

EMPLOYEE PARTICIPATION TOOLKIT



Table of contents

- I) Introduction to the European Green Deal
 - A) The European Green Deal
 - B) Sustainable and Smart Mobility Strategy
 - C) Twin transformation in the transport sector
- II) Conclusions of the research phase of the project
- III) A strategy for a just, participatory and socially responsible energy transition in the transport sector
 - III-1) Just transformation as a guarantee of employee participation in the decision-making process of companies
 - III-2) Promoting worker participation in the decision-making process
 - A) European legislation on the right to employee participation
 - B) Implementation of participation, information and consultation systems through Directive 2002/14
 - C) Participation, information and consultation on health and safety issues at the workplace
 - D) Collective bargaining and social dialogue
 - E) Transnational participation of workers through European Works Councils
- IV) Possible impact of energy and digital transformation on employment and occupational health and safety in the transport sector
 - IV-1) Priority objective: maintaining quality employment and retraining workers
 - IV-2) Priority objective: maintaining quality employment and retraining workers
- V) Good practices to improve participation of workers' representatives in the transport sector

The EU-funded project "**Green.Smart.Transport.Deal**", **GSTD**, focuses its objectives on strengthening transnational cooperation between social partners in order to increase the involvement of workers in the activities carried out in companies when implementing the European Green Deal (EGD) in the transport sector. It also aims to develop these activities in a socially responsible way, taking into account the rights of workers, employers and the environment.

In addition, the GSTD project assumes as its added value a more detailed focus on the implementation of the EGD in a socially responsible way, taking into account environmental issues, the economic interests of companies and the social needs of workers in the transport sector. This will be done through effective cooperation in the application of the European regulations for the implementation of the European Green Deal.

A) Introduction to the European Green Deal

The transport sector is responsible for almost a quarter of Europe's greenhouse gas emissions and is a major source of urban air pollution, with road transport being the largest contributor.

The EU is committed to reducing these emissions in order to achieve climate neutrality by 2050, taking into account the extensive overall greening process affecting all productive sectors.

These processes have a major impact on workers in terms of job security and working conditions. It also affects employers, who are forced to look for digital and green solutions in their companies: zero-emission vehicles (electric, hydrogen, etc.) and the infrastructure needed to develop more comprehensive strategies that take into account their needs for environmental sustainability and the implementation of policies defined by the European Union and implemented by governments.

B) The European Green Deal

This was presented in December 2019 by the President of the European Commission as a policy programme to move the European economy towards a more sustainable growth model.

The timing of its presentation coincided with the COVID-19 pandemic, which led to the development of a **recovery agenda** to be adopted in 2020, with a very large multiannual budget, providing more resources to achieve the goals of the green transition, with the promise (made by both the President of the Commission and the Vice-President in charge of the EGD) of "to leave no one behind".

Accordingly, the Communication '*A Strong Social Europe for Just Transformation*' was published in January 2020, which aimed to link the governance of the EGD with existing social policy instruments, in particular the European Pillar of Social Rights. On the other hand, a number of strategies have been implemented to achieve the energy transition, to which we will return later.

However, in defining these strategies, we have witnessed fierce political debates on the allocation of (economic) resources at national level, rather than a basic consensus on the continuation of the energy transition project. Thus, four years after the adoption of the European Green Deal, the question arises as to the extent to which the EU Green Transition model is an integrated response to the interrelated issues of social justice and greening the economy.

This question suggests three key aspects of the debate that could lead to growing inequalities (in health, well-being and the economy). In this *Toolkit* we will try to respond to these concerns from the perspective of workers and employers. These questions relate to the unequal generation of carbon emissions and environmental risks, the loss of jobs in energy transition sectors and the possibility of quality employment in new green sectors, and the lack of social justice and the unevenly distributed financial burden of the green transition.

As we have noted, one of the core elements of the EGD is the promise to “leave no one behind” and to address the negative social consequences of adopting a greener economy. Accordingly, to address the socio-environmental challenges posed by the EGD, the Commission has proposed the establishment of a Just Transformation Facility as a key instrument, of which the *Just Transition Fund*, JTF, is a pillar, together with the *InvestEU Just Transformation* programme to mobilise private capital and a public sector loan facility to mobilise public investment, mainly through loans from the European Investment Bank.

The *Just Transition Fund* has an allocation of €17.5 billion (in 2018 prices) for 2021-2027, of which €10 billion comes from the NextGenerationEU programme and €7.5 billion from the 2021-2027 multiannual budget; this amounts to €2.5 billion per year, or just under 1% of the total EU financial budget for 2021-2027. It also establishes an allocation of funds based on criteria such as industrial emissions in carbon-intensive regions, employment in the fossil fuel industry and level of economic development (GDP) and makes access to funding conditional on member states' commitment to the EU's 2050 climate neutrality target, which some countries have been reluctant to accept.

From this social perspective, the concept of a just transition includes measures to mitigate the effects of the transition on workers in declining sectors by investing in their education, training, retraining and upskilling. However, social protection measures for workers made redundant are lacking, as is a rights-based perspective. In conclusion, the JTF does not appear to meet the standards of fair and inclusive transition promoted by the ILO.

Alongside the JTF, we have the **Social Climate Fund**, proposed by the Commission in July 2021 as part of the “Fit for 55” package. This fund builds directly on other policies, such as the *Emissions Trading Scheme* (ETS), and extends it to the construction and transport sectors. As these measures will increase prices for households, the SFK aims to offset the negative impact on the most vulnerable people and small businesses by providing Member States with the means to provide direct income support and finance investments in green housing and transport.

