall agreement.
- *France*: freelance journalists, if earning 50% of their income from journalism, can be covered by the journalists' agreement; performing artists/"artistes du spectacle" (automatically seen as employees) are covered by several collective agreements.
- *Ireland*: voice-over actors, session musicians and freelance journalists have the right to negotiate following 2017 legislation (unclear whether agreements have been signed).
- *Italy*: delivery riders receiving their orders through a digital platform have the right to bargain following legislation in November 2019 that officialised their status as "workers".
- *Spain*: similar rights for delivery workers through the "ley de repartidores" in August 2021.

2 Bargaining rights based on clear rules on "economic dependence" within legislation

- *Germany*: "employee-like persons" who earn at least 50% of their income from a single source (33% for journalists, arts and the media).
- *Ireland*: 2017 legislation provides for the possibility of extending bargaining to the "fully-dependent" self-employed, but the government will decide whom that includes.
- *Italy*: workers on continuous and coordinated contracts must now be covered by collective agreements where they exist.
- *Spain*: economically dependent workers who earn 75% of their income from a single client; agreements are *not* collective, but "agreements of professional interest".

3 Based on an evolving history of bargaining and legal cases dealing with economic dependence or bogus self-employment

- *Denmark*: some sectors have long-term experience of negotiating agreements for the self-employed, but this has been limited by the competition authority.
- *Netherlands*: 1) by law, collective agreements "may also relate to contracts for the performance of specific work", although this has been limited by the competition authority; 2) the judgement in September 2021 on a court case brought by the union FNV against Uber was that the legal relationship between Uber and its drivers had "all the characteristics of an employment contract" and that, therefore, the drivers should be considered to be employees; subsequently, the existing collective agreement in the sectors was extended to these drivers.

- *Sweden*: by law an “employee” includes “any person who performs work for another ... who occupies a position of essentially the same nature as that of an employee”.
- *UK*: the courts have defined “workers” (who are not employees) on the basis of four obligations and they can therefore be covered by collective agreements.
- *Across Europe*: 22 unions responding to an ETUC survey said that they had used the courts to contest bogus self-employment.

4 Process whereby the self-employed agree to become employees

- *France*: intermediary companies offer “portage salarial” employment to executives who carry out tasks on a freelance basis, with coverage by a binding collective agreement.
- *Finland*: the journalists’ union has set up an intermediary structure called Mediakunta – a provider of media services that acts as the employer for its members.
- *Denmark*: cleaning company Hilfr.dk has offered its cleaners (who get work through its web portal) the opportunity to become employees covered by a collective agreement.

Opposition from employers

Moving to collective bargaining is not going to be easy, and there is plenty of evidence of obstruction from employers. In France, employers have been trying to compel performing artists to abandon their employee-like status and take up an “autoentrepreneur” status instead; in Germany, existing agreements for the self-employed (e.g., setting rates/fees) are often ignored; in Ireland, there have been no new collective agreements covering the self-employed following a change in the law; and in Spain, employers have undercut agreements for the economically dependent self-employed. In spite of the above, it is important to keep in mind the aforementioned successes in legislation and court cases (in Italy, Spain, UK, Netherlands, etc.), alongside recent bursts of industrial action from platform workers and, crucially, what appears to be a new approach from the EU on collective bargaining and competition [as detailed below].

4.2. UNI Europa objectives on self-employment and the fight for fairer EU competition law – Presentation by Johannes Studinger (UNI Europa)

Although there is significant variation across Europe in the situation of the self-employed within the economy, in legislation, and in their relationship to trade union structures, there has been a general shift over the past twenty years concerning how unions, and confederations like UNI Europa, perceive the self-employed and freelancers. This has moved from discussions about how freelancers themselves could pose a threat to employees’ rights and social standards, to a scenario in which unions have in many cases become an inclusive place for the self-employed, with the realisation that the real threat comes from the *employers* who are trying to push standards down and push vulnerable workers onto fixed-term contracts or into self-employment.

The only way to improve the overall situation, we now understand, is to acquire as many protections and rights as possible for all workers, whether they are self-employed, on a fixed-term contract or on a full-time, open-ended contract. In addition to our drive to bring self-employed workers into collective bargaining, unions can also offer contract advice, advice and even access to insurance (allowing one to work in an industry), access to training, and the capacity to negotiate with employers to ensure training programs include freelancers.

