

Asserting the right to strike in a digital era – Responses to algorithmic management, artificial intelligence and their component parts

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Cf. Preamble to the ILO Constitution: ‘the failure of any nation to adopt humane conditions of labour is an obstacle in the way of other nations which desire to improve the conditions in their own countries...’

An introduction to the context

The Advisory Opinion of the International Court of Justice (ICJ) on the protection of the right to strike under International Labour Organization(ILO) Convention No. 87 issued on 21 May 2026

Cf. Advisory Opinion OC-27/21 of the Inter-American Court of Human Rights on 5 May 2021

‘Platform work’ as the ‘laboratory’ (Marco Biasi) for the application of collective labour law and action in the context of algorithmic management and AI.

Digital monitoring and surveillance – and algorithmic management (AI generated rankings) - can obstruct collective bargaining and action BUT workers still strike...

Is the digital element of work now also enabling workers’ bargaining power? –

[Virtual General Strike: The Digital Strategy](#) (2020) – Friday ‘protests for climate action’ go online?

‘World Digital Strike’ from [The Imagine project](#) on 24 February 2026 & plans for 24 February 2027

45,000 workers at Samsung on 21 May 2026: [A 45,000-person labor strike at Samsung's memory chip plants could throw a wrench into the AI boom](#)

Cf. [Kliemt.HR Lawyers](#)’ concern... re workers’ bargaining power



The relevance of EU regulation to date

Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and the free movement of such data etc.

See Articles 9(1) and 88(2) – ‘trade union membership’ and ‘fundamental rights’...

Directive (EU) 2024/2831 on improving working conditions in platform work

See recitals (14), (21), (23), and (40). Note mention of ILO Convention No. 98 (and Conventions Nos 81 and 135) in the recitals but not No. 87... See also Article 25 – can one have promotion of ‘collective bargaining’ without a right to strike? Cf. ICJ advisory opinion...

Regulation (EU) 2024/1689 laying down harmonised rules on artificial intelligence etc. (‘the AI Act’)

See recitals esp. (9) on right to strike. See also Article 5(5) on ‘appropriate safeguards for the fundamental rights and freedoms of natural persons’ and Article 59 on ‘effective monitoring mechanisms to identify if any high risks to the rights and freedoms...’

ILO Convention No. 193 on Decent Work in the Platform Economy adopted 12 June 2026

Article 3: Each Member shall take measures to respect, promote and realize, in the platform economy, the fundamental principles and rights at work, namely:

- (a) freedom of association and the effective recognition of the right to collective bargaining;

Only mention of collective bargaining and NO mention of right to strike BUT ICJ Advisory Opinion...?

Article 5: Each Member shall take measures to ensure that digital platform workers have the right to remove themselves from a work situation which they have reasonable justification to believe presents an imminent and serious danger to their life or health, without suffering undue consequences and that they shall inform the digital labour platform without delay.

A form of strike action in some states, such as Sweden, to the extent orchestrated by trade union representatives for urgent health and safety objectives? But very limited aims...

ILO Convention No. 193 cont'd

Article 14: Each Member shall take appropriate measures to ensure responsible use of automated systems by digital labour platforms as defined in Article 1(a), as consistent with Member States' obligations to respect, promote and realize *the fundamental principles and rights at work*. [My emphasis...]

What does this entail in respect of freedom of association and collective bargaining – which should be taken to include recourse to collective action, including strikes?

Article 16: Each Member shall establish effective and appropriate safeguards concerning digital platform workers' personal data and ensure that it is processed for the legitimate purpose for which it is collected, and not further processed in a manner that is incompatible with the rights and protections set out in this Convention.

Arguably, implications for blacklisting of strikers?



Silences on key questions?

There remains **an open (global) question** as to **how a right to strike translates into the digital workplace** and also *many* subsidiary questions:

- **What is ‘labour’ in this context and what constitutes its ‘withdrawal’?**
- What are the acceptable ‘*aims and objectives*’ of a strike in the contemporary digital workplace?
- A case for transnational collective action, which could be secondary/‘sympathetic’ action?
- Procedurally, how could ‘*balloting*’ for strike action take place and what forms of *notice* can and should be given? Use of online voting (and safeguards) and notice via email/websites?
- Which ‘digital services’ are ‘*essential services*’? For e.g. when is ‘human oversight’ for e.g. ‘essential’?
- What consequences of strikes are acceptable: ‘disconnection’ versus ‘detriment’ and ‘dismissal’ cf. Art. 23 EU PWD and Art. 16 of the ILO Convention No. 193
- How can digital picketing take place when the workplace is virtual/hybrid and what modification of rules can and should apply?
- How could surveillance and ‘*blacklisting*’ for strike participation/organising be addressed?
- **How can we prevent ‘*replacement labour*’ during strikes by AI etc.? A more general problem?**