"Funded by the European Union. Views and opinions expressed are however those of the author(s) only, and do not necessarily reflect those of the European Union or European Commission. Neither the European Union nor the granting authority can be held responsible for them"

In this way, the Social Climate Fund is intended to finance *"temporary and direct income support for vulnerable households using transport to absorb increases in road transport and heating fuel prices"* and aims to address both vertical inequalities within societies and horizontal inequalities between EU countries.

In addition, the Council adopted a *recommendation on ensuring a fair transition towards climate neutrality* (Council of the European Union, 2022), which seeks to address the weak social dimension of the EGD. The Recommendation addresses relevant policy dimensions and objectives, including labour market and education policies (such as the skills agenda), aspects of exclusion and poverty, fiscal policies or governance and participation issues. However, the main feature of the Recommendation, which is not legally binding, is a long list of principles, objectives and targets that Member States should pursue, without actually defining a just transition.

C) Sustainable and Smart Mobility Strategy

The Sustainable and Smart Mobility Strategy is part of the European Green Deal, which sets out two strategies with several legislative initiatives at different stages of development¹, proposing to make all modes of transport more sustainable, with widely available green alternatives and appropriate incentives to drive the change, with a series of actions for the coming years:

By 2030:

- at least 30 million zero-emission vehicles will be in operation on European roads;
- 100 European cities will be climate neutral;
- high-speed rail traffic will double;
- scheduled collective travel of under 500 km should be carbon neutral within the EU;
- automated mobility will be deployed at large scale;
- zero-emission vessels will become ready for market.

By 2035: zero-emission large aircraft will become ready for market.

By 2050:

- nearly all cars, vans, buses as well as new heavy-duty vehicles will be zero-emission;
- rail freight traffic will double;
- high-speed rail traffic will triple;

¹ Sustainable and Smart Mobility Strategy, leveraging European transport for the future, see:

https://transport.ec.europa.eu/transport-themes/mobility-strategy_en

European Green Deal: https://ec.europa.eu/info/strategy/priorities-2019-2024/european-green-deal_en

Funded by the European Union. Views and opinions expressed are however those of the author(s) only, and do not necessarily reflect those of the European Union or European Commission. Neither the European Union nor the granting authority can be held responsible for them"

- the multimodal Trans-European Transport Network (TEN-T) equipped for sustainable and smart transport with high speed connectivity will be operational for the comprehensive network.

In addition, **ten key action areas have been identified to make the strategy a reality**, covering a total of 82 initiatives, divided into three blocks.

➤ **Sustainability**

1. Supporting the deployment of **zero-emission vehicles, ships and aircraft, renewable and low-emission fuels** and related infrastructure, e.g. installing 3 million public charging points by 2030.
2. Creating **zero-emission airports and ports**, e.g. through new initiatives to promote sustainable aviation and shipping fuels.
3. Ensuring **healthy and sustainable inter-urban and urban mobility**, e.g. by doubling high-speed rail services and developing additional cycling infrastructure over the next 10 years.
4. **Making freight transport greener**, for example by doubling rail freight by 2050.
5. **Putting a price on carbon and providing better incentives for users**, e.g. by implementing a comprehensive set of measures to ensure fair and efficient pricing in all modes of transport.

➤ **Smart**

6. Make **network-based and automated multimodal mobility** a reality, e.g. by allowing passengers to buy tickets for multimodal journeys and freight to switch seamlessly between modes.
7. Fostering **innovation and the use of data and artificial intelligence (AI)** for smarter mobility, e.g. by fully supporting the use of drones and UAVs and continuing to build a common European mobility data space.

➤ **Resilience**

8. **Strengthen the internal market**, e.g. by stepping up efforts and investments to complete the Trans-European Transport Network (TEN-T) by 2030 and helping the sector to better recover by increasing public and private investment in fleet modernisation across all modes of transport.
9. Make **mobility fair and equitable for all**, e.g. by making new mobility affordable and accessible in all regions and for all passengers, including those with reduced mobility, and by making the sector more attractive to workers.
10. Make **transport safer** in all modes, with a view to reducing the number of fatalities to almost zero by 2050.

D) Twin transition in the transport sector

Twin transition refers to the interplay between digital and green transformations: properly used and managed, digital technologies can help make economies (more) resource efficient, circular and climate-neutral.

The twin transition approach recognises that there is a huge and largely untapped opportunity for technology and data to help achieve sustainability goals. Rather than treating digitalisation and sustainability in isolation, a dual transformation strategy combines these critical functions to unlock efficiency and productivity benefits. Dual transformation can have a positive impact by greening technology, data assets and infrastructure, while accelerating sustainability across the organisation.

While digital technologies can create efficient and sustainable sources of energy to help address this trade-off, they can also have negative impacts. For example, training and deploying artificial intelligence models consumes energy and water and generates carbon emissions, whether in data centres, the cloud or at the edge. These negative impacts are already happening and are also the goal of such a sustainable energy transition.

Digitalisation can affect several elements of the transport system and thus its environmental performance:

- travel demand can be influenced by virtual mobility solutions such as teleworking, videoconferencing, e-learning, e-medicine, e-publishing, etc.;
- digital solutions can make the supply of certain transport services or combinations of services more attractive, e.g. by providing real-time information, facilitating ticket reservations, enabling intelligent logistics and providing multimodal services for both passengers and freight;
- digital solutions can lead to more efficient use of existing physical transport infrastructure capacity for certain modes (autonomous and connected vehicles), making them more attractive or reducing their environmental impact;
- digital solutions can help improve the environmental performance of vehicles (increased energy efficiency, sensors, etc.).

