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Dignity of the Individual within the Legal Framework of the European Union

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TABLE OF CONTENTS: 1. Dignity and dignities in legal systems. – 2. The concept of human dignity in the employment relationship at the European level. – 3. Normative pillars of workers' dignity in European Law: EU-level protections. – 4. Constitutional guarantees and beyond: the Italian case. – 4.1. The role of case law in defining the 'spectrum' of dignity. – 5. Contemporary challenges and transformations affecting workers' dignity: algorithmic management and AI in the employment relationship. – 5.1. Platform work. – 5.2. Remote work and the 'always-on' culture. – 6. The evolving case law of the Court of Justice of the European Union. – 7. Conclusions.

ABSTRACT: This Article analyses the protection of human dignity, with particular reference to the position of the worker, within the framework of the Italian legal system and that of the European Union. It emphasises dignity as an inviolable right enshrined in the Italian Constitution and as a fundamental principle of the European legal order, pursuant to the provisions of the Charter of Fundamental Rights of the European Union. The Article further examines several factors that undermine the effective implementation of this principle, including the increasing precarisation of employment, the processes of digitalisation, and the growing use of artificial intelligence. By analysing recent European legislation – such as the AI Act and the Directive on Platform Work – the study underscores the need for a paradigm shift in legal interpretation, towards a dynamic and integrated approach capable of ensuring the effective protection of workers' dignity in the context of ongoing technological and socio-economic transformations.

KEYWORDS: human dignity – workers' dignity – Court of Justice of the European Union – European Directive 2024/2831 on platform work – constitutional rights – European Court of Human Rights.

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1. Dignity and dignities in legal systems

Dignity emerges as a complex and layered concept, encompassing philosophical ideals, ethical imperatives, and concrete legal protections.[1]

The dispute regarding the concept of 'human dignity' is an ancient one: whether it indicates an original and intrinsic quality of the human being, or whether, instead, it constitutes the result of conduct carried out and realized throughout life.[2] A distinction is made between a 'endowment theory' (*Mitgifttheorie*) and a 'performance theory' (*Leistungstheorie*). The former explains dignity as an original quality or property of the individual; the latter conceives human dignity as a product of one's own actions – as a 'performance of human subjectivity' and the construction of one's own identity.[3]

A key point of discussion on the theme of dignity, particularly evident in legal traditions such as the Italian one, lies in the tension between the abstract notion of dignity[4] and a socially constructed or work-derived conception of dignity.[5]

However, these two levels do not represent parallel lines that are never destined to cross; rather, this dualism and potential lack of convergence can be resolved and overcome by uniting the concept of dignity with work. In fact, 'dignity of work' means 'human dignity', not in its original essence, but the dignity of the *homo faber*, who builds his own world and the work of which he is the creator.

The notions of human dignity and the dignity of the worker are not perfectly overlapping. In the context of the Italian legal tradition mentioned above, Article 1 of the Constitution allows for a 'new' conception of human protection, in which the human person is considered in the concreteness of their social position[6]. Based on this, it is possible to affirm that the legal system regulates human action not by starting from the perspective of a non-existent equality of all individuals, but precisely from the recognition of their inequality and by attempting to remove its causes.[7]

[1] R Hamel, 'Human Dignity in the Workplace: "An Inconvenient Truth"' (2007) September – October *Health Progress* 4.

[2] N Irti, 'Umanesimo del lavoro e civiltà tecnica' in S Bellomo and O Razzolini (eds), *Dignità del lavoro e civiltà digitale* (Bardi Edizioni 2024) 13.

[3] H Hofmann, 'La promessa della dignità umana. La dignità dell'uomo nella cultura giuridica tedesca' (1999) 76 *Rivista Internazionale di Filosofia Del Diritto* 620, 626.

[4] The human dignity is evoked by St. Tommaso as an emblem of rationality of man. St. Tommaso d'Aquino, *Summa Theologiae*, I q. 29 a.3 ad. 2. 'magnae dignitatis est in rationali creatura subsistere'.

[5] S Labate, 'Lavoro e dignità. Appunti per una critica del presente' (2022) 3 *Lavoro Diritti Europa* 1, 4–5.

[6] C Colapietro, 'Tutela della dignità e riservatezza del lavoratore nell'uso delle tecnologie digitali per finalità di lavoro' (2017) 39 *Giornale di diritto del lavoro e di relazioni industriali* 439, 442.

[7] V Crisafulli, 'Intervento' in *Atti del Convegno sulla tutela delle libertà nei rapporti di lavoro – Torino, 20-21 novembre 1954* (Giuffrè 1955) 58-59.

In this new framework outlined by the Constitutional Charter, the human person is taken as the central value to which all other values refer—not conceived as an abstract entity, but permeated within the positive reality of the legal system, of which dignity is an essential and constitutive element.[8] The dignity of the worker possesses peculiarities specific to the employment relationship, which are 'strengthened' compared to those of the human being but measured against the object of the contract. Indeed, despite the centrality of the person in the employment relationship, 'working dignity' is unique by virtue of the difference that characterises the labour contract – from which the working relationship arises – compared to any other agreement. Usually, the object of a contract is a thing or a previously defined service; in an employment contract, however, this definition is *in fieri* and is fulfilled during the very execution of the contract.[9]

This dynamic highlights how different legal systems approach the protection of dignity in the employment context, which may inherently involve a certain degree of instrumentalisation. Dignity has also been understood as 'that which can never be produced by labour, but rather that which generates the human necessity to work',[10] suggesting that dignity precedes labour rather than being its product.

This Article delves into a study aimed at analysing the developments and challenges in the legal protection of dignity, with a particular focus on the worker's dignity.

The dignity of work has ultimately projected itself onto a landscape that transcends the themes of working conditions, the guarantee of the basic means of existence, and the legal status of the worker, rising instead to become a qualifying element of the legitimacy of society's framework and the very foundation of republican citizenship[11].

Based on these premises, several lines of inquiry will focus on how rapid digitalisation, the proliferation of new and often precarious forms of work, and evolving jurisprudential interpretations are reshaping the landscape of dignity at work. The study primarily focuses on the EU legal framework, supplemented by a case study of the Italian legal system to assess national-level responses by Member States.

The highest significance of the dignity of work could also be grasped in the emergence, through labour, of a social practice capable of fostering a good of overarching value, as it concerns the overall structure of the political community.[12]

[8] N Occhiocupo, *Liberazione e promozione umana nella costituzione. Unità di valori nella pluralità di posizioni* (Giuffrè 1984) 51.

[9] M Aimo, *Privacy, Libertà di espressione e rapporto di òavoro* (Jovene 2003) 27-28.

[10] Labate (n 5) 6.

[11] A Honneth, 'Der Arbeitende Souverän. Eine Normative Theorie der Arbeit' (2023) 65 *Politische Vierteljahresschrift* 171, 175.

[12] P Ridola, 'Tecnologie digitali e dignità del lavoro', in S Bellomo and O Razzolini (eds) (n 2) 78-79.

Through this study, an inquiry will be conducted to evaluate the current level of protection of dignity and whether the existing EU instruments are sufficient to ensure comprehensive protection, first for human dignity and subsequently for the dignity of the worker.

2. The concept of human dignity in the employment relationship at the European level

One of the primary challenges lies in reconciling the normative ideal of human dignity with the often-instrumental nature of labour in market economies – a paradox significantly amplified by new technologies that can depersonalise work and intensify remote control and surveillance.

The principle safeguarding workers' dignity is deeply rooted in European legal traditions. While it is an explicit goal of EU social policy, its effective and consistent implementation is seriously threatened by ongoing socio-economic and technological transformations. These include the rapid digitalisation of the labour market, the growing prevalence of new and often precarious forms of employment, and the intensification of psychosocial risks. Precarious employment relationships, by definition, are expected to end and are typically characterised by their brevity. Precariousness also arises when employers use temporary contracts sequentially, with the intention of evading regulations that protect full-time, permanent employment. In such cases, temporary contracts are used as short-term gateways into the labour market, to which job seekers are often compelled to submit. A critical factor here is the employer's intent – an abusive use of flexibility aimed at circumventing legal norms governing employment duration and stability. Such precarious status can be deeply detrimental to workers, potentially nullifying even those legal protections deemed non-negotiable.

