

European Report on Social Dialogue in the Liberal Professions Sector

Future of social dialogue in the Liberal Professions Sector

Aim of the inception report

This report recalls the issues raised by project partners during the work package two (WP2), beyond the results of each scheduled focus group. Since project partners also are "social partners", their comments before and after the selected actions of WP2 deserve particular attention. This report also gathers informal considerations shared by Confprofessioni Management with Italian Trade Union Management on the project design and during the inception phase. In particular, the relationship between the Italian and the European vision on Industrial Relations in the Liberal Professions sector, has been discussed within each Trade Union project partners (CGIL, CISL, UIL), and within the Professional Associations, members of Confprofessioni.

As a result, what follows reflects "different perspectives" within Trade Unions and within members of Confprofessioni as well.

One of the main topic refers to the lack of an European Organization recognized by the EU as Social Partner in the Liberal Profession sector: if this impedes the participation in the established Committees of European Social Dialogue structure, on the other, this missing nature forces Confprofessioni to find out different options in order to participate in the EU calls.

Recent inclusion of the Liberal profession sector in the Work Groups established by the European Economic and Social Committee represents a good starting point for the empowering of liberal professions representativeness.

The focus on digitalization, which is the thematic issue of the project financed by the European Union, did not impede partners to take into account "general issues" pertaining the relationship between social partners in the liberal professions sector and current "policy issues" of national and European labour market.

Difference sources have been taken into account for drafting this report, such as telephone exchanges between project partners, informal considerations during project meetings, formal comments during extra project activities, such as trilateral meetings, national or European Congress and informal considerations among Confprofessioni staff and other Association not member of Confprofessioni, during the meeting of the European Economic and Social Committee. Yet, during European Councils of Liberal Professions held in Rome in 2017, new highlights arose on social dialogue issue.

The structure of this report is below described.

First of all, project assumptions are recalled linking the European and international framework on social dialogue (paragraph 1). Next, the different national contexts of focus group are described (paragraph 2) before discussing the issue of representativeness unanimously considered a "hot and traversal issue" (paragraph 3). Paragraph 4 deals with governance of work, a key topic linked to social dialogue. In general, the project assumption changes during project implementation. This is discussed in paragraph 5, while paragraph 6 covers the key theme of the project, namely the impact of digitalization on Liberal Profession firms. Paragraph 7 outlines an unexpected issue: the need for social dialogue knowledge and culture in both liberal professions and workers organisations. Finally, lessons learnt for the next project phase are presented last paragraph 8.

1. Project assumptions

Social Dialogue is a “communication between two or more subjects who differ in their interests”.

It is worth deepening the meaning of “communication”, “subjects” and “interests” so that the meaning of social dialogue is better understood.

Communication is defined as the transfer of information, facts, ideas from one person to another. In technical terms, communication is the process of sharing meaning through continuous flow of symbolic messages ¹. There are multiple components of “communication”, such as the communicators (sender and receiver), message (verbal or non verbal), code (encode and decode), channels (specific mechanism or pipeline), medium (television, face to face, web, phone, etc), interference (physical or mental), environment (cultural, temporal), feedback (positive or negative), levels (intrapersonal, interpersonal, public or private).

In sum, communication involves transmission of verbal or non-verbal messages. It consists of a sender and a receiver and channel of communication. In the process of transmitting messages, the clarity of the message may be interfered or distorted by what is often referred to as barriers ².

As far as subjects are concerned, they consist of “social partners”, a term generally used to refer to representatives of employers and workers. European Social Partners, specifically refers to those organisations at EU level which are engaged in the European Social Dialogue, as provided for under Article 154 and 155 of the Treaty of the functioning of the European Union (TFEU). Social Partners are set out in Article 152 of the TFEU ³. As a result, “subjects” of social dialogue are “collective entity”: this characteristic extends the issue beyond the communication between two parts.

Finally, the interest refers to something that brings advantages to or affects someone or something (from Latin “inter-esse”: own or personal gain). Historically, the interests of employers and workers are opposite. Employers want efficient production, with low labour cost (often low wages), a stable and loyal work force and freedom from interference in the management of their business. Employees want secure jobs and good wages with treatment and conditions that are agreeable, opportunities to get ahead and feeling of dignity and worth in their work ⁴. Traditionally, wages and profit are considered opposite.

Social dialogue differs from a classical communication process:

- a) rather being “opposite interest”, social dialogue pursues “common interests”;
- b) rather being a discussion, social dialogue is a conversation towards a shared meaning ⁵.

Social Dialogue is communication process where the cum-action phase (exchange of information) is added by two additional phases:

- a) the inter-action phase (emotional feelings shared);
- b) the relational phase (res-action) where partners interact on common issues.

¹ K. Froemling, The Handbook of Communication, Allyn & Bacon, Boston, 2011.

² M. Davisons, Communication: concepts, practice and challenges, Oxford Academics, Vol 23, Issue 3, June 2008.

³ Eurofound, European Social Partners, 2014; <https://eurofound.europe.eu>

⁴ Journal of social issues, What workers and employers want: bases of conflict, Vol. 2 Issue 1, 1946 in <https://spssi.onlinelibrary.wiley.com/doi/abs/10.1111/J.1540-4560>

⁵ D. Bohm, On Dialogue, Routledge, 1996

Finally, it is worth adding that Social dialogue is both a means to achieve social and economic progress and an objective in itself, as it gives people a voice and stake in their societies and workplaces ⁶. The 2008 ILO Declaration on Social Justice for fair globalization social dialogue is set out as a key pillar along with with social protection, employment promotion and rights at work: fundamental principles that Liberal professions make their own principles.

Aforementioned conceptual framework based on the work of Bohm together with the the belief that social dialogue has the potential to serve as a productive input into liberal profession sector, guided the drafting of the project proposal of Social Dialogue for the Sustainability of Liberal Professions.

This methodological position is rooted on United Nations and European Commission documents. The UN's 2030 Agenda for Sustainable Development, for example, highlights social dialogue as a critical element for achieving decent work and sustainability. On the other hand, the European Union's New Start for Social Dialogue reinforces social dialogue as a pillar of Europe's social market economy.

Hence project proposal is rooted in sound literature and policy assumption at European and International levels.