In conclusion, despite some existing dysfunctions, it seems reasonable to believe that digital technologies can provide functions capable of catalysing ecological transformation. This mutual reinforcement, referred to as the **"twin transformation"**, is particularly urgent in economic sectors that contribute significantly to greenhouse gas emissions, such as transport, energy, agriculture, construction and energy-intensive industries.

GUIDE ON EMPLOYEE PARTICIPATION

The Practical Guide on Employee Participation is part of this toolkit developed by the project and aims to create a handbook that supports and helps to improve employee participation, focusing on the green transition aspects of employment where, in addition to the creation of new green jobs, this may mean the loss of some existing jobs, for which it is necessary to strengthen the training of workers, either to train them for new jobs in their own occupational sector or to train them for jobs in other occupational sectors. In addition to the qualification of workers, it is necessary to strengthen the systems of worker participation, especially information and consultation; and to analyse and strengthen the protection of workers in their workplace in the face of the generation of new risks caused by the environmental transition.

In this way, the practical guide aims to meet the two main objectives of the project:

to promote transnational cooperation between the social partners **in support of employee participation** in the anticipation and management of change and the prevention and resolution of conflicts in the event of various forms of restructuring in undertakings and groups of undertakings at trade union level, by launching actions to support the establishment and smooth operation of transnational information, consultation and participation **mechanisms and bodies, including European Works Councils**; and by promoting the exchange and further **dissemination of knowledge and good practice**, and encouraging transnational cooperation between the social partners with a view to improving the involvement of workers in activities within undertakings aimed at implementing the European Green Deal.

In this context, the *Guide*:

- we analyse the situations that the implementation of the green and digital transformation can cause in the employment situation of workers in the transport sector: the creation of new sources of employment, the green jobs that can be created or the possible loss of jobs. Both situations require the implementation of specific training (retraining) aspects;
- analysing how to deal with the emergence of new work systems and new jobs and the new occupational health and safety risks that may result from these changes;
- we include specific actions for a *just transition* in the transport sector in the face of greening and digitalisation, highlighting specific aspects of current EU legislation on worker involvement in the workplace, in particular information and consultation;
- we take into account some good practices of worker involvement in the different sub-sectors of the transport sector (road, urban, rail, maritime, aviation, etc.) in order to take into account situations related to greening and digital transformation.

II. Conclusions of the research phase of the project

As we embark on the development of our *practical guide*, we recall some of the conclusions reached during the research phase of the project, which we will use as a starting point to identify the problems that workers in the transport sector may face and to which we want to respond through this guide.

Firstly, it should be stressed that in the **Green. Smart. Transport. Deal**, GSTD involves eight organisations (trade unions and employers) from six countries: Italy, Poland, Spain, Slovakia, Croatia and North Macedonia².

The research phase carried out during the development part of the project consisted of the development of a desk study, accompanied by the results of an online survey carried out in all partner countries. It examined several technical aspects: low emission vehicles, urban greening, digitalisation and the presence of the Green Deal in society, as well as other issues, particularly those related to workers: employment conditions and the application of information and consultation rights, collective bargaining and social dialogue.

In our *practical guide*, we intend to refer to the conclusions drawn from the aspects of workers' participation and their working conditions, taking into account the main objective of the project, which can be summarised as follows:

- taking into account the participating countries, there is a great diversity of industrial relations, although an identity is maintained in terms of workers' participation through trade unions or works councils (workers' councils in some countries);
- bipartite or tripartite sectoral councils are set up to conduct social dialogue in the transport sector, and sub-councils may be set up according to sub-sectors such as rail, maritime, urban, etc;
- all countries call for the strengthening of tripartite social dialogue, the strengthening of the capacity of trade unions and employers' organisations in the sector and the need to develop collective agreements and training programmes for workers;
- collective agreements should be strengthened to ensure that they cover all workers in the transport sector, especially in areas related to pay. To this end, it is necessary to promote the existence of collective agreements in each transport sub-sector;

² The participating organizations are: Federazione Autonoma dei Sindacato dei Transportes, from Italy; Małopolski Związek Pracodawców LEWIATAN, from Poland; Republiková únia zamestnávateľov, from Slovakia; Sindikat Željeznica Hrvatske, from Croatia; Coalición Sindical Independiente de Trabajadores de Madrid - CSIT Unión Profesional; Asociación Provincial de Empresarios y Transportistas y Agencias de Málaga and Federación Independiente de transportistas de Andalucía from Spain; Transport and Communication Trade Union from North Macedonia.

- workers are concerned about the transformation of current jobs into green jobs and do not recognise that social dialogue currently provides solutions to the problems that have arisen;
- workers report a lack of sufficient information on green or digital transformation processes in their companies. Employers, on the other hand, complain about the lack of information from institutions about the policies that will be implemented by governments and how these may affect their companies.

In this sense, employers perceive these impacts as immediate, while employees see them in the medium term, showing a general lack of interest in the issue;

- the lack of consultation at national and regional level on the implementation of the *Sustainable and Smart Mobility Strategy* is cited by respondents as a reason for exclusion from the transition process and they foresee a negative impact on their employment conditions and business costs.

In particular, employers raise the fact that awareness about Green Deal is not present in society and it is not discussed by governments and social partners;

- finally, problems were also identified in relation to the provision of information to employees by trade unions or works councils.