Workers' *metus* – arising from their subordination to the employer and driven by the hope of eventually securing a stable position – may discourage them from asserting their rights, even when such rights are explicitly designed to protect their dignity. Therefore, to counter the spread of precariousness, legislative action is required both from individual Member States and from central European institutions.

This Section aims to provide a broad analysis of the mutual relationship between dignity and labour considering social, economic, and technological transformations. The concept of human dignity evokes the role of the person within the legal system and stands at the very core of the European legal order.[13]

[13] G Alpa, 'La costruzione giuridica della dignità umana' in R Mastroianni and others (eds), *Carta dei diritti fondamentali dell'Unione europea* (Giuffrè 2017) 16, 17.

Regardless of employment status, human dignity constitutes a cornerstone of European law and the shared constitutional traditions of the Member States. It is not only enshrined as a founding value in Article 1 of the Charter of Fundamental Rights of the European Union (CFREU), but it also permeates the entire legal system, serving as a general interpretive principle.[14] Unlike the European Convention on Human Rights (ECHR),[15] which protects dignity indirectly through Articles 3, 4, and 8, the Charter places dignity as a foundational principle.

Specifically, Article 1 of the CFREU – within Chapter I, titled 'Dignity' – proclaims the inviolability of human dignity and the necessity of its respect and protection, establishing it as the foundation of all fundamental rights.[16] This core principle extends into the realm of labour, guiding legislation toward fair and just working conditions.

In practice, however, this principle faces deep-rooted tensions: work is simultaneously a means of personal fulfilment and a productive factor subjected to market logic. Yet the structure of many modern labour relationships, particularly in capitalist economies, implies that the worker's labour is primarily a means to achieve the employer's goals – a utilitarian dynamic central to discussions on capitalist labour and alienation.

New technologies, such as Artificial Intelligence (AI) and algorithmic management, may exacerbate this instrumentalisation by increasing surveillance, automating (almost entirely) managerial decisions, and reducing workers to mere 'data points', thus opening new avenues for dignity violations.[17] This generates a fundamental paradox: how can legal systems ensure respect for dignity when the very organisation and technological mediation of labour may inherently undermine it by treating work as a commodity or input? Nevertheless, current developments in European and national law – such as the AI Act and the Directive on Platform Work – aim to mitigate this paradox.

[14] The Preamble and Article 1 of the Charter place human dignity at the pinnacle of the hierarchy of values. The Universal Declaration of Human Rights of 1948 also enshrines human dignity in its Preamble: 'Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world'. In its judgment of 9 October 2001, in Case C-377/98 *Kingdom of the Netherlands v European Parliament and Council of the European Union*, EU:C:2001:523 the Court of Justice affirmed that the fundamental right to human dignity is an integral part of Union Law.

[15] JH Gerards and J Fleuren (eds), *Implementation of the European Convention on Human Rights and of the Judgements of the ECHR in National Case-Law. A Comparative Analysis* (Intersentia 2014).

[16] P Ridola, 'La dignità dell'uomo e il "principio di libertà" nella cultura costituzionale europea' in P Ridola (ed), *Diritto comparato e diritto costituzionale europeo* (Giappichelli 2010) 77–78.

[17] V Di Cerbo, 'Digitalizzazione e rapporto di lavoro. L'AI Act nel quadro normativo europeo a tutela del lavoratore' (2024) 4 *Lavoro Diritti Europa* 4–8.

3. Normative pillars of workers' dignity in European Law: EU-level protections

The European Union's normative framework offers multi-layered protection for the dignity of the worker.

The CFREU serves as a compass, with the mentioned Article 1 and, in particular, Article 31, playing central roles.

Article 31 of the CFREU, contained in Chapter IV on 'Solidarity', establishes the right to fair and just working conditions: it is a principle that makes explicit the connection between dignity and the dimension of labour. It draws its roots from the European Social Charter and from directives relating to working time, safety, and health.

Indeed, Article 31 explicitly requires working conditions that respect workers' health, safety, and dignity, serving as a primary interpretative guide. Every worker also has the right to a limitation on maximum working hours, to daily and weekly rest periods, and to paid annual leave.[18] From an expansive interpretative perspective, it has been observed that the right to healthy, safe, and dignified working conditions opens the way for interpretations that address the worker as a whole person.[19]

Article 34 guarantees social protection and assistance, once again invoking the material dimension of dignity.

Article 34, paragraphs 1 and 3, state that the EU shall recognize and respect the right of access to social security benefits and social services on one hand, and the right to social and housing assistance on the other, under modalities established by Union law and by national legislation and practice. Paragraph 2 provides that every person legally residing or staying in the territory of the EU has the right to social security benefits and social assistance.[20]

For instance, Article 34(1) does not specify who are the entitled persons to access social security benefits, nor, for that matter, the level of benefits to be guaranteed. However, the article does not intend to affect Member States' choices concerning the organisational forms of their systems of social protection. The notions used in Article 34 are notions of EU law and their meaning is not left to national discretion. The notion of social security as employed by the provision cannot be conflated with

[18] M Novella, 'Diritto a condizioni di lavoro sane, sicure e dignitose' in Mastroianni and others (eds) (n 13) 599 ff. Regarding working time's limitations, see V Ferrante, 'Limitazioni dell'orario di lavoro e diritto a ferie retribuite' in Mastroianni and others (eds) (n 13) 607 ff.

[19] S Sciarra, 'Diritti fondamentali, principi generali di diritto europeo: alcuni esempi nella recente giurisprudenza della Corte di giustizia europea' in G Bronzini and V Piccone (eds), *La Carta e le Corti. I diritti fondamentali nella giurisprudenza europea multilivello* (Chimienti Editore 2007) 97, 110; B Bercusson, *European Labour Law* (Cambridge 2009) 381.

[20] G Orlandini and W Chiaromonte, 'Sicurezza sociale e assistenza sociale' in Mastroianni and others (eds) (n 13) 644, 644–645.

that of the model from which it originates, and to which reference is made to configure the overcoming of the insurance-based model in favour of one founded on universalistic principles.[21]

The principle set out in Article 34(1) is based on Articles 153 and 156 of the Treaty on the Functioning of the European Union (TFEU). Indeed, provisions in the TFEU, such as Articles 151 and 153, foresee EU social competences aimed at promoting: improvements in living and working conditions; adequate social protection; and support for social dialogue.

In particular, Article 153 grants the EU the power to act in the social field. However, limitations to that competence exist; for example, paragraph 5 of the same Article excludes remuneration from the scope of harmonisation, reflecting a tension between European integration and national traditions. Such cases illustrate the complex balance between the EU's objectives and national sovereignty in areas that affect worker dignity – such as a decent wage. Recently emblematic is the case of Directive (EU) 2022/2041 on adequate minimum wages in the European Union.[22]

It should be noted that the case law of the Court of Justice of the EU (CJEU) and the evolution of normative practice show how the Union may nonetheless exert indirect influence over matters formally excluded, through exercise of its competences in related domains. In other words, the EU can indeed exert indirect influence on the areas covered by Article 153(5), via the implementation of competences assigned in adjacent fields.

Consider for example Directive (EU) 2023/970,[23] concerning strengthening the application of the principle of equal pay. In that case, the Union's competence is not exercised over remuneration per se, but over the prohibition of sex-based discrimination, an area falling under equality and non-discrimination policies.

In sum, the Union may intervene indirectly in areas formally excluded (such as remuneration), where necessary to ensure respect for fundamental rights deriving from the Charter, among which dignity holds a central place.

That said, Directive 2022/2041 has not been transposed into Italian law and, in fact, ran the risk of being annulled. Such an outcome appeared possible following the Opinion presented by the Advocate General at the CJEU in Case C-19/23,[24] brought by Denmark. The grounds of the action are twofold: first, the potential

[21] M Persiani, *Diritto della previdenza sociale* (CEDAM 2014) 27.

[22] Directive 2022/2041/EU of the European Parliament and of the Council of 19 October 2022 on adequate minimum wages in the European Union.

[23] Directive 2023/970/EU of the European Parliament and of the Council of 10 May 2023 to strengthen the application of the principle of equal pay for equal work or work of equal value between men and women through pay transparency and enforcement mechanism.