There is a vast literature which provides evidence about social dialogue's contribution to business growth. The Italian context of social dialogue benefits from a sound tradition in which the cooperation among social partners is valued as the key element of the entire industrial relations realm. The social dialogue mechanism in the Liberal Profession sector falls within the Italian tradition of social dialogue and benefits from the achievement obtained by collective bargaining agreement shared by Confederation of Italian Liberal professions and Trade Union.

This tradition led to what is called "bilateralism" which represents a good practice in the Liberal Profession Sector all around Europe.

Aforementioned belief oriented Confprofessioni and Italian Trade Union in drafting the project proposal and submitted it to the European Commission. Now, with the project approval, this belief becomes an imperative to convince the European Commission Officials about the validity of the Italian case of social dialogue in the Liberal professions sector as a good example to be mainstreamed in Europe.

The starting point is the universally recognized definitions of social dialogue (e.g. the ILO definition of social dialogue as a exchange on information, consultation and negotiation between social partners) and the recognition that social dialogue is a multi-dimensional construct.

Yet, it goes without saying that social dialogue does not operate or function in a social and political vacuum. Rather, a permanent institutional dialogue has to be continuously pursued with public authorities at local and national level beyond a "lobbying function". Since liberal professionals are public actors in themselves, they do not need to "influence" public decisions making process but they **are part of it**. In Italy, this happens through the so called participation in the legislative drafting.

⁶ ILO, Social Dialogue, ILC, 2013, pag 5.

Hence, the public nature of liberal profession links social dialogue (between social partners) with institutional dialogue (between social partners and government) shaping “**trilateral dialogue**” with a specific connotation which confers relevance to the related outcomes.

Overall, theoretical and empirical research find that effective social dialogue can produce **net positive outcomes for liberal professional firms**.

Despite the possibility that social dialogue generates additional costs, risks and other problems for business, such as impeding management autonomy, the consensus among scholars is that social dialogue is positively associated with a range of positive outcomes for businesses ⁷.

At professional firm, sectoral and national levels, social dialogue has the potential to stabilise industrial relations and support productivity growth, combined with contributing to both the preservation of firm-specific knowledge and **organisational capital**. Through competency and employee career development, both sustainable service provision and the achievement of public are ensured.

The project recognises **enabling conditions for effective social dialogue**, such as the “independency” of workers' and employers' organizations together with the related technical capacity and the access to relevant information allowing the participation in public decision making process (independency, capability, accessibility).

Four intrinsic factors of effective social dialogue are taken from the literature.

First, formal and informal social dialogue processes lessen the **asymmetry between professionals and employees** and enable parties to build consensus that can smooth business decision-making, prevent disputes or resolve them through accepted dispute resolution mechanisms. Sengenberger points out that social dialogue establishes an important risk mitigation function, managing conflict and strengthening the prospects for industrial relations peace, and thereby contributes to sustaining stable business operations, in particular when private interest is closer to public interest as in the professional firm ⁸.

⁷ D. Grimshaw, J. Rubery, Inter-capital relations and the network organisation: redefining the work and employment nexus, Cambridge Journal of Economics, Vol 29, Nr 6, 2005;

D. Vaughan-Whitehead, Inequalities and the World of Work: What Role for Industrial Relations and Social Dialogue?, ILO, Geneva, 2017.

M. Sytch, Dependence asymmetry and joint dependence in interorganizational relationships: effects of embeddedness on a manufacturer's performance in procurement relationships, Administrative Science Quarterly, 52 (1), 2007;

F. Traxler, Farewell to labour market associations? Organized versus disorganized decentralization as a map for industrial relations in Organized Industrial Relations in Europe: What Future?, ed. Franz Traxler, and Colin Crouch. Avebury: Aldershot 1995.

A. Koukiadaki, I. Tavora, Joint regulation and labour market policy in Europe during the crisis: A seven-country comparison. Brussels: The European Trade Union Institute, 2016.

K. Kolben, Labour Regulation, Human Capacities and Industrial Citizenship, in Marshall, S. (ed.) Promoting Decent Work: The Role of Labour Law, report to Dialogue section, ILO Geneva, 2010.

S. Hayter, The Role of Collective Bargaining in the Global Economy, Cheltenham: Edward Elgar, Geneva, ILO, 2011.

⁸ W. Sengenberger, Protection, participation, promotion: the systemic nature and effects of labour standards in Sengenberger, W. and Campbell, D. (eds), Creating Economic Opportunities: The Role of Labour Standards in Industrial Restructuring, Geneva: International Labour Organization, 1994.

Second, literature shows that social dialogue promotes **collective learning** which can help address and resolve collective action problems, through sharing of information that addresses issues of information asymmetry that may exist at organisational level ⁹. Using the word of Deakin, social dialogue is a **governance mechanism** with three features, namely *relational* (the open-ended nature of the social dialogue), *experimental* (through the role of benchmarking and audit) and *pragmatist* (where actors engage in ‘double-loop’ learning in which they question what has been learned and then improve the learning process). Social dialogue can also promote collective learning across systems, such as national associations of professionals, thereby helping to diffuse best practice production techniques for example and storing knowledge and expertise about effective responses to external shocks.

A third intrinsic property of effective social dialogue is **adaptability** through which social dialogue may also involve unions and Confprofessioni in adopting alternative mechanisms for regulation, involving also civil society organisations and opening up policy spaces going beyond the traditional scope of labour-management and socio-economic policy ¹⁰.

The fourth intrinsic property of social dialogue embodies the potential for social actors to build **long-term trusting relations**. The identification of interest in common and in conflict facilitate a long-term common strategy.

Through the routinized processes of effective social dialogue, parties identify interests in common and in conflict and devise actions and strategies in line with agreed rules (formal and informal).

According to Marsden, going beyond restraining opportunism, social dialogue can encourage cooperation by fostering the expectation of **reciprocity** between employers and workers and sustaining goodwill cooperation ¹¹.

Fig 1 Determinants of Social Dialogue

Social Dialogue Effectiveness	
Enabling Conditions	Factors
Independency	Asymmetry reduction
Capability	Collective Learning
Accessibility	Adaptability
Reciprocity	Long-term trusting Relations

⁹ S. Deakin, R. Rogowski, Reflexive Labour Law, Capabilities and the Future of Social Europe, Warwick Legal Studies Research Paper Series No. 2011-04, Coventry: University of Warwick, 2011.

