

# Call for tenders for subcontracting an expert for the ETUC project on “Democracy at Work”

This is a call for a subcontractor to provide expertise as part of the implementation of the ETUC project on “Democracy at Work”.

The ETUC will publish the call on its website, on Tuesday 16 April 2024. The deadline for submission of bids is on **Monday 13 May 10.00a.m.**

## 1. Background

The integration of algorithmic systems, sometimes referred to as artificial intelligence, into workplaces holds profound implications for the workforce. Whereas the digital transformation of the workplace in the EU is going and unstoppable, it is a matter of how this process is subject to democracy at work, in particular the information, consultation and participation rights of the workers, their representatives and trade unions. Crucially, this digital transformation can either enhance or diminish democracy in the workplace. It depends on whether these systems are used to empower workers or as tools for intrusive surveillance and control by employers.

Algorithms can impact various aspects of employment, from hiring decisions to performance evaluations and shift scheduling. Current practices that violate workers’ rights are for instance:

- **Automated Surveillance:** Extensive use of algorithmic surveillance systems that monitor employees' every move can infringe on privacy and workers' rights.
- **Algorithmic Bias in Hiring:** If recruitment algorithms are biased, they may perpetuate discrimination, impacting equal employment opportunities.
- **Performance Metrics:** Overreliance on algorithmic performance evaluations can lead to unfair assessments, overlooking the nuanced contributions of workers.
- **Automated Termination Decision** based solely on algorithms can undermine due process and job security.
- **Opaque Pay Algorithms:** When pay determination is governed by opaque algorithms, workers may face wage disparities and unequal compensation.

As the AI Act is not suitable for regulating use of AI in the workplace, an EU directive on algorithmic systems in the workplace, based on Article 153 TFEU, should define European minimum standards for the design and use of algorithmic systems in the employment context. A key element of the new directive must be the strengthening and enforcement of collective bargaining rights of trade unions as well as information, consultation and participation rights of trade unions & workers' representatives.

## 2. Objective of the study

At local, national, and European level, workers' representatives have the right to be informed consulted and under certain circumstances to negotiate about the impact of the introduction of new technology. For instance the EWC Directive (Directive 2009/38/EC) manifests this right within the subsidiary rights stipulated in the Annex of the Directive:

*[...] The information and consultation of the European Works Council shall relate in particular to [...] substantial changes concerning organisation, introduction of new working methods or production processes [...]*

Even though in a much more general term, also the Directive on Information and Consultation (Directive 2002/14/EC) states that: *Information and consultation shall cover [...] decisions likely to lead to substantial changes in work organisation.*

In situations where new technology is poised to bring about significant disruptions, particularly when it involves monitoring employee performance and behaviour or has implications for health and safety, including psychosocial risks, it becomes imperative to uphold the fundamentals of Information and Consultation. This entails providing timely information to the relevant management levels, ensuring that all the necessary details are available for meaningful engagement.

This study shall assess how the information & consultation rights are used by EWCs in relation to the introduction of algorithmic systems in the workplace. It should have a closer look at how the rights stipulated in the above-mentioned directive is reflected in actual EWC agreements and how they are used in practice to influence the introduction of such technology or the use of it. Furthermore, the tools of coordination work together with other levels of workers' representation shall be assessed as well as potential challenges of the workers' representation body to exercise influence in this context.

## 3. Tasks to be performed by the subcontractor

The subcontractor will be entrusted with a research project, which is part of the broader ETUC project *More Democracy at Work*. **The research will start in May 2024 and will be concluded by late August 2024.**

The subcontractor should undertake the following methodological steps for the study:

- 1) **Literature Review:** Conduct a comprehensive review of academic literature, legal documents, and relevant case studies on EWCs and the use of information & consultation rights related to digitalization, in particular the introduction of algorithmic systems at the workplace. This task must also include a mapping of different national legal frameworks concerning digitalization and workers' involvement.