[24] Opinion of AG Emiliou in Case C-19/23 *Kingdom of Denmark v European Parliament and Council of the European Union,* EU:C:2025:11.

violation of Article 153(5) TFEU, since, according to the applicant State, the European Parliament and the Council lacked competence to legislate on wages and the right of association, and thus the adoption of the directive exceeds the powers of the Union; secondly, irrespective of the first ground, the applicant maintains that the Parliament and the Council did not follow a valid and correct procedure.[25] However, this interpretation does not seem to enjoy full consensus, as it is argued that it does not rest on a complete analysis of the legal framework and would therefore be misleading in terms of EU law. The key to judging the legitimacy of the directive may be found in Recital 19 thereof, according to which, in conformity with Article 153(5) TFEU, the Directive does not aim to harmonise the level of minimum wages in the Union, nor to establish a uniform mechanism for determining minimum wages. For these reasons, it does not appear to be intended to adopt measures that directly affect remuneration levels, thereby respecting the limits imposed by Article 153 TFEU.[26] In any case, on November 11, 2025, the CJEU ruled on Case C-19/23 and confirmed the validity of Directive 2022/2041, while however ordering the annulment of certain specific provisions of Article 5, regarding the procedure for setting adequate statutory minimum wages.[27]

In fact, the derived law of the European Union has given concrete form to the protection of dignity at work. Some directives represent milestones:

- Directive 2003/88/EC on working time: sets a maximum of 48 hours weekly work, minimal rest periods, and paid annual leave.[28] In the *SIMAP* (C-

[25] Such concerns had already been raised, among others, by P Pascucci, 'La Direttiva sui Salari Minimi …e l'Italia' in P Albi (ed), *Salario minimo e salario giusto: le ragioni di un confronto* (Giappichelli 2023) 259, 262-264. Regarding the correct procedure to be followed, a potential issue arises concerning the objectives pursued by the directive. The directive appears to be aimed at regulating both 'working conditions' (Art 153(1)(b) TFEU) and the 'representation and collective defence of the interests of workers' (Art 153(1)(f) TFEU), which are subject to two different decision-making procedures with distinct requirements. Indeed, under Art 153(1)(f) TFEU, unanimity in the Council is required, whereas for Art 153(1)(b) TFEU, unanimity is not required.

[26] C Kilpatrick and M Steiert, 'A Little Learning is a Dangerous Thing: AG Emiliou on the Adequate Minimum Wages Directive' (2024) 184 *Giornale di diritto del lavoro e di relazioni industriali* 437, 449 according to which it is considered that the Advocate General's conclusions require further and distinct examination before they can be endorsed: 'The meaning of the pay competence exclusion is far from certain and more plausibly relates to only the setting of wage levels being excluded from EU competence, in line with an impressive body of EU case-law and legislative instruments. The exclusion's drafting history confirms the leeway enjoyed by the Court of Justice in its interpretation and it has already decided on a narrow exclusion in its case-law'.

[27] Case C-19/23 *Kingdom of Denmark v European Parliament and Council of the European Union,* EU:C:2025:865.

[28] Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time.

303/98)[29] and *Jaeger* (C-151/02)[30] cases, the CJEU interpreted broadly the concept of 'working time', including on-call periods, to protect worker health and dignity.

- Directive 1999/70/EC on fixed-term contracts: aims at preventing abuse of successive fixed-term contracts.[31] Case-law (eg, *Adeneler*, C-212/04)[32] has obliged Member States to adopt effective instruments to avoid precariousness.
- Directive 2000/78/EC: establishes a general framework for equal treatment in employment and working conditions, prohibiting discrimination based on religion, disability, age, sexual orientation.[33]
- Directive 2019/1152/EU: enshrines the right to transparent and predictable working conditions, strengthening contractual certainty and limiting the use of atypical work relationships.[34]
- Directive 2024/2831/EU on platform work: introduces a presumption of subordination for digital platform workers and transparency obligations in algorithmic management, directly addressing the risk of 'digital Taylorism'.[35]
- Directive 2024/1760/EU concerning corporate due diligence for sustainability purposes.[36]

Alongside directives, regulations are increasingly relevant:

- AI Act (Regulation 2024/1689/EU): classifies AI systems used in the work context as 'high risk', imposing obligations of transparency, impact assessment, and human oversight.[37] It is the first global attempt to regulate

[29] Case C-303/98 *Sindicato de Médicos de Asistencia Pública (Simap) and Conselleria de Sanidad y Consumo de la Generalidad Valenciana*, EU:C:2000:528.

[30] Case C-151/02 *Landenshauptstadt Kiel and Norber Jaeger*, EU:C:2003:437.

[31] Directive 1999/70/EC of the Council of 28 June 1999 concerning the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP.

[32] Case C-212/04 *Adeneler and Others v Ellinikos Organismos Galaktos (ELOG)*, EU:C:2006:443.

[33] Directive 2000/78/EC of the Council of 27 November 2000 establishing a general framework for equal treatment in employment and occupation.

[34] Directive 2019/1151/EU of the European Parliament and of the Council of 20 June 2019 on transparent and predictable working conditions in the European Union.

[35] Directive 2024/2831/EU of the European Parliament and of the Council of 23 October 2024 on improving working conditions in platform work.

[36] Directive 2024/1760/EU of the European Parliament and of the Council of 13 June 2024 on corporate sustainability due diligence and amending Directive (EU) 2019/1937 and Regulation (EU) 2023/2859.

[37] Regulation 2024/1689/EU of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on artificial intelligence and amending Regulations (EC) No 300/2008, (EU) No 167/2013, (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1139 and (EU) 2019/2144 and Directives 2014/90/E, (E) 2016/797 and (EU) 2020/1828 (Artificial Intelligence Act).

AI in a manner consistent with fundamental rights protection, including the right to dignity.

These instruments reflect a normative evolution seeking to reconcile flexibility and innovation with the need to prevent labour from degenerating into exploitation and dehumanisation.

In particular, among the examples provided, the Working Time Directive (2003/88/EC) addresses mostly those aspects closely connected to the protection of health and safety of workers, introducing for that purpose minimum requirements 'intended to improve the living and working conditions of workers by approximating national laws concerning, in particular, the duration of working time [...] affording them adequate daily and weekly rest periods, as well as adequate breaks, together with a maximum limit on the weekly working time'.[38] Through these provisions the directive protects dignity directly by preventing exploitation and promoting well-being. The scope of these measures is generally broad, as they apply to all workers in all public and private sectors, subject to explicit exceptions in the directive. In the current context, it is necessary to raise awareness of existing social rights and better support their implementation by Member States.[39]

For that reason, in 2023 the Commission adopted an interpretative communication updating the 2017 interpretative communication and a report on the implementation of the Working Time Directive.[40] The interpretative communication aims to increase legal certainty and clarity in the directive's interpretation, while the implementation report, which Article 24 of the Working Time Directive requires to be submitted every five years, examines the progress in its transposition. Together, these documents will help Member States and stakeholders to ensure better implementation of the directive and to achieve improved outcomes for citizens, businesses, and public authorities.[41]

In addition, the recent proclamation by the European Parliament, the Council of the EU, and the European Commission of a 'European Pillar of Social Rights' fits

[38] Case C-742/19 *B. K. v Republika Slovenija (Ministrstvo za obrambo),* EU:C:2021:597, para 47; Case C-344/19 *D. J. v Radiotelevizija Slovenija,* EU:C:2021:182, para 25; Joined Cases C-397/01 to C-403/01 *Bernhard Pfeiffer and Others v Deutsches Rotes Kreuz, Kreisverband Waldshut eV,* EU:C:2004:584, para 91.

[39] Without prejudice to Arts 14, 17, 18 and 19 of this Directive 2003/88/EC (n 28). Consider, for example, that the Directive provides for the possibility of specific derogations based on the nature of the activity performed – among others, in the case of executives, liturgical services, domestic labour, offshore work, caretaking, and railway transport.

[40] Corrigendum to the Interpretative Communication on Directive 2003/88/EC of the European Parliament and of the Council concerning certain aspects of the organisation of working time eur-lex.europa.eu.

[41] This initiative aligns with the Commission's objectives concerning effective application, implementation, and enforcement, as set out in the following communication: European Commission, 'Communication: Enforcing EU law for a Europe that delivers', COM(2022) 518 final.

perfectly into this framework of protection. It is based on twenty principles and rights organised into three chapters: 1) equal opportunities and access to the labour market; 2) fair working conditions; 3) social protection and inclusion. The Pillar pursues the objective of integrating the economic progress and the social progress of the European Union to guarantee decent living and working conditions.

