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Interest representation and industrial relations in the age of digitalization – an outline**

Abstract

The article deals in an interdisciplinary perspective with the consequences of progressive digitalization processes which are controversially discussed in the current discourse for the dual system of employment relations. After initial comments, the first part deals with the changing contours of forms of interest representation in the existing economy, i.e. requirements and options for works councils and trade unions. The second part focuses explicitly on the platform economy and its emerging forms of corporate actors, trade unions and works councils as well as platform operators/employers. The third part concentrates on perspectives of employment relations for the established economy as well as for platform work. The fourth part elaborates on measures of regulation that should be taken at company and sectoral level. A short outlook concludes the article. Processes of digital transformation have the tendency to weaken the existing institutions of labor markets, in particular forms of employees’ representation.

Keywords: Digitalization, employment relations, trade unions, interest representation. JEL: J51, J53, J58, J83, J88

Interessenvertretung und Arbeitsbeziehungen im Zeitalter der Digitalisierung – ein Überblick

Zusammenfassung

Der Artikel behandelt in interdisziplinärer Perspektive die im aktuellen Diskurs kontrovers diskutierten Folgen der fortschreitenden Digitalisierung für das duale System der Arbeitsbeziehungen. Nach einleitenden Bemerkungen geht es im ersten Teil um die sich verändernden Rahmenbedingungen von

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Formen der Interessenvertretung in der derzeitigen Wirtschaft, d. h. um Anforderungen und Optionen für Betriebsräte und Gewerkschaften. Der zweite Teil konzentriert sich explizit auf Plattformen und die sich herausbildenden Formen korporativer Akteure, Gewerkschaften und Betriebsräte ebenso wie Plattformbetreiber/Arbeitgeber. Der dritte Teil erfasst die Perspektiven der Arbeitsbeziehungen für die bestehende Wirtschaft ebenso wie für Plattformarbeit. Der vierte Teil geht auf Regulierungsmaßnahmen ein, die auf Betriebs- und Sektorebene eingeführt werden sollten. Ein kurzer Ausblick beschließt den Artikel. Die digitale Transformation weist die Tendenz auf, die bestehenden Institutionen des Arbeitsmarktes, insbesondere die Arbeitnehmervertretungen, zu schwächen.

Stichwörter: Digitalisierung, Arbeitsbeziehungen, Gewerkschaften, Interessenvertretung

1. Introduction and Delineation

In the context of the extensive discourse on problems of incrementally advancing digitalization, different forecasts about overall employment effects and especially their substitution potentials are made (Frey & Osborne, 2013; Brynjolfsson & McAfee, 2014; for Germany Wolter et al., 2016; Arntz, Gregory, & Zierahn, 2018). Furthermore, perspectives are discussed especially for individual working conditions such as work requirements and performance control (Gerber & Krzywdzinski, 2019). On the other hand, the perspectives of collective interest representatives or employment relations (in the following ER) receive much less attention.

This constellation raises the question of the consequences of the fundamental changes in traditional corporate structures, the collective organization of work and the various forms of work for the existing institutions of ER (“industrial relations”).¹ In broadening the current discourse, we deal not only, as is frequently the case, with institutions of employee representation, i.e. works councils and trade unions. But we also integrate other participants, i.e. platform operators/employers as new corporate actors and the state as regulatory agency, as well as changes in the system of ER. We focus on their interactions and options for changes in public regulation as well as private governance. Our initial hypothesis is that, as in all previous “industrial revolutions”, fundamental transformations of the institutional framework will take place, that there will be a “digitalization of industrial relations” (Pfeiffer, 2019, p. 239).

In the following, the encompassing and frequently indefinite consequences of digitalization will be sub-divided into two major parts. This analytical distinction is necessary because, as we will demonstrate, the expected far-reaching outcomes for ER are quite different. The first part relates to the consequences in the manufacturing as well as private service sectors of the existing economy. Here we focus on the changing contours of established works councils and trade unions (section 2). The second part refers to the consequences of the introduction of various forms of new platform work, including crowd work as well as gig work. Here we emphasize emerging forms of interest representation and

¹ In contrast to other authors (Askitas, Eichhorst, Fahrenholtz, Meys, & Ody, 2018), we explicitly distinguish between employment relations and social dialogues, which are characterized, among other things, by strictly differing degrees of binding nature of their outcomes. With regard to platforms, we only deal with work platforms and make no distinction between gig work and crowd work.
platform operators (section 3). Then we elaborate on general as well as platform specific perspectives of ER (section 4). Next we change our perspective towards the normative issue and ask what should be done (sections 5). A short outlook concludes the article (section 6).

In dealing with these questions, as is customary for the dual ER of Germany, we separate the company and the sectoral level, whose representations of interests remain legally independent of each other, but in fact closely cooperate (Keller, 2008; Müller-Jentsch, 2016). We focus primarily on developments in Germany, but take up parts of the international literature as far as it deals with comparable changes and problems. We focus on the social science analysis of ER and, as a matter of space, ignore the extensive legal and historical analyses. We also deal only in passing with questions of the future regulation of new or changing ER by means of legislative intervention (Keller & Seifert, 2020), which can take place at both national and European level.

We present a secondary empirical analysis that condenses current considerations and results of different provenance in a meta-study without presenting own empirical data. The value added is the provision of a more comprehensive overview than studies on specific topics have to offer. Thus, substantive and procedural interactions of corporate actors at different levels can be detected more easily.

2. Changing Contours of Forms of Interest Representation

2.1 Works Councils

Apart from trade unions, works councils constitute the most important “collective voice” institutions. The Works Constitution Act (in the following BetrVG) offers them a number of graduated information, consultation and co-determination rights in digitalization projects, which can be classified as follows (Matuschek & Kleemann, 2018):

- Par. 87 (1) the right of co-determination in the introduction or application of technologies which may be used to control behavior and performance;
- Par. 111 rights of information and participation in the event of fundamental changes in the organization of the establishment, the purpose of the establishment and the facilities, or the introduction of new working methods and manufacturing processes;
- Par. 77 enables the conclusion of works agreements which can develop into a central instrument for influencing digitalization processes; their range is changing qualitatively and is expanding significantly in quantitative terms.2

Reactions of employee representatives differ significantly. Works councils, in a similar way to trade unions, frequently react in a defensive manner to technological and organizational changes (Haipeter, 2019; Bosch, Schmitz, Haipeter, & Spallek, 2020). They are now faced with significant additional or even new problems with regard to their insufficient “digital competence”, including their participation in the planning, introduction and subse-

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