¹⁰ L. Turner, Introduction in Turner, L. and Cornfield, D. B, Labor in the New Urban Battlegrounds: Local solidarity in a global economy, Ithaca: Cornell University Press, 2007; International Labour Office, Social Dialogue, Report IV, Geneva: International Labour Office, 2013

¹¹ D. Marsden, Norms of exchange and the socio-economics of labour markets, in Kaufman, B. (ed) Labor Market Models, Chicago: Stanford University Press, 2016

Finally, members of the bilateral group work involved in the project implementation agree on the implications of effective social dialogue for the growth of professional firms. *Innovation, competency and skills development, productivity and development of professional firm, ethics and reduction of the information asymmetry* between professionals and clients, are dimensions promoted by social dialogue that influence the private interests of both professionals and employees, achieving at the same time the public interest intrinsic of the professionals service provision.

2. The context of focus group: different models of social dialogue

Activities carried out during work package two (WP2) confirmed the **transition time** occurring in the social dialogue mechanism, a situation where different models coexist ranging from a clear opposition to social dialogue (Fiat Chrysler Automobiles) to a good practices such as Volkswagen.

Social Dialogue in the Liberal Professions sector mirrors the time of change in social dialogue and includes national contexts where social dialogue lacks behind as Malta and national context where social dialogue tradition ensures better performances, such as Belgium or Italy.

Social Dialogue is an intrinsic part of the **governance of work** which covers a wide array of issue such as laws and regulations, employment contracts, collective agreements, international labour standards, labour market policies, voluntary codes of conduct or corporate social responsibility.

Needless to say, the State plays a central role in the governance of work through tripartite social dialogue and related regulation of labour market. Over many decades and in many situations, arguments for **deregulation of labour markets** and structural reforms have involved industrial relations and the relation between social partners.

Within the governance of work issue falls the change of employers and workers organizations. According to the ILO ¹², trade union density, which measures trade union membership as a proportion of all employees, has fallen steadily in many parts of the world. Many reasons are reported for the decline in membership and density, including structural changes in the economy (e.g. the decline in manufacturing employment), disruptive employer attacks on unions, demographic changes, increasing unemployment, reforms to labour market governance and the rising share of non-standard forms of employment.

It is worth noting that the current model of trade unionism which emerged during the Ford, assembly-line production era of the early twentieth century appears inadequate in the context of the platform and gig economy.

However, trade union membership remains many times higher than political party membership.

¹² ILO, Inception Report for the Globe Commission on the Future of Work, 2017

Employers and business organizations face a number of other challenges. The heterogeneity of enterprises and the coexistence of small, medium-sized and multinational enterprises, makes it challenging to articulate a cohesive business voice. Multinational Enterprises have chosen to influence national policy and regulatory strategies directly rather than through collective forms of interest representation.

Some employers, like Fiat Chrysler Automobiles became reluctant to join an employers' organization where membership meant that they would be bound by the terms of a collective agreement that would otherwise not apply to them.

Following the ILO report, economic change and globalization do not appear to have undermined the capacity of employers' organizations to attract members. The reasons are related to the adaptive strategies of employers' and business associations as they assess alternative organizational forms and innovate the provision of services.

Policy challenges at European level have been addressing by recent developments showing the importance to encourage different actors. Profound changes occur in the collective bargaining which coverage has declined since the economic and financial crisis even if the European countries receiving international financial assistance have increased their coverage due to the application of the European legal framework (acquis legal framework)¹³. However, the higher diversity of working arrangements and employment contracts shifted the governance of work toward more flexible regulation models.

New forms of regulation reflect the need to focus on a rights-based approach rather than a corporative one. A critical issue is whether the regulation process empowers those who are otherwise excluded, allowing them to influence the design and implementation of policy.

The governance of work has long mirrored the ILO's global model, functioning as a collaboration between States, and representatives of employers and workers. Innovation and the shift toward more advanced forms of governance of work are rooted in the ILO tripartite model adding other civil society organisations. This seems the development of the Confprofessioni model of governance where professional associations, not part of Confprofessioni, are included in the collective bargaining process.

3. The shift of representativeness

This ILO long history provides a basis for innovations in the governance of work, especially in respect of promoting workplace compliance through labour inspection.

Gig and Informal economy pose demanding challenges to the traditional model of governance of work. At the micro level for example, new initiatives and organizational forms are emerging which are drawing on new sources of power. ILO reports that in the United States are emerging Workers' centres which organize low-wage vulnerable workers (e.g. migrant workers) largely in communities and not primarily at the workplace¹⁴. These new institutions offer a mix of advocacy and services. In other cases, informal workers are organized to give voice to the growing numbers of self-employed workers and play a sort of a "symbolic and moral leverage" to argue for the need to restore dignity and deliver social justice to economically marginalized workers.

¹³ J. Visser, S. Hayter and R. Gammarano: Trends in collective bargaining coverage: Stability, erosion or decline?, Labour Relations and Collective Bargaining, Issue Brief No. 1, Geneva, ILO, 2015.

¹⁴ ILO, Inception Report, cit.

Other forms of workers aggregation involve the community level, appealing to “citizenship” rather than labour rights.

Gig economy in its turn encourages new forms of organisational forms which extend to different types of collective bargaining or new unions for gig workers relying on community-based services.

Many individual and class action suits have contended that gig or platform workers have been improperly classified and that they should be considered to be employees ¹⁵.

The mentioned ILO Report highlights that In the United States, unions and union federations have developed three distinct strategies to provide gig workers with opportunities for agency and collective voice. These include legal challenges that would bring them under the umbrella of existing labour laws, the formation of independent worker guilds that bargain directly with labour platforms, and the creation of municipal laws that expand bargaining rights to self-employed gig workers ¹⁶.

Against aforementioned challenges, trade unions are searching new response beyond their core constituencies in order to reach marginalized groups and strengthen their role, gaining inspiration from a idea of justice. The debate in the Irish trade union on the campaigning issue to promote rights and contesting insecurity as an end in itself rather than covering members issues only is a paradigmatic example of the changing approach within trade union management. Needless to say, this approach requires cooperation between trade unions and other social movements that may not have engaged previously. There is clearly a need to reconstruct social solidarities if governance is to be effective in addressing inequality through inclusive regulatory strategies ¹⁷.

Leaving aside the discussion on the role of public institution for the regulation of new labour market pattern, the role of business in society is being faced by employers organization as well. Here a distinction between SMEs and Multinational should be raised since the participation in the local or in the global market shapes different models of governance of work.