UNI Europa’s objectives and actions on self-employment in this project

① Engage self-employed workers in unions

The project was used to create a platform for the exchange of experience and information relating to how unions can engage self-employed workers and how they can become a part of our structures. This is an ongoing process, and something that will remain an active issue for UNI Europa and affiliates in the long term. Following our workshop two years ago in Rome and our webinar earlier this year, we have seen an increase in activity across a range of sectors, which reflects the growing importance of self-employment across the services economy.

② Address bogus self-employment

While we want to reinforce and assert the rights to freedom of association and collective bargaining for the self-employed, we also want to more effectively protect those who are pushed into self-employment against their will. Here, the European Commission's forthcoming [Directive on improving working conditions in platform work](#) will be a good step forward, but much more has to be done to fight against abuse. The project report has shown that bogus self-employment is a growing issue, particularly in low-pay sectors. Fortunately, many of these workers have done what we advocate below: to organise.

③ Build collective power

Ultimately, this is the best and most sustainable action that unions can take for these workers – whether or not they will remain self-employed, whether they are in a bogus self-employment environment, and whether we are addressing a sector-by-sector or cross-sectoral approach. Many of our affiliates now have specific sections for freelancers, in which there is a mixture of employment statuses and where workers sometimes move from self-employment status to freelance status and sometimes have combined status, depending on their work patterns. It appears that collective power in many unions is experiencing particularly strong growth in freelancer fields: for example, in BECTU (of Prospect Union) in the UK, representing behind-the-scenes workers in film and TV production, freelancers constitute the fastest growing section of the union, thanks to both aggressive organising and collective bargaining.

④ Fight for a fairer EU Competition law

This has been a long and difficult road: UNI has been engaging the European institutions on this question for more than 10 years. The EU situation has not been in line with the ILO conventions on access to freedom of association and collective bargaining, which include a definition of “workers” that extends to self-employed workers. In our project study, surveyed unions identified the biggest challenge facing them as the legal barriers against the organisation and collective bargaining of self-employed workers. As outlined above (4.1.), there have been many court cases at national and European levels targeting the efforts of our colleagues to organise, to set standards or come to agreements, and agreements have been annulled or threatened.

Two years ago, the Commission began to look again at the situation, prompted, in part, by increasing publicity around the bogus self-employment of delivery workers. After undertaking several studies on the vulnerability of self-employed workers, this year they promised to take action in order to remove barriers: *“EU competition rules should not stand in the way of collective negotiations or agreements to improve the working conditions of platform workers, or other solo workers. That is why we plan to issue new guidelines to make clear the circumstances under which solo self-employed can engage in collective negotiations, without risking a competition law Infringement.”* (Margrethe Vestager, Executive Vice President of the European Commission and Commissioner for Competition, Lisbon – 15 June 2021)

We applaud this pledge, but we note that the Commission has proposed different options regarding the extent to which the barriers can be removed. There are some very restrictive policy options, and, in response, UNI Europa has indicated to the Commission that only an inclusive and non-discriminatory one would be acceptable: a policy that allows for *all* self-employed people, in *all* circumstances, to be allowed to collectively bargain, not a policy that is restricted to platform workers or to those with contracting partners of a minimum size, etc.

Legislative process and UNI Europa's contribution

The process has taken place over approximately 18 months, during which time UNI Europa and other European industry federations have been very active and well coordinated, allowing for our various legitimate angles and positions. Ultimately, the Commission has decided not to opt for a directive, which has made the situation more difficult for us: it means no opportunity to make our case in front of the other democratic institutions such as the Parliament and the Council, and no opportunity to engage with members of Parliament and influence reports; hence, the only option is to convince the Commission.

Following much intensive dialogue between UNI Europa, other ETUFs, the ETUC, and the European Commission, the Commission will issue [Draft Guidelines](#) on December 9, which will go out for a final consultation until 24 February 2022, and then the final guidelines should be published around April 2022. When the draft guidelines come out, UNI Europa will do a last push to try to make them fit for purpose, focused on ensuring that our members can engage more readily with self-employed workers to help them to organise and collectively bargain. While we are likely to end up with some kind of compromise, this represents a once-in-a generation opportunity to achieve change for self-employed workers: it can be a 'game-changer'.