Among the diverse principles worthy of mention for the object of study of this Article are: Principle No 6, according to which workers have the right to fair wages that provide a decent standard of living;[42] Principle No 10, according to which workers have the right to a high level of protection of their health and safety at work;[43] Principle No 14, according to which everyone lacking sufficient resources has the right to adequate minimum income which ensures a dignified life in all stages of life and access to goods and services; Principle No 15, according to which every person in old age has the right to resources that ensure a dignified life; and Principle No 17, which states that people with disabilities have the right to income support that ensures a dignified life, to services that enable them to participate in the labour market and society, and to a work environment adapted to their needs.

4. Constitutional guarantees and beyond: the Italian case

As seen in the previous paragraph, the EU regulatory framework directly and indirectly safeguards the dignity of the individual and that of the worker.

The expression 'primacy of EU law' refers to the principle according to which, in the event of a conflict or incompatibility between EU law and national legislation, the former takes precedence over the latter. As a result, EU law replaces conflicting national provisions within the legal systems of the Member States.[44]

With that being said, Member States may, in some cases, complement EU principles in a more favourable manner or implement them. The case study chosen for the purpose of analysis in this paper is that of the Italian State, with a particular focus on the theme of dignity under various perspectives.

The foundations laid by the Italian Constitution are solid in guaranteeing the dignity of the person and the worker: Article 1 places work at the foundation of the Republic; Article 2 recognises the inviolable rights of the individual, both as a person and within the social groups where their personality is expressed; Article 3 enshrines social dignity; Article 32 protects health as a fundamental right of the individual and in the interest of the community; Article 36 guarantees the right to remuneration proportional to the quantity and quality of work, and sufficient to ensure a dignified

[42] E Menegatti, 'Il salario minimo europeo' in F Carinci and A Pizzoferrato (eds), *Diritto del lavoro dell'Unione europea* (Giappichelli 2025) 319, 321.

[43] V Filì, 'L'Organizzazione del òavoro' in Carinci and Pizzoferrato (eds) (n 42) 296, 307.

[44] G Casale, 'Le fonti' in Carinci and Pizzoferrato (eds) (n 42) 75, 97–98.

existence, as well as setting limits on working hours; Article 41 restricts private economic initiative in the name of social utility, safety, freedom, and human dignity.

The Constitution is 'oriented towards protecting the worker as the weaker party in the employment relationship (Articles 4, 35, 36) and particularly on the basis of Articles 3, paragraph 2, 4, 36, and 38 Cost.' through the guarantee of their dignity.[45] Dignity is a fundamental value that permeates the entire constitutional charter.

Through Articles 1 and 36, the Constitution 'identifies work as the precondition for a free and dignified existence, which must be guaranteed to the worker'.[46] This is achieved through the principles contained in Article 36, which aim to remove remuneration from pure market logic, requiring that it be sufficient to ensure the worker and their family a free and dignified existence.

According to the Constitution, work is conceived as a dimension that ensures personal dignity, including as a worker, and enables full personal development.[47]

To complement the above concepts, Article 38 of the Constitution also protects the dignity of citizens (paragraph 1) and workers (paragraph 2). In the first case, any citizen unable to work and without the means to live is entitled to support and social assistance. In the second case, it ensures that workers are provided with adequate means to meet their living needs in cases of injury, illness, disability, old age, or involuntary unemployment.

In the implementation of the provisions of Article 38, income support is provided to individuals who have lost their jobs or find themselves in situations of particular hardship.[48]

The protection of workers' dignity is not limited to the Constitutional Charter but is also enshrined in other legislative provisions.

A key role is played by the Civil Code, specifically Article 2087, which imposes a general and dynamic obligation on employers to protect the physical integrity and moral personality of workers. This provision has been broadly interpreted by Italian case law to cover emerging risks, including psychosocial ones. Article 2087 of the

[45] G Santoro-Passarelli, 'Dignità del lavoratore e libertà di iniziativa economica, rivoluzione industriale 4.0 e rapporto di lavoro dei riders' (2022) 1 *Labor* 7.

[46] G Santoro-Passarelli, 'Dignità del lavoratore e libertà di iniziativa economica, rivoluzione industriale 4.0 e la qualificazione giuridica del rapporto di lavoro dei riders e la proposta di direttiva' in G Santoro-Passarelli (ed), *Realtà e Forma nel Diritto del Lavoro* (Giappichelli 2022) 301, 302–303.

[47] G De Simone, 'La dignità del lavoro e della persona che lavora' (2019) 164 *Giornale di diritto del lavoro e di relazioni industriali* 633, 645.

[48] The reference, in the first case, is to the *NASpI*, while in the second case, it currently refers to the *Assegno di Inclusione*.

Civil Code thus protects the physical integrity and moral personality of the worker,[49] 'which is essentially the dignity of the worker'.[50]

Various other legislative measures also play a key role in protecting workers' dignity. Among these is Title I of the Workers' Statute (Law No. 300/1970),[51] entitled 'Freedom and Dignity of the Worker'.

The Workers' Statute is a historic cornerstone for workers' rights, freedoms, and dignity – for example (though not exhaustively) with its provisions on remote surveillance (Article 4) and anti-discrimination (Article 8).

A range of more recent legislative measures have also aimed to ensure the dignity of workers: Decree-Law of 12 July 2018, No 87, converted into Law No 96 of 9 August 2018 (the so-called 'Dignity Decree'), containing measures to combat job insecurity; Decree-Law of 3 September 2019, No 101, converted into Law No 128 of 2 November 2019, which introduced Chapter V-bis concerning the protection of work carried out via digital platforms; Legislative Decree No 104 of 27 June 2022 on transparent and predictable working conditions; Law No 203 of 13 December 2024 (the so-called 'Labour Bill'), concerning trial periods in fixed-term contracts.

These measures were intended by the legislator to safeguard workers' dignity – a goal that was not effectively achieved across all measures as originally envisaged.

Indeed, without delving into the details of each provision, it is sufficient to note that, for example, the 'Transparency Decree' has led to significant procedural difficulties, along with an increase in bureaucratic processes, which have not always benefited workers.[52]

In the case of the 'Dignity Decree', whose primary objective was to combat precarious employment, the multiple extensions and renewals allowed under the law for temporary and fixed-term contracts have arguably become one of the main sources of job insecurity in Italy. To make matters worse, employers have initially adopted practices that were seemingly abusive of the law – despite the legislator's intention to limit such practices.[53]

[49] R Del Punta, 'Diritti della persona e contratti di lavoro' (2006) 110 *Giornale di diritto del lavoro e di relazioni industriali* 195 ff.

[50] G Santoro-Passarelli, 'Dignità del lavoro e civiltà digitale' (2023) 1 *Rivista giuridica del lavoro e della previdenza sociale* 53, 56. Also, on the protection of personal rights, and particularly the protection of moral personality (ie, the dignity of the worker), see R Del Punta (n 49) 195 ff.

[51] Italian Law No 300/1970 of the 20 May 1970, Regulations on the protection of freedom and dignity of workers, trade union freedom and trade union activity, in the workplace and employment regulations.

[52] Indeed, 'one may wonder whether such a detailed specification of these elements is truly the best tool for achieving the intended objective, or whether it in fact constitutes an obstacle, creating unnecessary complications. Among the possible negative effects of the so-called Transparency Decree is also the risk of increasing recourse to undeclared ("black market") labour' (G Santoro-Passarelli, *Diritto dei lavori e dell'occupazione* (Giappichelli 2022) 288.

[53] For these reasons, the Ministry of Labour and Social Policies promptly issued Circular No 17 of 31 October 2018, which outlines three different scenarios: a) when the assignment is preceded by a

In theory, the measures introduced in Chapter V-bis aim to guarantee dignity even for self-employed workers engaged in delivery services via digital platforms.[54] However, these measures are currently applied in a limited fashion, as platforms 'determine the execution methods' of the service, under Article 47-bis, paragraph 2 – which reveals a lack of coordination with Article 2, paragraph 1, of Legislative Decree No 81/2015, since their scopes of application overlap. In practice, this issue concerns so-called 'riders' and can be resolved – to avoid overlapping regulatory frameworks – considering the self-employment relationships occasional subject to the sectoral provisions of Articles 47-bis and following. While, where the work is continuous, the rules on subordinate employment (Article 2, paragraph 1) apply.