Employees believe that they should receive more information from trade unions on green and digital transformation processes. They give two reasons why this information is insufficient: the lack of trade union knowledge on the subject (lack of specialised training) and the fact that in some countries the information and consultation system does not have sufficient legal protection to be implemented.

In conclusion, from the analyses carried out by each of the project partner countries, we can conclude it is now **necessary to develop the exchange of information on planned transformation processes between governments and social partners (tripartite social dialogue) at both national and regional level.**

At company level, there is a need **to establish clear and demanding information and consultation protocols between employers and trade unions (or works councils) in order to anticipate these technological changes and to strengthen the training of existing workers in the implementation of new technologies in their workplaces.**

A strategy for a just, participatory and socially responsible energy transition in the transport sector

There is a strong correlation between the level of greenhouse gases in the atmosphere, CO₂ (caused by the use of fossil fuels as an energy source and emitted in particular by transport) and the increase in the average temperature of the Earth's surface, which has risen by more than 1°C since pre-industrial times. Climate change is therefore

linked to our energy systems, and the solution is *to switch to primary energy sources that reduce CO₂ emissions into the atmosphere*, i.e. the energy transition.

We have already pointed out that the transport sector is responsible for almost 25% of Europe's greenhouse gas emissions and is the main source of urban air pollution.

This is where the *Strategy for Low-Emission Mobility* comes in, with a set of measures to support Europe's transformation through three priority areas and the involvement of cities and local authorities to reduce pollution. This will be done by making the transport system more efficient by encouraging a shift to lower-emission modes of transport, accelerating the deployment of low-carbon alternative energies for transport and moving towards zero-emission vehicles. These are proposals for different strategies that were launched on 12 October 2015 with the signing of the Paris Agreement by 195 countries of the United Nations Framework Convention on Climate Change and the EU, which aims to *"keep the global average temperature increase well below 2°C above pre-industrial levels"*, but commits to not exceeding 1.5°C.

These strategies include the 20-20-20 strategy, the 2030 Energy and Climate Framework and Fit for 55, which, like and in line with the 20-20-20 package, revises the targets and adapts them to 2030, taking into account the 2050 strategy scenario and the Transport White Paper, setting commitments to reduce greenhouse gas emissions by at least 55%, achieve at least 32% renewables and improve energy efficiency by at least 32.5%, and take urgent action to achieve a minimum target of 10% electricity interconnection by 2020 and 15% by 2030.

The strategy for a climate-neutral Europe by 2050, the European Green Deal, was presented by the European Commission on 28 October 2018 ahead of the *UN Climate Summit (COP24)*, which took place from 2-14 December in Katowice, Poland. It reaffirms Europe's commitment to lead global climate **action through a socially just transition towards** a prosperous, modern, competitive and climate-neutral economy by 2050. This means investing in viable technological solutions, **ensuring social justice for a just transition**, establishing policies that stimulate economic growth and supporting business competition and the labour market. To this end, the Just Transition Mechanism, which we have already mentioned, has been introduced.

The main expression of this *neutral European strategy* is the **White Paper on Transport**, which was drawn up *"in response to the sector's role as a source of CO₂ emissions and the challenge of breaking the transport system's dependence on oil without sacrificing its efficiency or compromising mobility"*. Its main objective is to contribute to the creation of a system that sustains European progress, improves competitiveness, offers a quality mobility service, uses resources efficiently and uses less and cleaner energy to reduce its environmental impact.

III-1) A just transition as a guarantee of workers' participation in company decision-making

When talking about *just transition*, it is important to go back to the time when it was developed by trade unions in Canada and the USA in the 1990s. The idea had a twofold purpose: **to develop tools to protect employment in the face of changes caused by the environmental and energy crises**, and to **propose changes in the mechanisms for protecting workers and territories affected by the energy crisis.**

The concept is that a **just transition is not possible without the participation of workers through their representatives**, as set out in various standards or agreements:

- The Paris Agreement refers to workers' participation in its preamble: "*to take into account the requirements of a just transition for workers*";
- the ILO, in its *Guidelines*, recommends *consultation and cooperation of trade unions in the development and implementation of low-carbon policies "for a just transition to environmentally sustainable economies and societies for all"*; and
- *in its 2015 energy package*. The European Commission stresses the importance of the role of the social partners and encourages them to include the energy transition in their social dialogue.

Workers' participation in decision-making in their companies is also justified by the structural changes taking place in the transport sector as a result of the energy and digital transition, which have a huge impact on workers' personal and working lives.

However, in order to be effective, a *just transformation* must meet certain conditions:

- **be implemented through *tripartite social dialogue*** between governments, employers and trade unions;
- **concrete measures to support the sectors** and industries concerned, in our case the transport sector;
- **including social protection for the most vulnerable workers** in the energy transition, including direct, indirect and support jobs;
- and the **establishment of training and capacity building plans** for workers in relation to new green jobs.

In addition (although perhaps not directly related to the transport sector), territorial reactivation plans should be developed, prioritising business diversification and rural development, with a particular focus on women and young people, as well as economic funds from each state's budget and the introduction of green taxes.

Based on these conditions, and in order to achieve a fair, participatory and socially responsible *transformation*, we must promote workers' participation through collective bargaining and seek greater involvement of trade unions and direct workers' representative bodies (workers' councils).