Priorities for UNI Europa vis-a-vis draft EU guidelines

- ☑ **Freedom is only true if it applies to all:** The legal instrument must be inclusive and non-discriminatory.
- ☑ **Establishing a level playing field:** Removing obstacles to collective bargaining for the solo self-employed is the only basis for self-employed workers to enjoy freedom of association and to organise in unions; Small and medium enterprises need to be included in the policy.
- ☑ **Fair and dignified terms and conditions:** Minimum fee recommendations are an important tool to achieve change in the absence of/in preparation for collective bargaining agreements.
- ☑ **Content and modalities of collective bargaining are no matter for competition policy:** The guidelines must align with established definitions of collective bargaining in applicable human rights instruments, ensuring full respect for national industrial systems and collective bargaining processes.

For UNI Europa, there are two main implications from the incoming changes. First, our affiliates will be able to develop strategies and decide on national-level actions in this area, whether through dealing with competition authorities regarding the implementation of the guidelines or through coordinating organising drives. Second, we aim to build a network of those who want to make self-employed workers stronger, give them a voice and improve their conditions, while building union capacity and fostering union-to-union cooperation in this area (not least because this work often involves dealing with multinational companies).

4.3. Main points from breakout discussions

- ❖ We need to empower self-employed workers through collective bargaining.
- ❖ We are learning from other unions' experience in this area.
- ❖ Collective agreements for freelancers can be jointly negotiated along with employees, as in the example of the German Broadcasting Service.
- ❖ Existing trade union structures need updating.
- ❖ Political decision-making and the action of legislators is crucial, *but* it is often “corrupted” by commercial and financial lobbying.
- ❖ We need to coordinate among union federations in order to avoid situations where traditional and often artificial collective bargaining divisions result in people in the same workplaces being unable to negotiate as one.
- ❖ Big business wants to maintain flexibility in action and decision-making and prefers to externalise “accessory” activities.

5 | Closing remarks from UNI Regional Secretary Oliver Roethig

It is clear today that the project's three topics were very aptly selected two years ago, not least because they have become essential issues in the context of the pandemic.

While lifelong learning has been a trade union issue as long as any of us can remember, it is now as topical as ever. Many workers do not have access to lifelong and continuous learning, particularly in the case of self-employed workers and precarious workers, whose employers have in some cases a complete disregard for such entitlements. We need to ensure that these workers *do* have such opportunities, so that they can keep up with technological and other developments in work and they do not simply become the tools of algorithms and machines.

Turning to digital restructuring, one may observe that this is essentially nothing new: there were similar trends from the 70s to 90s in manufacturing, and the key point is that now it is occurring in the services sectors. The changes happening in services, though, are much more related to work processes (how people work and interact); this is proving a challenge for us as trade unions, but even more so for the regulators. On the part of the European Commission, there is a tendency to view all markets as product markets and not to perceive services as different to this. This is an aspect that also needs to be stressed in discussions at national level.

With regard to self-employment, there is 100 years of experience in the media and entertainment sector concerning how freelancers can be dealt with fairly, which we should draw on as a strength. As these workers emerge across our sectors, particularly in platform work, we need to make sure that they have the same rights as employees to the greatest extent possible.

This has been a valuable project, dealing with the new challenges relating to collective bargaining. Going forward, in accordance with our objectives as defined by the UNI Europa Conference, we will continue looking at cutting-edge practices in each sector and cross-sectorally within services. This means ensuring that we bring together the knowledge and experience of our affiliates to find a common platform for negotiating on collective bargaining issues, so that you have a template that you can adapt to your different national circumstances. A second element is for us to learn the lessons from our current actions at European level, so that you can effectively negotiate on those topics at national level using EU legislation. Lastly, let us see if we can use these cutting-edge topics to attract workers to become union members, to get organised and to get active in winning collective agreements; as a substantial basis on which we can build our strategies to reach out and exert our collective bargaining power.

6 | Annex: Conference polls and project videos

Project videos were presented in each session, prior to the main speeches, on the subjects of: **1)** the need for LLL at work, the challenges for workers/unions in acquiring it, and possible solutions ([view video](#)); **2)** accelerating (digital) restructuring in the pandemic context, trade union responses and the need for solidarity ([view video](#)); **3)** own-account self-employment, workers' rights, and union actions and organising ([view video](#)).