With regard to the duration of the trial period, the legislator has once again intervened, this time setting apparently objective criteria for calculating trial periods in fixed-term contracts, with the aim of eliminating the vagueness of the previous wording.[55] However, the current calculation method presents several issues in correctly determining the length of the trial period.[56]

fixed-term contract of less than twelve months, the subsequent assignment constitutes a renewal and, as such, requires justification (*causale*); b) if the previous fixed-term contract had a duration of exactly twelve months, the following assignment through temporary agency work also requires justification; c) when the worker has already been assigned to the same user company for a period of up to twelve months, a direct employment contract may be executed for a maximum of an additional twelve months under a fixed-term contract.

[54] Reference is also made, for example, to the provisions concerning: the definition of remuneration criteria, which is entrusted to collective agreements concluded by the most representative national trade unions and employers' associations (*ex* Art 47-*quater*); the extension of anti-discrimination rules and those protecting the dignity and freedom of subordinate workers (including *ex* Art 47-quinquies the provisions of Title I of the Workers' Statute relating to freedom of opinion, prohibition of opinion-related investigations, and Art 9 on the right to participate, through employee representation, in the construction of the occupational health and safety system); e) the extension of mandatory INAIL insurance coverage for workplace injuries and occupational diseases. Furthermore, the contracting party using a 'platform, including digital ones' becomes responsible for health and safety in the workplace, at their own care and expense (*ex* Art 47-*septies*).

[55] This area had already been partially regulated by Art 7, para 2, of Legislative Decree No. 104 of 27 June 2022, which merely stated that: 'In fixed-term employment contracts, the trial period shall be proportionate to the duration of the contract and to the duties to be performed in relation to the nature of the employment'.

[56] Italian Law No 203 of 13 December 2024, Provision on employment, Art 13: 'Currently, the trial period is defined as: one day of actual work for every fifteen calendar days from the start date of the employment relationship. In any case, the duration of the trial period may not be less than two days nor exceed fifteen days for contracts not exceeding six months, and thirty days for those exceeding six months but less than twelve months'. In the case of a six-month fixed-term contract, the trial period would therefore be a maximum of twelve days – despite the legislator setting a maximum limit of fifteen days. This is a theoretical limit that, in practice, cannot be reached, much less exceeded.

4.1. The role of case law in defining the 'spectrum' of dignity

It is essential to acknowledge the critical role played by both supranational courts (the CJEU and the European Court of Human Rights, ECtHR) and national high courts (such as the Italian Court of Cassation) in giving concrete meaning to often abstract norms concerning dignity, and in adapting such norms to new factual scenarios.

The role of supranational case law will be examined in due course. Conversely, various rulings of the Italian Court of Cassation demonstrate how national courts interpret and apply both domestic and EU law to protect workers' dignity in specific and often new situations.

The key areas of analysis and reflection by the Supreme Court include case law on 'straining' (a judicially recognised form of aggravated and targeted stress, distinct from mobbing, which entails employer liability), demotion and its impact on professional dignity pursuant to Article 2103 of the Italian Civil Code,[57] and the extensive application of Article 2087 of the Civil Code to establish employer liability for the failure to prevent stressful working environments and other psychosocial harms.

The Court of Cassation often plays a crucial and dynamic role in adapting general legal principles – such as Article 2087 of the Italian Civil Code – to protect workers' dignity against newly emerging or recently recognised harms (eg, straining, specific impacts of algorithmic management, or evolving forms of psychosocial risk). This hermeneutic function of the Supreme Court, while demonstrating the adaptability of the legal system, may also temporarily fill legislative gaps or delays, inevitably resulting in periods of legal uncertainty until more explicit regulatory frameworks or consistent lines of jurisprudence are established.

The world of work is rapidly evolving and presents new challenges to the protection of workers' dignity – challenges that existing statutes may not explicitly cover (eg, nuanced forms of psychosocial stress such as straining, or the subtle impacts of early forms of algorithmic decision-making prior to specific EU regulation). Legislative processes are often slow to adapt to these swift changes. In such contexts, courts – particularly supreme and constitutional courts—are frequently called upon to interpret existing general clauses or broad principles, such as Article 2087 c.c.[58] or constitutional guarantees of dignity, in an expansive manner to address these new harms.

A reflection on the concept of dignity in labour within the Italian Constitution must necessarily take into account the jurisprudence of the Italian Constitutional Court, which – especially in recent years – appears not to treat this value as

[57] S Bologna, *Le mansioni del lavoratore tra garantismo e liberalizzazione* (Giappichelli 2024) 3 ff.

[58] Italian Supreme Court of Cassation, Labour Section, Orders No 2084 and No 3791, January–February 2024.

absolutely non-negotiable, but rather as subject to balancing. On one hand, recent decisions by the Constitutional Court seem to reflect 'an institutional line of intervention inspired by the objective of maintaining a living process of unitary integration of the legal order, not as an end in itself, but teleologically oriented toward drawing, in every part of the system, all possible logical and legal consequences deriving from the fundamental principles and rights protected by the Constitution'.[59]

On the other hand, this statement must be assessed against the backdrop of the Court's rulings in the *Ilva* cases. The Constitutional Court's repeated interventions in this matter appeared to prioritise the fundamental rights of the human person, who should be shielded from any instrumentalisation that compromises their dignity or legal equality – even in the pursuit of constitutionally relevant interests.[60] However, in practice, the Court suggests – and has progressively refined – a perilous and hard-to-measure principle of balancing. According to this reasoning, the continuation of productive activities, even in potentially hazardous conditions, may be justified through a reasonable and proportionate balancing of the constitutional values at stake.

Based on this premise, the proper calibration of the balancing principle must avoid 'the unlimited expansion of one right, which would become tyrannical over other constitutionally recognised and protected legal positions, which together represent the expression of human dignity. Therefore, balancing must be guided by criteria of proportionality and reasonableness, such that no value is granted absolute predominance, nor is any entirely sacrificed, thereby ensuring a systemic and unified protection of all constitutional interests involved'.[61]

Indeed, a few years later, the Constitutional Court acknowledged that for such a system to function effectively, it must be perfectly synchronised in all its mechanisms. Otherwise, the mechanism would fail to guarantee an adequate balancing among the constellation of constitutionally significant interests that protect life, human health, and the environment (Articles 2, 9, and 32 of the Constitution) and Article 41(2) of the Constitution, which governs economic initiative.[62]

In the absence of such coordination, the resulting dynamics could lead to violations of several fundamental principles, including those just mentioned. In the case in question, however, the reasonableness of the balancing undertaken could be called into question: the interest in continuing productive activity appears to have unconditionally prevailed over the values of life, health, and environmental

[59] G Silvestri, 'La Corte Costituzionale prosegue la ricerca dell'unità in base ai principi' (Associazione Italiana dei Costituzionalisti, 14 August 2024), at www.associazionedeicostituzionalisti.it.

[60] Italian Constitutional Court, Judgment No 85 of 9 May 2013.

[61] Italian Constitutional Court, Judgment No 58 of 23 March 2018.

[62] Italian Constitutional Court, Judgment No 105 of 13 June 2024.

protection, in violation of Articles 2, 9, 32, and even Article 41 of the Italian Constitution.[63]

5. Contemporary challenges and transformations affecting workers' dignity: algorithmic management and AI in the employment relationship

The digitalisation of the world of work presents a dual interpretative trajectory, simultaneously offering opportunities for innovation while also introducing significant risks to the dignity, autonomy, and fundamental rights of workers.

Within this complex and evolving process, Artificial Intelligence (AI) stands out as a key player, rapidly expanding its presence in human resource management and workplace practices. Indeed, under certain conditions, AI is being used for recruitment and selection (eg, screening applications, evaluating candidates), automated decision-making, performance monitoring, and even the termination of employment relationships.[64]

The implications for workers' autonomy are profound, as algorithmic management – often characterised by opacity – can lead to new forms of 'digital Taylorism'.[65] Transparency is undermined by the so-called 'black box' problem, which makes algorithmic decisions difficult to understand or challenge,[66] thereby increasing the risk of violations of workers' dignity. There is also a tangible risk of discrimination when algorithmic bias reproduces or exacerbates social inequalities, and of privacy breaches due to the extensive collection and processing of personal data.