This point is of great interest for Liberal Professions Associations since their role is not only crucial for the response to be provided in the digital economy issue but beyond it as a bigger governance of work proposal for Europe.

In Europe, employers’ organizations and business associations are adapting their organizational structure as well as their activities to the changing needs of business ¹⁸.

This includes the rationalization of membership through mergers with trade associations and the creation of “dual associations”, and functional adaptations, reorienting from narrow labour market governance to broader policy advocacy for an enabling business environment and offering a range of business services.

¹⁵ R. Agarwala: Informal labor, formal politics, and digni ed discontent in India (Cambridge and New York, NY, Cambridge University Press, 2013).

¹⁶ Organising the gig economy, ILO, Inception Report, cit pag. 43.

¹⁷ R. Supriya: “Informal workers’ aggregation and law”, in Theoretical Inquiries in Law, Vol. 17, No. 1, 2016

¹⁸ F. Traxler, Economic internationalization and the organization dilemma of employer association, London, Rutledge, 2006.

Even in this field a critical issue is the declining of membership which forces representative organisations to open up new categories of membership to accommodate heterogeneous business interests. In Germany, for example, new form of aggregation include membership not bound by collective agreements: in this case, SMEs which decide to be a member can benefit of the result coming from collective bargaining even if they are part of the association. Similar model is applied to *Confprofessioni* where outcome of collective bargaining is applied to professional groups different from Liberal Professions.

Aforementioned changes are summarized in the next table (fig 2).

Figure 2 Changing patterns of governance of work

Changing Patterns of governance of work	Workers Organizations	Employers Organizations
Vulnerable workers	√	
Community-based organizations	√	√
Informal workers not members of trade unions	√	
Rights advocacy	√	√
Moral leverage	√	√
Citizenship approach	√	√
New Union of gig workers	√	
New actions beyond their membership	√	
Cooperation with civil society organizations	√	√
New services design		√
Dual association membership		√

As shown in the above table, the action of both workers and employers representatives seems converging to a “common good”. This common interest of trade unions and employers organizations having different historical background of representativeness force them to find out new cooperation pattern beyond those based on collective bargaining.

According to the observation of the evolution of social dialogue mechanism in the liberal professions sectors two main approaches are envisaged:

- a) a cooperation model rooted in the collective bargaining *modus operandi*;
- b) a cooperation model based on a “citizenship approach”, documented by the convergence of a collective action towards rights advocacy, ethics, transparency and community based effort.

4. New pattern of governance of work

According to our project findings confirmed by above mentioned literature review, new paradigm of governance of work connects social partners within an overall civil society effort to better working conditions and social justice at large.

This pattern of governance of work has “the tripartism” as a main acknowledged determinant. Focus groups results underline the crucial role of State and public institutions, even if respondents who are members either of trade union or professionals organisations, have raised the need for an equal decision making power among tripartite mechanism (pariteticità).

Criticism to the traditional tripartism model has been presented during the focus group, highlighting the exclusion of civil society organization from tripartite negotiations or the inefficiency of tripartite consultation which impedes rapide decision coherent with economic crisis timeframe.

To this end, the European model of governance of work which includes voices from civil society, namely a Tripartite Plus, appeared preferable from a classic tripartite pattern rooted in the ILO tripartism. Needless to say, when generally collective actors are included in the governance of work, a further issues is raised concerning the nature of these organizations which are not membership-based organisations.

Considering that the ILO labour standards are addressed to social partners who are membership-based, the inclusion of civil society organization poses some concern at legal profile. This obstacle can be overcome by the statutory inclusion of tripartite process by Government themselves.

This paradigmatic issue is extended to condition of work issue and other labour issues such as social regulation process where the State plays a crucial role. Using the ILO words, this will need to be accompanied by efforts to elicit the views and interests of other actors who, while not necessarily enjoying “representative legitimacy” in the sense of membership, nor indeed even being part of the organization’s governance structure, can play a part in the pursuit of social justice.

5. Revisiting the project assumption: the good practice of social dialogue in the Liberal Professions sector

5.1 General considerations coming from European Commission

The project team started off the analysis (WP 2) assuming that the social dialogue model carried out by Italian Social Partners in the Professionals Sector was the *good practice to be mainstreamed among Europe*.

Lacking a real evaluation exercise confirming this assumption, each research action had a double tasks: a) checking the robustness of the assumption in each context; b) confirming the assumption of social dialogue against digitalization impact carried out by Italian Social partners.

The European Framework was taken from granted as below.

- a) Organisations representing employers and workers are known in Member States as “social partners.”
- b) The interactions between them, and with the public authorities, are referred to as ‘social dialogue’. A term used more widely to include dialogue at individual workplaces, whereby employers inform, consult and negotiate with their employees and their representatives on employment and business-related issues.
- c) Social Dialogue as defined in articles 151- 155 have considered widespread.
- d) Distinction between bipartite and tripartite, or that from cross-industry and sectoral level taken as clear concepts.
- e) Social Dialogue Committees and related 62 European-level employers’ bodies, as well as the 17 trade union organization participating in EU-level sectoral dialogue, were considered known by the majority of project members.
- f) the distinctive way of organizing the European Society known as European Social Model”, was considered known by the majority of project social partners.
- g) Article 11 of the Treaty of the European Union setting out Social Dialogue as the pillar of the European Social Model taken from granted.
- h) Article 27 and 28 of the Charters of Fundamental Rights of the EU highlighting the role of consultation process and the right of collective bargaining, were supposed to be known.
- i) Social Dialogue as part of the acquits communautaire was supposed as an essential item of an information framework of Confprofessioni or Trade Union officials.