The conference was also polled on issues relevant to the topic of each session. Generally, around one fifth of attendees responded. Some additional information was given by Mr De Spiegelaere following the polls, as detailed below.

Conference Poll #1 asked what percentage of workers in Europe wanted to participate in **training** but were not able to; the correct figure (overestimated by most attendees) is 9.5% according to a 2011 Eurostat adult education [survey](#), which also shows significant variation across countries, reaching over 20% in Cyprus, Malta and Ireland.

Conference Poll #2: *Does your union have a strategy for **lifelong learning**?*

Most attendees said either that their union had a strategy but in reality was improvising, or that they had only bits and pieces of a strategy (total six responses), while three respondents said that their union has a clear strategy and that everybody knows it. The options “don't know” and “nothing at all, we're improvising” had one vote apiece.

Conference Poll #3: *In your company/sector, **digitalisation** has been a main cause of...*

A clear majority chose “changes in the nature of jobs” (six votes), while there were a couple of votes each for “destruction of jobs” and “no effects”; there were no votes for “creation of jobs”.

A recent survey (Diresoc, 2020) asked the same question to 1,000 employee representatives in Europe: nearly 60% answered “changes in the nature of jobs”, 40% responded “destruction of jobs” and 25%, “creation of jobs”.

Conference Poll #4: *What is your union's approach to **restructuring**?*

The great majority of attendees said “we mostly try to reshape it” (total five responses), while *no* respondents said that their union tried to anticipate restructuring. One attendee said that their union tried to fight the restructuring process, and two said that there was “no clear approach”.

Conference Poll #5: *How do you personally connect with the issue of **self-employment**?*

The highest numbers responded saying that, as a trade unionist, they were trying to organise self-employed workers, or that they had no personal connection with self-employment.

Conference Poll #6: *In Europe, what percentage of workers are **self-employed**?*

The average estimation by attendees was around 20%. In fact, according to [2018 figures from Eurostat](#), the self-employed represent roughly 14% of total employment in the EU, with a significant range: from 20-30% in Greece and Italy to under 10% in countries like Germany, Sweden, Denmark and Luxembourg. Self-employment has been increasing in recent years, but not to a great degree, as in the case of remote working, for example.

Conference Poll #7: *Does your union actively reach out to **freelancers and the self-employed**?*

The mean score was 4.8 out of 10, with a spread of responses from “not at all” to “very much”.

Conference Poll #8: *How well integrated are **freelancers and self-employed people** within your existing union structures?*

The mean score was 2.9 out of 10, with responses skewed toward “not at all”.

Sommaire (suivant l'ordre du jour de la conférence) :

Introduction

- 1.1. Détails de la conférence
- 1.2. Allocution d'ouverture du Secrétaire régional d'UNI, Oliver Roethig

Apprentissage tout au long de la vie et compétences

- 1.3. Les syndicaux et l'apprentissage tout au long de la vie : le pourquoi, le quoi et le comment (Jeff Bridgford)
- 1.4. Aperçu des projets et propositions sur la mise en place d'un soutien structurel pour l'apprentissage tout au long de la vie (Annika Flaten)
- 1.5. Session questions et réponses et discussions en petits groupes

Restructuration

- 1.6. Restructuration et restructuration numérique : impacts, meilleures pratiques et dialogue social (Sara Riso)
- 1.7. COVID-19, travail à distance et comment les syndicats font face aux nouveaux défis de la restructuration (Mark Bergfeld)
- 1.8. Session questions et réponses et discussions en petits groupes

Travail indépendant

- 1.9. Syndicats et travailleurs indépendants : négociation collective et obstacles juridiques (Lionel Fulton)
- 1.10. Objectifs d'UNI Europa sur le travail indépendant et la lutte pour un droit européen de la concurrence plus équitable (Johannes Studinger)
- 1.11. Principaux points des discussions en petits groupes

2. **Allocution de clôture** d'Oliver Roethig, Secrétaire régional d'UNI

3. **Annexe** : Sondages de conférence et présentations vidéo

Liste des contributeurs :

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