III-2) Promoting worker participation in the decision-making process

A. European legislation on the right to employee involvement

The right to employee participation in the European Union goes back to the 1989 *Community Charter of the Fundamental Social Rights of Workers* (Social Charter), which emphasises the "desirability of promoting employee participation", followed by the *Charter of Fundamental Rights* of the European Union, which recognises collective rights to employee participation such as:

- freedom of assembly and association, both political and trade union (Article 12);
- **the right to information and consultation of workers** in the undertaking or undertaking sector, exercised through workers' representatives or trade unions (Article 27);
- or **the right to collective bargaining and collective action** at the appropriate levels, including the right to strike (Article 28).

In addition, the *Treaty on the Functioning of the European Union* (TFEU), in Title X on social policy (Articles 151-161), regulates workers' participation in decision-making through information and consultation systems.

In line with this legislation, the European Parliament has adopted various directives and resolutions calling for the **guarantee of the right of workers to participate in decision-making within undertakings and workplaces**, both national and transnational, and on various issues, as well as cross-industry agreements between the social partners containing provisions on information and consultation.

Of these, three directives on *information and consultation at national level* stand out, which establish the right of employees to be informed and consulted by their employer on a range of issues relating to the economic performance and future development plans of undertakings which may affect, inter alia, employment.

- ❑ **Directive 98/59/EC** of 20 July on collective redundancies, which provides that, in the event of collective redundancies, the employer must enter into negotiations with the employees to determine how and by what means collective redundancies can be avoided or the number of employees affected reduced, making use of information and consultation systems;
- ❑ **Directive 2001/23/EC** of 12 March 2001 on the obligation to inform employees in the event of transfers of undertakings and to protect their rights in such cases;

- and **Directive 2002/14/EC** of 11 March **establishing a general framework for informing and consulting employees in the European Community** and laying down minimum procedural standards for the protection of these rights, which we will examine later.

In addition to these directives, there is also the **European Pillar of Social Rights**, which consists of 20 principles binding on all EU Member States and providing guidance for achieving effective social and employment outcomes and ensuring better regulation and enforcement of social rights. The document sets out the right of workers not only to be informed but also to be consulted on such business activities:

"Workers or their representatives have the right to be informed and to express their views in good time on matters which concern them, in particular in relation to transfers, restructurings and mergers, as well as collective redundancies".
[Principle 8^o].

B. B) Implementation of participation, information and consultation systems through Directive 2002/14:

Directive 2002/14/EC refers to the participation of employees in decision-making, including information and consultation systems as one of its essential elements.

- **Information** is defined **transmission by the employer to the employees' representatives of data in order to enable them to acquaint themselves with the subject matter and to examine it**. This applies to human resources policy, the evolution of wages and employment, the evolution of the economic sector of the company, etc.
- **Consultation** is the **exchange of views and establishment of dialogue between the employees' representatives and the employer** on the organisation of work and the professional activity of the employees, i.e. restructuring of the workforce, reduction of working hours, total or partial transfers, mergers, takeovers, professional training plans, etc.

A general framework has been established for both participation systems with the following procedural principles:

- what the information and consultation covers: both information and consultation cover aspects such as the economic situation of the company, the structure and likely development of employment and decisions which may lead to significant changes in work organisation or contractual relations;
- the timing of the information and consultation should be adequate to allow for discussion between the employer and the employees' representatives;
- scope: the information provided by the employer should enable the employees' representatives to understand the current situation and to develop a response (consultation phase) to the issue raised;

- actors involved: the information and consultation is carried out through the workers' representatives (works councils) or directly by the trade unions;
- the purpose of the consultation: to reach agreement on decisions which may lead to significant changes in the way work is organised or in contractual relations.

The Directive also aims to ensure the confidentiality of information provided by the employer to the trade unions. This is done by introducing a duty of confidentiality, whereby employee representatives and their advisers cannot make public any information they have received in confidence from the company. It also introduces a confidential information clause, which allows employers to restrict the right to inform or consult employee representatives if this could seriously damage the operation of the company.

C. Participation, information and consultation on health and safety at work

Health protection at work is one of the fundamental rights of every worker (Article 31.1 of the *EU Charter of Fundamental Rights*) and is protected by existing legislation, both at European and national level. In particular, the employer, in both the private and public sectors, has an obligation to ensure safe working conditions by involving workers in decision-making on these issues.

Therefore, as with decision-making in general, procedures for worker participation in health and safety matters are governed by a set of rules. The special feature of these rules is that, **in addition to workers' rights of participation, they set out specific obligations that the employer must fulfil in order to guarantee workers' health and safety.** The *European Union's Framework Directive 89/391/EEC on the introduction of measures to encourage improvements in the safety and health of workers at work* includes workers' rights to participation and consultation in this area and sets out specific obligations that the employer must fulfil in order to guarantee adequate health and safety conditions for workers.

The above-mentioned Directive defines the concept of workers' representatives in matters of safety and health as follows *"any person elected, chosen or designated in accordance with national laws and/or practices to represent workers where problems arise relating to the safety and health protection of workers at work"*. The legislation gives the representatives the status of **interlocutors in the consultation phase on occupational safety and health matters** and establishes guarantees (sufficient time off work without loss of pay and all the necessary means to carry out their duties) to carry out these tasks.

In addition to the Framework Directive, reference should be made to the *EU Strategic Framework for Health and Safety at Work 2021-2027*, which sets out aspects of worker involvement, such as the full involvement of workers and employers in health and safety; strengthening the powers of workers' representatives *"with a view to*

implementing health and safety legislation effectively"; or implementing changes to legislation *"in a transparent and democratic way"*, involving the social partners.