5.2 The need for a Social Dialogue culture

Comparing to above mentioned strands of social dialogue, meetings of the Work Package 2 brought to the conclusion that a social dialogue knowledge should be mainstreamed even among social partners that work day to day on collective bargaining. In particular, the institutional history on EU level of social dialogue should be disseminated so that the evolution of social dialogue is understood. The early years (1953-1984) of social dialogue need to be understood as the foundation of the European Social Model leading to the birth of bipartite cross-industry dialogue (1985-1992), phase in which the Agreement on Social Policy was approved in 1992. When the Maastricht Treaty came into force in 1993, the new phase of social dialogue reflects a general consensus in Europe on the European Social Model. From the 2001 a greater social partners cooperation was in force with the first cross-industry multi annual work program which signed a new role of social partners in a new enlarged Europe. The Tripartite Social Summit for Growth and Employment was formally established by a Council Decision (2003/174/EC) in 2003, and was recognised and given the role of contributing to social dialogue by the Lisbon Treaty in 2009. Its role was to ensure continuous dialogue between the Council, the European Commission and the EU-level social partners, enabling the latter to contribute to the various components of the EU’s integrated economic and social strategy, including its sustainable development dimension. The Summit draws on the work of the various specialized tripartite concentration forums on economic, social and employment matters. Current debate on Europe 2020 and the European Agenda for 2030 poses new challenges to European Social Partners which are partially covered by the project (Social Dialogue for the Sustainability of Liberal Professions).

Together with the awareness of the need for a better knowledge on European Social Dialogue, the research process highlighted the type of instruments agreed by the social partners and related framework where the project output should be positioned.

According to Social Europe Guide on Social Dialogue ¹⁹, the joint texts, or 'instruments', agreed by social partners take a variety of forms, depending on the origin of the initiative, the issue in question, and the objectives and capacity of the signatories. They can be broadly classified as follows: agreements, 'process-oriented' texts, joint opinions and tools and procedural texts.

While Process-oriented texts include Framework of action, Guidelines and Codes of Conduct, Policy orientation, Joint opinions and tools seem to be the right framework for our project since they foresee Joint opinions (and statements) generally intend to provide input to the EU institutions and/or national public authorities.

These texts can: respond to an EU consultation (such as Green or White Papers and consultation documents); express a joint position on a specific EU policy; or ask the Commission to take a particular stance or action. Declarations are usually directed at the social partners themselves, outlining future work and activities which they intend to undertake.

In turn, Tools developed by the social partners, often with the assistance of EU grants, include guides and manuals providing practical advice to employees and companies, for example explaining the implications of EU legislation on particular topics, or promoting exchanges of good practice. As a result, each project output can be classified as Tools even if some Declaration addressed to Liberal Professions or Guidelines could be included in the project output.

5.2.3 Assumption on the Italian case as good practice

As far as the assumption on the Italian good practice is concerned, this issue deserves some comments.

First of all, the success of the current social dialogue mechanism in Italy is due to some contextual factors such as the long-standing collaboration among social partners and the centralized pattern of collective bargaining.

Secondly, the specific configuration of the Liberal profession Association is made up by the National Associations of Professionals, such as lawyers, accounting, engineering, architects, doctors and so on. The Management system is derived from the election occurring at the professionals national level of representativeness.

Third, the status of Social Partner of the Confederation of the Italian Liberal Professionals confer a peculiar role in signing the collective agreement of liberal professions employees at national level which reflect the legitimization to Confprofessioni in dealing with labour market issues and related social dialogue practices.

¹⁹ European Commission, Social Europe Guide on Social Dialogue, DG for Employment and Social Affairs and Inclusion, January, 2012.

In designing the work packages activities such as the focus groups in other member states or the expected questionnaire to respondents in different member states, it was realized that the *ceter-paribus* conditions were not respected. Needless to say, lacking the common contextual conditions, the assumption itself lose its validity.

Therefore, the research assumption was rephrased so that a multiple assumption were included in line with the national context. For Malta for example, the social dialogue mechanism on bilateral bodies (social partners institutions providing health and social care) has been replaced by the hypothesis on the social dialogue mechanism at large since developments in this matter were not confirmed.

This forced partners to prepare a Summary Project Online describing the Italian case on social dialogue in the welfare issue so that partners in related countries (Malta, Belgium and France) had the needed comparative information framework.

This change in project assumption impacted also in the evaluation design which was rediscussed and rephrased as well.

6. The digitalization impact on Liberal Professions firms

The project theme is the social dialogue as a tool to face the impact of digitalization on Liberal professions.

The issue of digitalisation has been developed by the European Commission ²⁰. The Commissions reviews existing literature and evidence on how digitalisation and automation/robotisation can affect employment, productivity and growth, and whether this may result in wage and job polarisation. It also considers the development of on-line platforms, the related opportunities for business development and job creation and the challenges that the development of on-line platforms may generate. It ends with a brief overview of how prepared EU societies are to face and benefit from digitalisation in terms of infrastructure and skills.

Digitalisation affects all industries on a scale comparable to the impact of the steam engine during the first industrial revolution. All Liberal Professions, therefore are interested by what is called the Fourth Industrial Revolution. According to the Commission, societies are expected to see fundamental changes in the way we live, work and relate to one another with related changes for employment, education and skills, labour market institutions and social protection systems.

The development of mobile phone applications reduce the costs of starting a new business and encourage product and process innovation.

Digital technologies reduce bureaucracy and administrative costs for businesses allowing jobs to be broken down into component tasks. Shorter working days, working from home, flexible work and other adjustments to traditional working patterns can give workers a better work-life balance. Nevertheless, together with mentioned opportunities some concerns about the adverse effects of digitalization on Professionals and their service provision. The European Commission recalled some negative effects on labour markets, starting from occupations reduced or threatened and the substitution effect by machines.

²⁰ European Commission, The labour market implications of ITC development and digitalisation, in Employment and social development in Europe, 2016

While robots invest the industrial process the ICT apps change the service provision of professionals. Digitalising tasks and breaking them down into smaller components allows tasks to be shared across a range of players and locations globally. Examples are para-professional in health sector, legal staff and the general employee in professional firms. The digitalization impacts on specific professions, as accountants or legal professions.

The case in architecture is paradigmatic since robot are replacing all process from the design through 3D to new 3D application in building process itself. The Commission mentioned the study of Oxford University (Frey and Osborne) which foresees the reduction up to 50% of current professions by 2030.

To prepare EU societies to reap the benefits of digitalization, the Commission provided a policy to be followed by a some documents such as the Digital Single Market strategy and the Commission's Communication on 'Digitising European Industry – Reaping the full benefits of a Digital Single Market.

According to the EU studies, between 2003 and 2013, employment in ICT occupations grew between 16% and 30% with an expected increase trend to 2030.

Eurostat informs that over the last decade, an extra 2 million ICT specialist jobs have been created, one million in the last three years alone. It has been estimated that 4 to 5 jobs are created in the economy for each new ICT job. The report highlights the increase of on line business innovation, the emergence of new services ad industries, the impact of digitalization on productivity and related contribution of ICT on GDP growth.