In response, the European Union has sought to contain and remedy the most problematic and dignity-threatening aspects of AI in the workplace.

The AI Act classifies most AI systems used in employment contexts as 'high-risk'.[67] It prohibits certain practices relevant to the world of work – such as emotion recognition in the workplace, certain forms of biometric categorisation, and social scoring by public authorities – and imposes specific obligations on deployers (ie, employers), including requirements to ensure human oversight, transparency, risk assessment, and worker information.

[63] D Martire, 'Lavoro e costituzione economica tra pluralismo e giudici' in C Pinelli and D Martire (eds), *Diritto costituzionale dell'economia* (Giappichelli 2025) 25, 65.

[64] Di Cerbo (n 17) 6.

[65] L Zappalà, 'Informatizzazione dei processi decisionali e diritto del lavoro: algoritmi, poteri datoriali e responsabilità del prestatore nell'era dell'intelligenza artificiale' (2021) 2 *Biblioteca '20 Maggio'* 98, 104.

[66] MS Randazzo and G Hill, 'Human Dignity in the Age of Artificial Intelligence: An Overview of Legal Issues and Regulatory Regimes' (2025) 30 *Australian Journal of Human Rights* 386 ff.

[67] S Ciucciovino, 'Risorse umane e intelligenza artificiale alla luce del Regolamento (UE) 2024/1689, tra norme legali, etica e codici di condotta' (2024) 3 *Diritto delle relazioni industriali* 573, 575 ff.

The pervasive use of AI and algorithmic management in the workplace risks creating an algorithmic panopticon, where workers are subjected to continuous, often invisible, surveillance and data-driven performance evaluation. This can significantly erode workers' autonomy, foster a climate of distrust and anxiety, and reduce individuals to mere data points, thereby directly impacting their human dignity.

Decisions resulting from these AI systems – such as task allocation, performance evaluations, disciplinary measures, and dismissals – may be opaque due to the black-box nature of complex algorithms, making them difficult for workers to understand, review, or contest. This combination of pervasive monitoring and opaque decision-making may have a chilling effect on workers' expression and behaviour, fundamentally undermining their sense of self-worth, agency, and control over their working lives – all of which are essential components of dignity.

While the EU AI Act mandates human oversight for high-risk systems and imposes transparency obligations, the practical implementation of meaningful human control in the face of highly complex AI systems, economic pressures for efficiency, and potential enforcement gaps remains a critical area of concern.[68] The effectiveness of these safeguards in preventing dignity-related harms requires robust evaluation.

5.1. Platform work

Platform-mediated work raises a range of issues, notably the frequent misclassification of workers – particularly food delivery riders – as falsely self-employed. This leads to precarious working conditions, lack of social protection, and diminished bargaining power. A defining feature of platform work is the presence of algorithmic control over task allocation, pricing, performance evaluation, and even the 'deactivation' of workers' accounts, which has triggered an ongoing struggle for fair working conditions, collective rights, and access to social protections.

The EU Platform Work Directive seeks to address these issues by establishing a rebuttable presumption of an employment relationship,[69] introducing rules on

[68] LL Cabrera and M Maier, 'Prohibited AI Systems: Red Lines in the Employment Context' (Center For Democracy and Technology Europe, April 2024), at cdt.org.

[69] The new Art 5, para 1, is formulated as follows: 'The contractual relationship between a digital labour platform and a person performing platform work through that platform shall be legally presumed to be an employment relationship where facts indicating direction and control, in accordance with national law, collective agreements or practice in force in the Member States and with consideration to the case-law of the Court of Justice, are found. Where the digital labour platform seeks to rebut the legal presumption, it shall be for the digital labour platform to prove that the contractual relationship in question is not an employment relationship as defined by the law, collective agreements or practice in force in the Member States, with consideration to the case-law of the Court of Justice'. Para 2 therefore states: 'For the purposes of paragraph 1, Member States shall establish an effective rebuttable legal presumption of an employment relationship that constitutes a procedural facilitation for the benefit of

algorithmic management (enhancing transparency, requiring human oversight for significant decisions, and strengthening data rights), and strengthening collective rights for platform workers.

Platform work functions as a resonating chamber in which many contemporary threats to workers' dignity converge: precariousness linked to misclassification, opacity and potential distortion in algorithmic management, worker isolation, and significant obstacles to effective collective bargaining and representation. Platform workers frequently experience conditions associated with a lack of dignity, often rooted in the incorrect legal characterisation of their employment status: low and unpredictable pay, limited job security, and reduced access to basic protections.[70] Platform work may also lead to isolation, making it difficult for workers to organise and exercise collective rights. The EU Directive on Platform Work attempts to tackle these multidimensional dignity deficits through a diverse set of measures: the presumption of an employment relationship (to combat precariousness), rules on algorithmic transparency and human review (to counter arbitrary algorithmic control), and provisions to facilitate collective representation.

The success or failure of this Directive in meaningfully improving the dignity of platform workers will serve as an important indicator of the broader ability of European and national legal systems to adapt to and regulate new forms of work in ways that uphold fundamental labour rights.

5.2. Remote work and the 'always-on' culture

The significant rise in remote work,[71] while offering benefits such as flexibility and reduced commuting, also introduces several risks: the erosion of boundaries between

persons performing platform work. Moreover, Member States shall ensure that the legal presumption does not have the effect of increasing the burden of requirements on persons performing platform work or their representatives in proceedings to determine their correct employment status' (this latter clause operates as a sort of non-regression safeguard, intended to prevent national legislators from turning what is meant to be a facilitative mechanism into an evidentiary burden and, thus, a disadvantage for platform workers.) The provision laid down in the aforementioned Art 5 effectively anticipates as many presumptive mechanisms as there are Member States, thereby entailing a serious risk of divergent outcomes and, ultimately, a weakening of one of the principal supranational objectives of protecting platform workers—a risk that does not appear to be entirely mitigated by the reference to the case-law of the Court of Justice.

[70] See the recent study conducted by Fairwork: 'Norme sul lavoro e nuove richieste di rappresentanza collettiva nella Platform Economy italiana' (Fairwork Italia Valutazioni 2024) at fair.work.

[71] On the benefits derived from technological innovation to improve the reconciliation of work and life time, and more generally, on this topic, see, *ex multis*, C Cester, 'Lavoro e tempo libero nell'esperienza giuridica' in *L'orario di lavoro* (Utet 1995) 9 ff.; A Boscati, 'Il lavoro agile nell'ordinamento italiano come strumento di conciliazione dei tempi di vita-lavoro e di incremento della competitività nell'impresa e nella pubblica amministrazione' in F Da Silva Veiga and D Pires

work and private life (the so-called temporal porosity, whereby working hours spill over into time traditionally reserved for personal life),[72] the potential for increased employer surveillance, and the negative impact on mental health due to the expectation of being constantly connected (always-on)[73] – a condition facilitated by digital connectivity.[74]

The emerging right to disconnect at the European level has come to represent a crucial legal and social response to protect workers' well-being, private life, and, most importantly, their dignity.[75]

The right to disconnect is essential for safeguarding the dignity of workers. It goes beyond merely preserving work-life balance, and encompasses the protection of mental and physical health, the preservation of privacy, and the guarantee of autonomy from constant employer intrusion – all of which are fundamental to ensuring a dignified working existence.

The proliferation of remote work and digital communication tools has fostered an 'always-on' work culture, in which workers feel perpetually pressured to be available. This continuous connectivity directly infringes upon rest periods established by law and collective agreements, intended to protect health, safety, and recovery. The inability to disconnect contributes significantly to psychosocial risks such as stress, anxiety, and burnout, thereby undermining workers' well-being and dignity.

The right to disconnect thus represents a direct attempt to re-establish clear boundaries and protect these fundamental aspects of dignity. However, its effective implementation faces several challenges, including the definition of its precise scope, the identification of those entitled to invoke it, and the practical enforcement of the right.

In the Italian legal system, two provisions expressly establish a right to disconnect: Article 2, paragraph 1-ter of Decree-Law No 30/2021, read in conjunction with Article 19, paragraph 1 of Law No 81/2017. These provisions recognise that 'agile workers' have a right to disconnect – not only as a protection

Fincado (eds), *Estudos de Direito Desenvolvimento e Novas Tecnologias* (Instituto Iberoamericano de Estudos Jurídicos 2020) 52 ff.