The strategic framework adopts a tripartite approach (workers, employers and governments) and focuses on three key cross-cutting objectives or strategic priorities:

1. anticipating and managing change in the context of environmental, digital and demographic change;
2. improving the prevention of occupational accidents and diseases, moving towards a Vision Zero approach to work-related deaths;
3. improving preparedness for current and future health crises.

In particular, the strategic framework refers to **new tasks** (digitalisation or greening), **new work patterns** (robotics, artificial intelligence), new workplaces (remote working) and **demographic changes** (ageing workforce), announcing that these are situations that can lead to **new job opportunities**, a better work-life balance or increased health measures, but that need to be updated to adapt to **new risks and work situations** (machines, screens, workplaces, etc.). The aspects identified are crucial in the transport sector and in each of its sub-sectors.

D. Collective bargaining and social dialogue

Collective bargaining is a fundamental requirement of the *International Labour Organisation* (ILO), along with freedom of association, established in 1919, reaffirmed in 1944 and developed in Conventions 151 and 154, as a procedure for resolving labour disputes.

Article 2 of Convention 154 states that *"collective bargaining shall concern: determining working conditions and terms of employment; regulating relations between employers and workers or regulating relations between employers or their organisations and a workers' organisation or workers' organisations"*.

Include a range of measures to promote collective bargaining:

- *apply to all employers and all categories of workers;*
- *they should be progressively extended to all matters relating to working conditions;*
- *dispute resolution procedures should contribute to the promotion of collective bargaining;*
- *negotiations should take place at all levels: company, regional and national; and*
- *the negotiating parties should have the necessary information to negotiate in full knowledge of the facts.*

Focusing on the European level, **collective bargaining is recognised as a right in Article 28 of the EU Charter of Fundamental Rights** and its procedure is regulated

"Funded by the European Union. Views and opinions expressed are however those of the author(s) only, and do not necessarily reflect those of the European Union or European Commission. Neither the European Union nor the granting authority can be held responsible for them"

in Articles 152, 154 and 155 of the *Treaty on the Functioning of the European Union* (TFEU).

These short regulations provide a concise legal framework for collective bargaining which, although minimal, is considered sufficient for the current practice of the social partners.

In particular, Article 152 TFEU establishes respect for collective autonomy and trade union freedom and legitimises the social partners to regulate the industrial relations in which they participate, making collective bargaining an alternative to legislation and abandoning its original role as a complementary measure in this area.

Article 155 TFEU recognises in paragraph 1 that "Should management and labour so desire, the dialogue between them at Union level may lead to contractual relations, including agreements".

E. Transnational employee participation through European Works Councils

As already mentioned, the European Union supports and complements the action of the Member States in the field of worker participation, through information and consultation of workers, in order to achieve fundamental aspects of European social policy, such as the improvement of living and working conditions, adequate social protection, a high and sustainable level of employment and the fight against exclusion. In 2009, **Directive 2009/38/EC on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings** for the purposes of informing and consulting employees was adopted to address a number of shortcomings identified in the original Directive, including definitions of a number of key concepts such as 'transnational issues', 'information' and 'consultation', as well as more detailed provisions on the right to training and the link between information and consultation procedures at European and national level.

The main objective of the Directive is to guarantee the right to information and consultation on transnational issues for employees of Community-scale undertakings or groups of undertakings (with at least 1,000 employees). This is proposed to be achieved through two measures: **The establishment of a European Works Council or an alternative procedure for informing and consulting employees**, where information and consultation is understood in the sense already mentioned in relation to *Directive 2002/14/EC*.

The establishment of EWCs is intended to "improve the right to information and to consultation of employees in Community-scale undertakings and Community-scale groups of undertakings" (Article 1 of Directive 94/45/EC) on decisions taken by central management which affect them. The main task of EWCs is therefore to inform and consult on transnational projects. EWCs may be set up, on the one hand, by Community-scale undertakings with establishments in different Member States of the European Union or States of the European Economic Area with 1 000 or more

"Funded by the European Union. Views and opinions expressed are however those of the author(s) only, and do not necessarily reflect those of the European Union or European Commission. Neither the European Union nor the granting authority can be held responsible for them"

employees in the group and 150 or more employees in each of at least two different Member States and, on the other hand, by Community-scale groups of undertakings with 1 000 or more employees in the group as a whole or by Community-scale groups of undertakings with 1 000 or more employees in the group as a whole. Community-scale groups of undertakings with 1 000 or more employees in all Member States, comprising at least two group undertakings in different Member States and at least one group undertaking with 150 or more employees in one Member State and at least one other group undertaking with 150 or more employees in another Member State.

The first step in setting up these committees is the establishment of a **special negotiating body** between the central management of the undertaking and the *employees' representatives*, as provided for by national legislation and/or practice.

The EWC is responsible for informing and consulting on matters concerning the undertaking as a whole, such as the structure, economic and financial situation, the probable development of the undertaking's activities, production and sales, the situation and probable development of employment or changes affecting organisation and new working methods.

[**Note:** The current Directive 2009/38 is being reviewed by the European Commission in accordance with the *European Parliament Resolution of 2 February 2023 with recommendations to the Commission on Revision of European Works Councils Directive.*]

IV.Potential impact of energy and digital transformation on employment and health and safety in the transport sector

IV-1) Priority objective: maintaining quality employment and retraining workers

In general, according to various studies and surveys carried out in the EU, there is widespread ignorance of green policies and their impact on the economy, insufficient interest in raising these issues in the national social dialogue, and low trade union participation and involvement in this area.