The Commission's report also points to the rise of online platforms and the collaborative economy defined as 'business models where activities are facilitated by collaborative platforms that create an open marketplace for the temporary usage of goods or services often provided by private individuals' ²¹.

In turn, "collaborative platforms" are defined as transaction-based platforms, similar to the peer-to-peer e-commerce platforms: peer-to-peer e-commerce developed into more complex service sectors, such as transport and accommodation, as a result of key technological improvements such as Cloud computing, the advent of algorithms and the capacity to manage and process Big Data.

Literature ²² shows different terminologies that can be used in this domain and highlights that the prime term from a work and labour focus would be "online labour"; from a client-side focus would be "online outsourcing" and as an overall domain would be "(digital) gig economy". Here, online labour is defined as contingent (task- or project-based) intangible work delivered digitally and done for money, organised via online outsourcing platforms that are marketplaces bringing together buyers and sellers.

Next figure recalls the feature of decent work that a are interested by the Digital Economy (Fig 3).

²¹ COM(2016) 356 final.

²² R. Heeks, Decent work and the Digital Gig Economy, Paper written for the Development Implications of Digital Economies, ILO, 2017

Figure 3 Categorisation framework for the Digital Gig Economy (from ILO, 2017, cit)

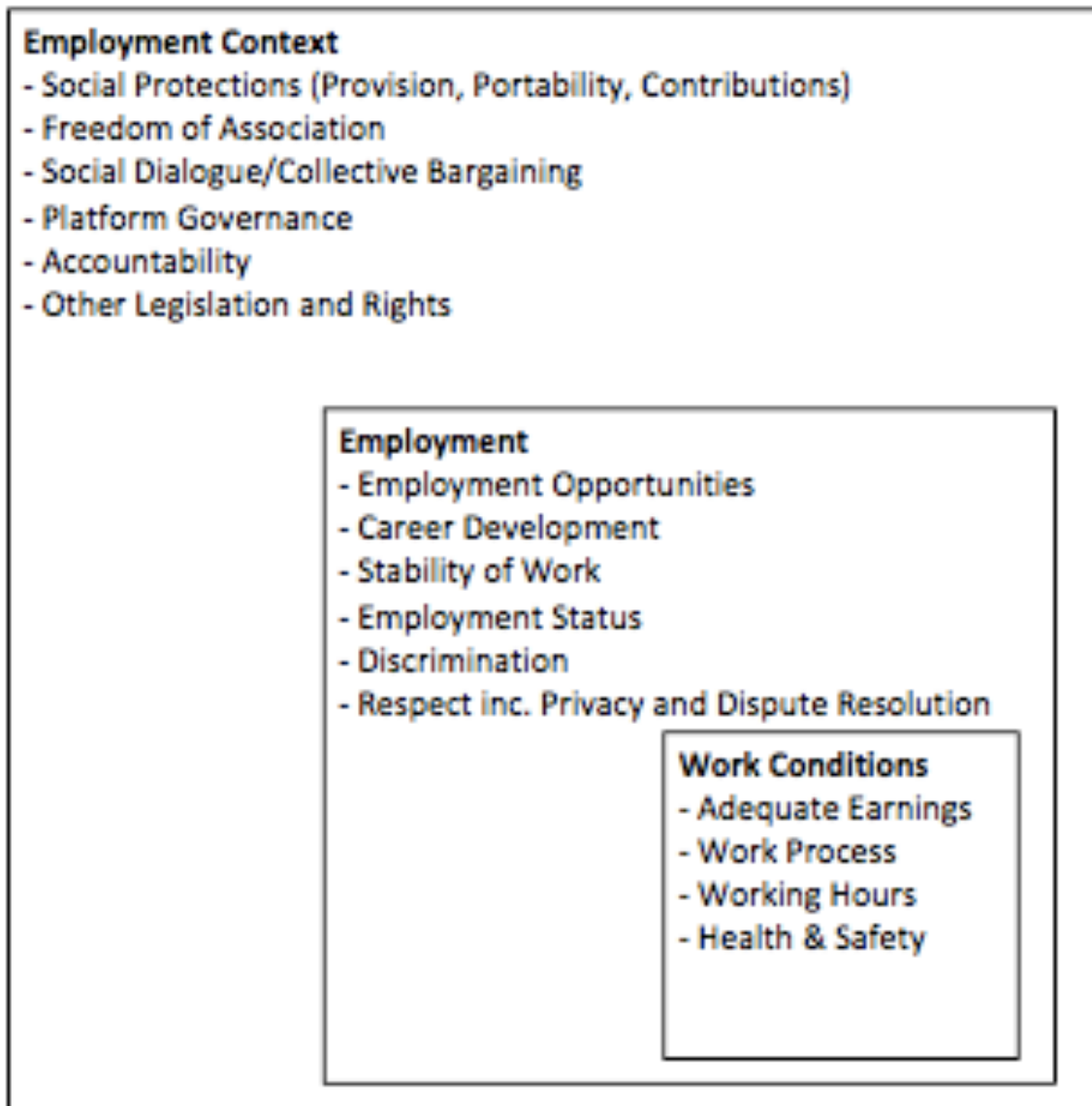


Figure 3 highlights the impact of digital economy on the Liberal Profession sector. As seen, each decent work dimension is interested by the digitalization of liberal professions labour market, touching both professionals and their employee. If we consider that the digital economy involve 60 million workers in USA, it easy to expect a parallel effect to European Labour market.

The Commission raised a question addressed to skills which is useful for our project:

Skills: are Europeans ready for the new opportunities?

Inevitably, the question links the knowledge economy realm, an issues that goes back in 2000 when the Europe would had become the most competitive knowledge economy in the world by 2010.

Regrettably, liberal professionals knowledge workers par excellence, were not involved in the strategy. Again, In the Europe 2020 strategy, liberal professionals are not mentioned. Need less to say, re-skilling and up-skilling are important elements of education and training policies to ensure that professionals are prepared for and can benefit from technology change. Education and professionals competency are key issue to achieve the European goals not only in the Employment profile, where the Liberal Profession sector plays a core role with 40 million workers, but even in the quality of service provision beyond other key issue such as the reduction of the information asymmetry, transparency, rule of law and rights protection.