[72] A Supiot, 'Temps de travail: pour une concordance des temps' (1995) 12 *Droit social* 947; E Genin, 'Proposal for a Theoretical Framework for the Analysis of Time Porosity' (2016) 3 *International Journal of Comparative Labour Law and Industrial Relations* 280.

[73] The concept of the 'always-on' worker was first introduced, at the doctrinal level, by R Krause, '"Always-on"– The Collapse of the Work-Life Separation in Recent Developments, Deficits and Counter-Strategies' in E Ales and others (eds), *Working in Digital and Smart Organizations: Legal, Economic and Organizational Perspectives on the Digitalization of Labour Relations* (Palgrave Macmillan 2018) 223.

[74] D Calderara, *Garanzia della disconnessione nel rapporto di lavoro* (Giappichelli 2024) 197–210.

[75] Resolution of the European Parliament of 21 January 2021 with recommendations to the Commission on the right to disconnect (2019/2181(INL)), P9_TA(2021)0021.

of their right to health, but also, and above all, as a safeguard of their dignity as workers.

The legal framework enshrining the right to disconnect was designed as a flexible safeguard – a 'variable-geometry' right – capable of adapting to different employment contexts.[76]

Disconnection thus functions as a right closely tied to the protection of health, private life, and against the risks stemming from the indiscriminate availability of the worker as dictated by the organisation of work performance.

The right to disconnect guarantees dignity to the extent that it is clearly defined and effectively enforced, whether through individual or collective autonomy. Yet it is essential to ensure that such collective regulation does not result in excessive uniformity or rigidity, which could obscure individual protections or lead to oppressive treatment.[77] Ultimately, this is a right that must be understood through the lens of labour dignity, aimed at protecting interests recognised not only at the national level, but also under supranational law.[78]

6. The evolving case law of the Court of Justice of the European Union

The interpretation and application of norms on dignity are constantly shaped by case law, both at the national level, as seen, and at the European level. In particular, key rulings of the CJEU carry significant weight as they implement principles related to dignity at work throughout the EU. Examples include cases concerning non-discrimination (eg, on grounds of age, with potential impact on the dignity of older workers through justifications of mandatory retirement),[79] the interpretation of the Working Time Directive (relevant for rest and health),[80] and the application of the Regulation 2016/679/EU (GDPR) in contexts affecting fundamental rights.[81]

[76] S Bellomo, 'Tempo di lavoro e diritto alla disconnessione' in Bellomo and Razzolini (eds) (n 2) 171.

[77] Calderara (n 74) 182.

[78] For example, Art 8 of the European Convention on Human Rights (ECHR); Directive 2019/1158/EU of the European Parliament and of the Council of 20 June 2019 on work-life balance for parents and carers and repealing Council Directive 2010/18/EU, Art 9; European Commission, 'The European Pillar of Social Rights in 20 Principles', Principle 10 at employment-social-affairs.ec.europa.eu; Art 31 of the Charter of Fundamental Rights of the European Union (CFREU).

[79] Case C-144/04 *Werner Mangold v Rüdiger Helm*, EU:C:2005:709; Case C-356/09 *Pensionsversicherungsanstalt v Christine Kleist*, EU:C:2010:703.

[80] Case C-55/18 *Federación de Servicios de Comisiones Obreras (CCOO) v Deutsche Bank SAE*, EU:C:2019:402; Case C-588/20 *Landkreis Northeim v Daimler AG*, EU:C:2022:607; Case C-477/21 *IH v MÁV-START Vasúti Személyszállító Zrt*, EU:C:2023:140.

[81] Case C-131/12 *Google Spain SL and Google Inc. v Agencia Española de Protección de Datos (AEPD) and Mario Costeja González*, EU:C:2014:317; Case C-311/18 *Data Protection Commissioner v Facebook Ireland Limited and Maximillian Schrems*, EU:C:2020:559; for example, the judgement C-247/23 *VP v Országos Idegenrendészeti Főigazgatóság,* EU:C:2025:172 on the rights of transgender

The CJEU has played a central role in the following cases: *Omega Spielhallen* (C-36/02),[82] where it recognized the principle of human dignity over the freedom of movement for services; *Schmidberger* (C-112/00),[83] where it acknowledged that fundamental rights such as freedom of expression and dignity may prevail over economic freedoms. Conversely, in the *Viking* (C-438/05)[84] and *Laval* (C-341/05)[85] cases, the Court showed the delicate balance between the freedom of establishment, freedom to provide services, and workers' collective rights. Later, in *Kücükdeveci* (C-555/07),[86] the Court emphasised dignity connected to the principle of non-discrimination based on age. Through the *Omega Spielhallen* ruling, the Court held that the principle of human dignity can justify restrictions on the free movement of services. In that case, Germany had banned games replicating the act of killing human beings. The CJEU deemed the ban justified by the principle of human dignity, as the use of humans as 'targets' in a game violated a fundamental value of German society, recognized by the Court as a general principle of EU law.

In the *Schmidberger* ruling, the Court addressed the balance between the free movement of goods and the right to demonstrate. The CJEU recognised that freedom of expression and assembly are fundamental rights protected by the EU legal order. The Court found that Austrian authorities acted correctly, since the obligation to ensure free movement of goods cannot absolutely override the fundamental rights of protesters. *Schmidberger* thus established that fundamental rights, such as the right to demonstrate, must be balanced with the fundamental economic freedoms of the EU, such as the free movement of goods; there is no hierarchy among these rights, but a case-by-case balancing of all interests at stake. Therefore, while the right to demonstrate may be seen as an expression of human dignity, the CJEU did not address it explicitly in these terms, rather using the framework of fundamental rights to justify a restriction on free movement of goods.[87]

people and data accuracy, which, although not directly related to work, illustrates the role of the GDPR in protecting dignity through personal data; S Rainone and A Aloisi, 'The EU Platform Work Directive: What's New, What's Missing, What's Next?' (2024) 6 *European Trade Union Institute Policy Brief* 1 ff, www.etui.org.

[82] Case C-36/02 *Omega Spielhallen- und Automatenaufstellungs-GmbH v Oberbürgermeisterin der Bundesstadt Bonn*, EU:C:2004:614.

[83] Case C-112/00 *Eugen Schmidberger, Internationale Transporte und Planzüge v Republik Österreich*, EU:C:2003:333.

[84] Case C-438/05 *International Transport Workers' Federation, Finiish Seamen's Union v Viking Line ABP, OÜ Viking Line Eesti*, EU:C:2007:772.

[85] Case C-341/05 *Laval un Partneri Ltd v Svenska Pyggnadsarbetareförbundet and Others*, E:C:2007:809.

[86] Case C-555/07 *Seda Kücükdeveci v Swedex GmbH & Co. KG*, EU:C:2010:21.

[87] S Sciarra, 'Un confronto a distanza: il diritto di sciopero nell'ordinamento globale' (2012) 2–3 *Politica del diritto* 213, 219 ff.

Regarding the *Viking* ruling, the CJEU held that collective action by a trade union (in this case a strike to prevent a Finnish shipping company from registering a ship in Estonia) may constitute a restriction on the freedom of establishment and free movement of workers. The Court recognised the right to strike as a fundamental right but stated it must be balanced with economic freedoms under the Treaty. A restriction is justified only if it pursues a legitimate interest, such as the protection of employment, workers' rights including dignity, and is proportionate. The Court found that the union action was unjustified because the shipping company had no intention of infringing workers' rights. In a similar case to *Viking*, the CJEU in *Laval* examined a Latvian union's blockade of a Swedish company working in Latvia to force it to sign a Swedish collective agreement. The Court ruled this blockade was a disproportionate restriction on the freedom to provide services. The CJEU emphasised that although protecting workers is a legitimate aim, the union's restriction was disproportionate because no system was in place to verify the company's compliance with minimum labour protections. In summary, these rulings illustrate the delicate balance the CJEU tries to maintain between fundamental economic freedoms of the internal market and the protection of workers' rights, keeping the theme of worker dignity intact through this balance.[88]

Finally, the *Kücükdeveci* ruling (C-555/07) is crucial for its interpretation of the general principle of non-discrimination based on age, closely linked to respect for dignity.[89] Although the Court did not use the word 'dignity' in its operative part, the ruling strengthened a fundamental concept: the importance of treating every individual with equal respect and consideration, regardless of age. Age discrimination can harm a person's dignity as it devalues them and denies recognition of their work contribution solely due to age. The decision thus helped protect workers' dignity by ensuring they are not disadvantaged because of their age.[90]

Specifically, the CJEU established that the principle of non-discrimination based on age is a general principle of EU law, enshrined in Article 21 of the CFREU.[91] From this perspective, a methodological and substantive note is appropriate. The

[88] MV Ballestrero, 'Le sentenze Viking e Laval: la Corte di Giustizia "bilancia" il diritto di sciopero' (2008) 2 *Lavoro e diritto* 371, 388 ff.