It was concluded that, **in the face of greening processes, decent work and quality employment should be guaranteed through the establishment of lifelong learning programmes for workers**, and that in some countries the green transition and **the emergence of new green jobs are seen as a threat to current employment.**

In the same vein, research carried out as part of our project identified a shortage of skilled workers in the transport sector in some countries. It also found that the impact of artificial intelligence technologies is perceived very differently by employers and employees. On the one hand, employers may see the impact as positive due to aspects such as fewer drivers, faster and more efficient transport of goods and passengers by eliminating interruptions for drivers who do not need automated systems, the possibility of continuous operation (24 hours a day, 365 days a year), the reduction of road

"Funded by the European Union. Views and opinions expressed are however those of the author(s) only, and do not necessarily reflect those of the European Union or European Commission. Neither the European Union nor the granting authority can be held responsible for them"

accidents and the streamlining of processes for delivering products or goods to more difficult locations where companies already use a person responsible for managing part of the journey (the so-called "first mile" or "last mile").

On the other hand, **for workers, these potential business benefits may mean job losses** or, at best, **the transformation of their jobs into more 'technological' ones, which will require new training for workers**, access to new skills and lifelong learning to adapt to these new situations.

In any case, whether jobs are lost or new jobs are created, **we need to anticipate these changes through employment policies aimed at training and qualifying workers in these new professional skills**, in order to ensure that the energy transition is carried out in a socially just way in the three specific aspects outlined below.

a) **Safeguarding jobs**

To avoid job losses in the various sectors of the transport industry, we need to prepare for the year 2050, when zero emissions are expected to become a reality. This will happen once a *just energy transition* is implemented, understood as an opportunity to create skilled and quality jobs linked to new production processes that require new competences and skills from workers.

To this end, we need to implement a series of measures integrated into the fair transition processes, including:

- taking measures to maintain both direct and indirect employment in the transport sector;
- measures to anticipate change through employment policies aimed at training and retraining workers;
- establishing adequate and effective social protection measures to ensure the survival of workers affected by energy and/or digital transformation processes;
- promote sustainable industrial policies that enable the creation of green and quality jobs in the different sub-sectors of the transport sector;
- promoting investment in green technologies through European R&D programmes and platforms for low or zero carbon technologies, with trade union participation in the management of European funds.

b) **Establishing social protection as a guarantee instrument when job retention is not possible**

When job retention is not possible and a worker loses his job, he will not always be able to secure adequate living conditions. Therefore, we must implement the necessary, adequate and effective social protection measures to guarantee their

survival and maintain their living conditions through unemployment benefits, health insurance, social benefits, pensions, etc.

It should be recalled that **social protection is a fundamental human right** (*ILO Decent Work Agenda*) and that ensuring a fair energy transition means putting in place adequate and effective measures to protect workers affected by collective redundancies, early retirement, company closures, etc. We must therefore ensure that there is no social "abandonment" of workers who are unable to keep their current jobs:

- promote the establishment of social protection systems based on the principles of universality, equal treatment and continuity, providing health care, income security and social services;
- promote the inclusion of adequate social protection measures in national climate change policies for workers dependent on natural resources, assessing situations of energy poverty and the most vulnerable consumers;
- assessing and anticipating the risk of sunk costs, anticipating the possibility of devaluation of assets of transport companies, reducing the value of the company and having a negative impact on workers.

c) The use of training and adaptation or vocational qualifications as a means of preventing job losses or the technological conversion of existing jobs

The European Parliament resolution of 14 March 2019 on climate change identifies various ways of achieving zero emissions with no net job losses **by renewing the competences of the *EU Skills Panorama*, adapting it to the most vulnerable regions, sectors and people, and upgrading workers' skills to ensure quality employment in their own region, on the basis of a just transition.**

The ILO also points out that adapting vocational training and education systems to create jobs and develop new skills is *"one of the key elements to ensure the success of a just transition to a low-carbon economy, as it opens up new sources of employment, stimulates productivity, employment growth and development"*.

However, in order to develop new skills and adapt existing ones, we need to rely on the commitment of transport sector companies to provide the necessary training for their employees and to overcome obstacles such as lack of motivation among employers who do not consider making these improvements, lack of adequate information, low capacity to make changes and the financial risks involved, and workers' fear of change.

In view of these situations, and in order to promote and strengthen the training activities needed to combat job losses, it is therefore necessary to:

- **promote the development of national training strategies** by adapting current education and training programmes to promote skills for new jobs;

- **negotiate sectoral agreements** for the transport sector as a whole; sectoral (for each branch of the sector) and company agreements **to anticipate skills needs** and promote lifelong learning in the categories most affected by the green and digital transformation;
- **using information and consultation mechanisms to anticipate strategic changes and monitor companies' training policies** to promote their relevance to workers' needs in the context of the green and digital transformation;
- **promoting the redeployment of workers** most affected by change and ensuring their professional adaptation.

IV-2) Priority objective: maintaining quality employment and retraining workers

The consequences of *climate change* are the first health challenge associated with heat stress at work; air pollution, e.g. respiratory diseases and increased mortality; UV radiation, e.g. dermatological symptoms, eye diseases, skin cancer, etc.; or exposure to high temperatures, e.g. dehydration, skin rashes, mineral loss, heat stroke, etc.

However, in addition to these risks, there are new risks associated with green jobs, depending both on the technological innovations developed and on the speed with which new changes in the production system are implemented: the use of new materials, nanomaterials or renewable energy sources; chemical risks from the use of bioenergy, biotechnology, water treatment and purification, and others to be analysed.