The distribution and availability of digital skills goes hand in hand with entrepreneurial competency of liberal professionals to make them ready to play their role in the digital and knowledge economy by 2030. Obviously, the digital competence need by professionals goes beyond those mentioned in the Commission's Digital Competence Framework for Citizens (DigComp) which identifies, defines and describes the digital skills needed by all citizens as part of the key competences for lifelong learning and those by the Entrepreneurship Competence Framework (Entrecomp).

Alongside Opportunities for the Liberal professions sector, there is a need to face those libera professions directly threatened by digitalization.

This issue is focused on social protection sphere in that the professional themselves can lose they market, threaten the employability of their employees and impact of the existence of the professional firm itself.

As result, social dialogue is seen and the central tool to reshape the role of the liberal professions sector by both reducing the negative impact on the liberal profession firms and accelerating those factors enhancing their market and exploiting opportunities offered by digital economy.

7. Capacity building for social dialogue

It is recognized that Social dialogue has a key role to play in tackling the challenges related to digitalization and is a core component of a well-functioning social market economy. Due to the need for a collective effort towards sustainable development Social partners should increase their capacity not only to represent workers or employers but to design a sustainable future.

Accordingly, Social Partner, the Commission, the Council have launched a number of initiatives. A joint statement was co-signed whereby all actors agreed that the new start for social dialogue should lead to :

- a stronger emphasis on capacity building of national social partners;
- more substantial involvement of the social partners in the European Semester;
- strengthened involvement of social partners in EU policy and law-making;
- a clearer relationship between social partners' agreements and the 'Better Regulation' agenda ²³.

A number of preconditions for social dialogue include the respect for basic values and fundamental rights and notably the right to freedom of association and collective bargaining. Social dialogue also necessitates a sound industrial relations environment and respect for the role of social partners

Some of the above mentioned conditions fall under the direct responsibility of the social partners, others are addressed more to the public authorities.

²³ See European Commission, Employment and social development in Europe, 2016.

Public authorities in particular, have a responsibility to provide an enabling environment and establish laws and regulations for the enforcement of the basic rights of freedom of association and of collective bargaining.

The debate on the autonomy of social partners in dealing with collective bargaining or social protection sphere still persists. Different role (public and private) should trace the watershed between role and functions, However, while politics force State to influence social partners decisions, the need for financial resources force social actors to interfere in the public decision making processes. Membership and structure of social partners, representativeness and power of social partners (membership, density) matter in influencing the social policy.

The European Commission in its 2015 Communication on steps towards completing the Economic and Monetary Union calls for the Member States to pay greater attention to the contribution of national social partners, in particular to strengthening ownership of reform efforts, notably through stronger involvement in the elaboration of National Programmes.

In June 2016, the Council of the European Union, the Commission and the European social partners signed a statement on the New Start for Social Dialogue ²⁴.

Three types of social partner involvement in design and implementation of policy-making are considered:

a) Autonomous bipartite action.

Social partners have an (implicit or explicit) prerogative to jointly regulate (certain aspects of) employment and social affairs, without (direct) involvement of the government or public authorities.

b) Tripartite co-decision.

Following the ILO Convention 144/1976, state routinely engages in direct negotiations with social partners to jointly regulate (certain aspects of) employment and social affairs, based on legislation or custom and practice.

c) Consultation and advisory roles.

There is a legal obligation or custom and practice on the part of the public authorities to seek (non-binding) input from social partners when taking policy initiatives in the field of employment and social affairs, however, social partners are not in a position to decide or co-decide.

The Commission highlights a cooperation pattern made up by 5 strands: Collective bargaining, Legislation drafting, bipartite management or administration, tripartite co-decision, Consultation and advisory role.

Three of them, namely collective bargaining, Legislation drafting and bipartite management directly pertain our project and represent a new dawn for social dialogue, not only with reference the impact of digitalization.

Being Social partner, Confprofessioni signs the collective agreement which has a national validity. As a result, the collective agreement plays a key role in organizing related social dialogue mechanisms preceding and following the agreement.

Yet, Confprofessioni has a multisectoral nature in that all sector associations of liberal professions converge in Confprofessioni.

²⁴ <http://ec.europa.eu/social/main.jsp?catId=521&langId=en&agreementId=5474>

Therefore Confprofessioni acts towards macroeconomic objectives and at the same time, it covers specific need arising from each liberal professionals association (lawyers, doctors, engineering ect) and their general objectives such as the pay policy.

The Legislation drafting consists in the involvement of social partners in law-making. This involvement can be formal and informal. Parliament hearings are part of the process leading to Legislation drafting. In Italy, the law on self-employment (law 81/2017 Jobs act lavoro autonomo) can be attributed to the key role of Confprofessioni in preparing they draft approved by the Parliament.

The bipartite management of specific funds is an important issue for Italian Social Partners in the Liberal Profession sector. This function is rooted in the collective agreement where bilateral bodies are established to managed social protection issues. The rule for the management of bilateral bodies are set by Confprofessioni and Trade Unions. Here the role of social partners includes administrative function and policy making as well (identification of social protection schemes and services typology).

Parallel to this management function there is a consultation and advisory role that social partners play in Italy in the Liberal profession sector. In general, there is no a legal obligation to seek input from social partners. As reported by the European Commission, the main differences between countries concern the timing of this consultation, the level of detail involved, and whether there are obligations for the administration concerning follow-up to the social partners' input. In certain European countries there are general and customary forms of consultation, which enable the social partners to contribute their views before policies and legislation are decided.

The importance and effectiveness of consultation and advisory procedures ultimately depend on many more factors than the existence or absence of a formal obligation to consult. Other significant factors include the organisational power of the social partners, the linkage between social dialogue and political decision- makers and the influence of social partners on public opinion.

8. Lessons learn for next phases

Structure of social dialogue in the liberal professions sector differ among partner countries, Italy, Belgium, Malta, depending on the tradition in industrial relations, representativeness and so on.

However, considering the horizontal nature of the digitalization impact, it is recommended that a **common scheme** is followed to face challenges with an strategy purpose-built for professionals firms. This is why the Italian case has been chosen as a possible response, in particular with the involvement of social partners in decision-making.

Evidence shows that social dialogue approach have significant advantages not only in period of crisis but also in terms of democratic legitimacy and social cohesion.

Some conditions are acknowledged to make social dialogue more effective, such as the robustness of social partners membership (recognition), their inter-sectoral representativeness (representativeness), the credibility of their organization structure and transparency (added value), the quality of their services (relevance).