[89] S Sciarra, 'Diritti sociali fondamentali nazionali e europei. A proposito di diritto alle ferie retribuite' (2019) 10 *Federalismi.it* 1, 5 ff.

[90] Recently, the interesting Opinion of AG Ćapeta in Case C-769/22 *European Commission v Hungary*, EU:C:2025:408 stated that the Court of Justice should find a standalone violation of Art 2 TEU, which identifies the fundamental values on which the European Union is founded. On this topic, see LS Rossi, '"Concretised", "'Flanked", or "Standalone"? Some Reflections on the Application of Article 2 TEU' (2025) 10 1 *European Papers* 1 ff.

[91] O Razzolini, 'La discriminazione collettiva di genere nel processo' (2024) 38 *Lavoro e diritto* 231, 242.

Court has recognised that EU sources not qualified as directly applicable can produce direct effects – that is, create subjective legal situations that individuals and legal persons may invoke against public authorities and other private parties. This direct effect exists when norms are formulated clearly, precisely, and unconditionally so that the right invoked is perfect and therefore applicable to regulate a given legal relationship, potentially disapplying conflicting national rules.[92]

Furthermore, for both vertical and horizontal direct effects to arise, all subjects of the legal order, including private parties, must be abstractly bound by the norm, so that when a subject enjoys a right, there is another subject bound by an obligation to recognise that right derived from EU law. The general principle of non-discrimination based on prohibitions against discrimination on grounds of nationality and sex, qualified as mandatory rules of EU law, has been recognised as producing direct vertical and horizontal effects.[93]

Article 21 has dispelled doubts about the existence of a non-discrimination principle which, alongside the principle of equality, provides protections against unjustified differential treatment based on grounds explicitly listed in the provision, as well as those the Court deems deserving of protection. The Court has affirmed that the non-discrimination principle based on age, under Article 21 CFREU, is sufficient to grant individuals a subjective right enforceable as such.[94]

However, it is important to note that the prohibition of discrimination regarding access to work and working conditions covers a narrower field than the general principle of non-discrimination under Article 21, of which it is nonetheless an expression. Therefore, when faced with the list of grounds typified by the TFEU (Article 19) and derived law, the judge's first task is to interpret the meaning and scope of those factors, in the absence of a legal definition: this applies to discrimination based on sex,[95] ethnic origin, disability, etc. Only by linking to one of the grounds recognised by the Treaty and derived law, and to its specific field of application, can the judge eliminate the effects of proven discrimination and guarantee the discriminated party equal access to the denied good, since it is only with respect to those specific grounds and within the scope defined by the Treaty and directives that European law concretely ensures equal treatment among individuals and groups.[96]

[92] C Favilli and F Guarriello, 'Non discriminazione' in Mastroianni and others (eds) (n 13) 412, 417.

[93] Case C-43/75 *Gabrielle Defrenne v Société anonyme belge de navigation aérienne Sabena*, EU:C:1976:56.

[94] Case C-176/12 *Association de médiation sociale v Union locale des syndicats CGT and Others*, EU:C:2014:2.

[95] Case C-249/96 *Lisa Jacqueline Grant v South-West Trains Ltd*, EU:C:1998:63; Case C-13/94 *P v S and Cornwall County Council*, EU:C:1996:170; Opinion of AG Ruiz-Jarabo Colomer in Case C-117/01 *K.B. v National Health Service Pensions Agency and Secretary of State for Health,* EU:C:2003:332; Case C-423/04 *Sarah Margaret Richards v Secretary of State for Work and Pensions,* EU:C:2006:256.

[96] Favilli and Guarriello (n 92) 435 ff.

7. Conclusions

The conducted research has focused on synthesizing how a multitude of different contemporary challenges impact the safeguarding of workers' dignity. Although the principle of workers' dignity is deeply rooted in European and national legal traditions and is a declared objective of EU social policy, its effective and consistent realisation is profoundly challenged by a confluence of contemporary socio-economic and technological transformations. These include the rapid digitisation of work, the proliferation of new and often precarious employment models, and the growing prevalence of psychosocial risks.

The investigation carried out has probed the effectiveness of protection tools in guaranteeing human and workers' dignity, with a cross-sectional study that examined heterogeneous legal institutions at the European level and within the specific case study of Italy. It emerged that these tools allow for the guarantee of dignity, not from a remedial perspective, but *a priori*, as a fundamental right of the individual first and of the worker second. Despite this, the current level of protection does not appear to be sufficient to guarantee dignity definitively but requires constant additions and adjustments.

Recent EU legislative interventions – notably the AI Act, the Platform Work Directive, and the ongoing discussions about a potential Directive on the Right to Disconnect—represent crucial steps toward recalibrating worker protections for the digital era.[97]

The study sought to assess whether the currently existing EU instruments, considering national laws and jurisprudence, are sufficient to determine a complete protection for the dignity of the person first and the worker second.

The conclusion reached concerns the necessity for further legal development, which is more integrated and potentially more ambitious both at the EU level and within individual Member States, to prevent the erosion of dignity in the evolving world of work. That said, a paradigm shift towards a more proactive approach to regulating the future of work is already underway, ensuring that human dignity is not merely a reparatory concept invoked after the violation of the right or harm has occurred, but a central design principle incorporated into new laws, technologies, and models of work organisation.

The aim was to provide an investigation at the EU level, but with an in-depth examination of the legal and jurisprudential responses of a specific Member State, namely Italy. This approach allowed for the observation of a duality: EU law and national law, particularly concerning the implementation and application of EU law

[97] MC Cataudella, *Elementi di diritto del lavoro dell'Unione europea* (Cacucci 2024) 103,161.

in different national socio-legal contexts, highlighting cases of both convergence and divergence in approaches to protecting workers' dignity.

The current range of EU and national responses to threats against workers' dignity risks creating a 'patchwork quilt' of protections. Although individual legislative acts (eg, the AI Act for AI-related risks, the Platform Work Directive for platform workers, national laws for precariousness or specific psychosocial risks) address particular problems, a significant question remains about the overall coherence, completeness, and interoperability of this evolving legal framework. This Article has attempted to analyse these various legislative and jurisprudential provisions jointly, verifying how they can integrate to form an organic and complete protective framework for workers' dignity.

The innovation lies in assessing whether this 'quilt' effectively safeguards all workers and all emerging risks or if there are significant gaps, overlaps, or inconsistencies that undermine a holistic and uniformly high level of dignity protection across different work contexts, especially as technology continues to blur the traditional boundaries of employment. The dynamism of the challenges requires equally efficient legal responses. For this reason, it is essential, in order to avoid regulatory gaps, to reiterate the fundamental importance of proactively adapting and rigorously applying the currently existing legal frameworks to sustain and strengthen workers' dignity in a context of unprecedented technological and socio-economic change, in a manner directly proportional to the evolution of new technologies. This does not mean that all risks of dignity violation are currently averted, but that it is essential to continue to safeguard it by providing measures that are concretely aimed at achieving this objective and that also have a broad-spectrum, as well as specific, flexible capacity for adaptation to macro-hypotheses of violation. Work on this front is needed to foster further legal development to prevent the potential erosion of dignity in the world of work in its entirety.

In conclusion of this study, it seems possible to affirm the existence of a protection of workers' dignity, which does not intervene from a remedial perspective, but is characterised by a good degree of effectiveness, although the hope is to continue to refine it to prevent further and future instances of injury and to evolve it according to the socio-political-economic currents of the markets. This latter purpose finds its goal, by observing the radical transformations of our time, in honing rigorous tools to outline vast horizons of current regulation and jurisprudence, contributing to the rooting of a conscious dignity protection discipline.