In particular, **workers in the transport sector will have to adapt their working patterns to new risks**, such as the electrical risks posed by plug-in cars. Therefore, **in the context of worker participation, we must also pay attention to a number of fundamental aspects in this area**, which are essential:

- analysis of the risks arising from the use of new technologies related to the development of cleaner transport, such as vehicles, electric, hybrid, biofuels, battery technology, hydrogen and fuel cells;
- analysing the risks associated with the electrification of railways, the use of biofuels, hydrogen and solar energy in aircraft or the development of intelligent transport systems;
- assessment of risks associated with refuelling and charging infrastructure or battery replacement that could cause a risk of fire or explosion;
- training workers to prevent the risks of electric shock to which they are exposed when servicing electric vehicles.

Probably there is still a lot of work to be done in this area of prevention of **occupational health and safety risks (assessment and prevention)**. We must not overlook the fact that **current prevention measures cannot be directly transferred to new workplaces**

"Funded by the European Union. Views and opinions expressed are however those of the author(s) only, and do not necessarily reflect those of the European Union or European Commission. Neither the European Union nor the granting authority can be held responsible for them"

with their new risks. There are also new workplaces with new risks that we have not yet identified. The rapid development of technology and the turnover of workers make it difficult to identify the impact of workplaces on health.

V. Good practices to improve the involvement of workers' representatives in the transport sector

We have already mentioned that the energy and digital transformation must be a cross-cutting issue for all productive sectors and must be carried out in formulae that guarantee the participation of the social and economic actors involved, because the **participation of workers' representatives is a fundamental element of the concept of a *just transformation*: a just transformation is not possible without the participation of workers.**



Various studies at European level (carried out by EUROFOUND, the European Trade Union Confederation and the consultancies Syndex and JQ&ROS, with financial support from the EU) point to two aspects that we need to take into account when dealing with the implementation of improvements in the involvement of workers in these transformation processes through trade unions or works councils. The first is that **the current level of trade union involvement is low or very low and varies from country to country**. Trade unions are not always consulted on energy and climate change policies, and when they are, trade union proposals are rarely or never taken into account by governments or companies. A second aspect is that trade unions are not always aware of the importance of their involvement in decision-making.

Based on these considerations, we believe that trade unions, as well as employers, have a responsibility to increase their involvement in the energy and digital transformation of the transport sector. To do this, it is necessary to prepare their leaders and representatives so that their engagement, communication and participatory functions are more effective.

For these reasons, we have developed a set of **good practices for improving trade union involvement in order to increase the participation of workers and their employers in the transport sector** in the face of the structural changes that may be brought about by energy and digital transformation processes and through the use of these tools of information, consultation and collective bargaining. [To the catalogue of good practices should be added the proposals on employment and health and safety in the previous chapter].

- **Informing trade union leaders, workers' and employers' representatives** about the implications of European regulations on climate change, energy transition and digitalisation processes and their impact on the restructuring of the transport sector and each of its sub-sectors.
- **Raise awareness among trade union leaders and employers** of the importance of providing workers with complete and accurate information on the employer's information procedure.
- **Provide trade union leaders, employee and employer representatives with sufficient training** on the issues necessary to play an active role in the design and implementation of the *just energy transition* development strategy.
- **Establish a just transition as a priority for trade union and employer policy** and strengthen strategies in energy and digital transition processes in tripartite social dialogue with governments, employers and trade unions.
- **Promote the institutionalisation of cross-sectoral forums for debate and consultation** on the implementation of low-carbon strategies and policies with trade union participation.
- **Use information and consultation mechanisms** to anticipate strategic changes and monitor companies' greening policies, promoting their relevance to workers' needs for a green transition.
- **Promote effective sectoral dialogue** through the establishment of expert groups, employment impact studies, discussion forums, etc., or through bilateral dialogue (sectoral trade unions and employers).
- **Extending the scope of collective bargaining** to company level and to energy transition issues such as employment, retraining, wages and the impact on workers' health and safety.
- **Engaging the union as a whole** through debates, tools and proposals that involve the union in the defence of transport sector specific measures.
- **Building alliances** with other climate actors, trade unions, NGOs and institutions that will help us promote a just energy transition and greater involvement of social partners in the cross-cutting transition.
- **Promote the recognition of trade unions and workers' representatives as legitimate interlocutors of the employer**, eliminating situations of depersonalisation in decision-making and preventing them from being perceived as subordinate to economic and social processes.
- **To increase the unionisation** of transport workers and to strive for a greater union presence in the workplace, which will allow for greater worker involvement and facilitate the defence of their working conditions.

- **Strive for trade union coordination across sectors and territorial structures.** It is important for the union to ensure a unified response to the energy transition process as it is a cross-cutting issue.
- **Defend the maintenance of employment and living conditions of workers in the transport sector** in the face of the progress of energy and/or digital transformation processes.
- **Defending the quality of employment**, promoting **training** as a tool for upgrading workers in the face of the introduction of new technologies, new forms of employment and new skills and competences in the face of the restructuring of the sector.
- **Analysis of the health and safety conditions of workers in the transport sector**, establishment of mechanisms for progress in defence against new risk situations created by new green jobs and in the face of new health and psychosocial risks, in particular those caused by the effects of the COVID-19 pandemic.



GREEN.SMART.TRANSPORT.DEAL



Co-funded by
the European Union

"Funded by the European Union. Views and opinions expressed are however those of the author(s) only, and do not necessarily reflect those of the European Union or European Commission. Neither the European Union nor the granting authority can be held responsible for them"