In Italy social dialogue gained effectiveness since social partners benefit from a clear mandate in engaging in negotiation with a view to achieve **collective agreement** on pay and working conditions.

This cooperative action carried out by social dialogue strengthens the relation of social partners with government and allows the achievement of common goals.

The Commission itself points out that the social dialogue gathers strength as the social partners gain experience in contributing jointly to the improved functioning of the country and its economy, and as compromises between the social partners and with the government are seen to yield beneficial results in the medium to longer term.

The good relation between social partners in the liberal professions sector is due to the **nature of the work organization in the professionals firms**. As reported by Gaetano Stella, President of Confprofessioni and Vice-President of the European Liberal Professions and International Liberal Professions as well, “the interest of Professionals and Employees are the same. When an employee is sick, the professional firm itself is sick, especially for small firms made up by one professional and one secretary”. It is easy that during collective agreement procedure, the quality of work and those conditions affecting employees are considered common to the entire professional firms, therefore facilitating the agreement.

In the same line of thought fall considerations about labour administration and the Italian bilateral management of social protection carried out by those institutions established in the collective agreement.

Needless to say, that basic features of national forms of social dialogue are to be observed such as the membership rates, mandates of social partners, modalities of cooperation with public authorities and the ability of social partners to enter into advanced and complex policy debates.

The hypothesis presented, namely the effectiveness of Italian Social Dialogue in the Liberal Professions sector does not stem from an evaluation exercise but from the “pragmatic observation of collective agreement results and the related management of the so called **“Italian Bilateralism”**”. This is why, a specific evaluation analysis has been organized during this project to confirm the above mentioned hypothesis.

With a view to aligning the evaluation framework with the European culture on social dialogue it has been disseminated the European Commission Vademecum on Social Dialogue where definition of social dialogue is provided together with the legal framework of social dialogue and the organization of the work of the Sectoral Social Dialogue Committees, as well as the Funding scheme for social dialogue ²⁵.

Last remark refers to the **interrelationship between social dialogue, governance and sustainable development**, a further step to be discussed during the mutual learning component of the project.

It is worth concluding this document by highlighting some key issues for social dialogue in the liberal profession sector.

The **digital transition** (paradigm shift caused by simultaneous technological progress centered in the ICT: Big Data, Internet of things, platform economy) is presenting considerable challenges for social dialogue in the Liberal Profession sector.

Some liberal professions are at risk and all professions are interested by this transition: destruction, creation, changes across all job descriptions, skills and training needs. Social protection should cover this risk and social dialogue should find out the right response.

²⁵ European Commission, A Practical Guide for European Social Partner Organization and their National Affiliates, July 2017.

Social dialogue is a key element in a social market economy and it is indeed a competitiveness factor.

After the “2015 new start for social dialogue”, the European social partners’ adopted a working programme as their common response to the European Council (April 2016) demonstrated their desire for European social dialogue to thrive despite having been beset with various difficulties.

The recent institution of a **Work Group** for Liberal Professions within the European Economic and Social Committee is a good start for the inclusion of this sector in the European debate on transition.

Valuing the rightful role of social dialogue is a way of making the social dimension a determining factor in the economic competitiveness of businesses within the European Union that are confronted with the challenges posed by the mentioned transition.

Evidence shows that changes ensuing from the digital transition are going to have a massive impact on social practices. They are just one aspect of the large-scale changes underway in our societies, which manifest in the crises that have hit Europe serving to fragment it even more. Social dialogue and social protection systems are powerful cultural markers for Europe, which are threatened by these changes, and yet the changes also offer opportunities for dynamic reinvention. **Transforming social dialogue in Europe** into the preferred method of creating opportunities out of the transition is the way ahead.²⁶

To this end Liberal Professions and their European representative institutions (CEPLIS) and in cooperation with EESC, should draft a **European Framework for participation in the European Social Dialogue**. At the same time, it is needed a more comprehensive picture to understand the economic and social challenges posed by digitalisation. This could be done by systematically engage social partners in the Liberal Professions sector, at European and Sectoral levels.

WP2 confirmed the initial hypothesis rooted on Collective Bargaining in the Liberal Professions sector as the main drivers for the achievements of Bilateralism. In addition, tripartite social dialogue (involving the State in the negotiations between Confprofessioni and Trade Unions) and bilateral social dialogue (involving the State in the policy issues raised either by Confprofessioni or Trade Unions) are the key mechanisms of social dialogue in the liberal professions sector.

Formal and informal interactions among project partners highlighted some key insights for the next project stages.

First of all, better co-ordination of **collective bargaining arrangements** across professionals sectors or national associations can help to reduce the impact of an adverse shock on economic demand and related business for liberal professions.

Second, Social dialogue can facilitate **increases in productivity** and profitability of professionals firms by strengthening the cooperation between social partners at professional associations level, such as legal or health associations.

Third, Social dialogue facilitates the **recovery of professional firms** from economic crisis.

²⁶ Confrontation Europe, Social Dialogue in the face of employment challenges posed by the Energy and Digital Transitions, Executive Report, 2017; www.Confrontations.org

As shown by literature, enterprises with high-trust labour relations involving different forms of social dialogue have been the most likely to adjust successfully during periods of economic crisis ²⁷.

Four, Social dialogue can play an important role in making **training schemes more effective**, by designing bilateral training activity where the mutual learning between professionals and employees forges innovation and new opportunities for professionals firms.

Fifth, Social dialogue creates an enabling environment for the **sustainability of professionals firm**, which is the thesis of this project. The benefits of social dialogue extend beyond any single professionals firm up to the entire society and the common goods.

Finally, European and national tripartite social dialogue must **face the problems of digitalisation** by targeting a macroeconomic diagnosis and shared reform. To this end, a stronger involvement of the Liberal professions is required at European level in order to put in practice the European knowledge society aim.

Figure 4 Lessons for the next project phase

Lessons learnt for the next project phase
Collective agreement as the key issue
Common scheme to be found
Focus on common interests
Exploit Bilateralism pattern
Interdependency between Social Dialogue, Governance of work and sustainable development
Digital Transition as an opportunity
Combine Productivity with Recovery of professional firms
Design Effective Training Scheme
Sustainability of professional firms as the project end

August 2018

²⁷ ILO, The business case for social dialogue, 2017