- 2) **Case Study Selection:** Identify a sample of 8 multinational companies in different EU countries where algorithmic systems have been introduced in the workplace and EWCs are active. The selection of cases will be done in coordination with the ETUC's project team and the European Trade Union Federations. A total of 8 cases – 4 positive examples vs. 4 problematic examples – will be selected.
- 3) **Data Collection:** Propose a template set of questions to be asked. Conduct interviews with EWC representatives and national trade union and workers' representatives where needed in the selected companies to gather insights on their experiences with algorithmic systems and information and consultation processes. This process may be facilitated through an event.
- 4) **Comparative Analysis:** Compare the practices and experiences of EWCs in different companies and countries to identify patterns and differences. This analysis should also take into consideration the challenges that EWCs are facing in this regard.
- 5) **Recommendations Development:** Based on the findings, develop practical recommendations for EWCs on how to effectively utilize their information & consultation rights in digitalization contexts. This section shall also include a smaller part on how the process can be improved from the side of the legislator. Based on the feedback of the practitioners, avenues to effectively improve the EWCs' capability to influence algorithmic systems in the workplace shall be identified.
- 6) **Reporting:** Compile the study's findings, analysis, and recommendations into a comprehensive report of about 60 pages. A shorter document for dissemination of about 8 pages, resuming the main takeaways of the study shall also be delivered.
- 7) **Presentation:** The study and its results shall be presented – potentially in person.

By following this methodology, the study can provide a well-rounded assessment of how EWCs navigate the introduction of algorithmic systems in the workplace, offering valuable insights and actionable recommendations for improving worker engagement and protecting their rights in the digital age.

The final report will be published in English. The summary of findings and the recommendations will be summarised in a leaflet to be translated into French & German as well as potentially other languages. The results of the study and especially the policy recommendations will feed into the strategy of the European trade union movement to strengthen information, consultation and participation rights as well as into the ETUC's claim for a EU Directive on Algorithmic Systems at Work. Furthermore, it will be part of any political discussions ongoing at European level on these issues as well as on any concrete legislative initiatives proposed by the European Commission in the future.

## 4. Expertise, experience and skills required

Sound expertise is required on the following issues:

- Expert knowledge in the field of European Works Councils
- Expert knowledge of workers' information, consultation and participation rights;
- Good understanding of workers' involvement (both in national and European contexts);
- Experience in working on European level projects;
- Good understanding of the European trade union movement.

Sound experience is required in the following areas:

- Carrying out in-depth researches, including legal researches and overviews, preferably relating to workers' information, consultation and participation rights;
- Carrying out qualitative interviews;
- Writing research reports containing analysis of legal frameworks and meaningful policy recommendations;
- Successful track record of delivering in case studies for similar projects, with EU institutions and/or European stakeholders (social partners, NGOs, etc.).

Skills required:

- Proven research and presentation skills (in English);
- Proven skills in drafting case study reports;
- Ability to work within specified deadlines and to respect budgetary limits;
- Ability to work in a multicultural context and understanding of different industrial relations culture & traditions;
- Good administration and project management skills.

## 5. Time schedule and reporting

The subcontractor will be asked to perform the above-mentioned tasks by 30 August 2024.

The subcontractor will also be asked to participate in regular meetings with the ETUC's project team and to participate in an event on this particular study. The exact dates will be announced in the course of the project.

## 6. Payment

The total maximum budget available for the fees of the subcontractor is as follows:

<b>Contract with ETUC</b>	
<b>Main activities and Meetings</b>	
<ul style="list-style-type: none"> <li>• Select relevant cases in various countries.</li> <li>• Develop a questionnaire for the interviewees and conduct the interviews.</li> <li>• Draft a case study report covering 8 cases.</li> <li>• Draft policy recommendations.</li> <li>• Participate regularly in project meetings to discuss the evolution of the project.</li> <li>• Participate in a final conference to present the results of the case study report.</li> </ul>	
<b>Total budget for the Expertise</b>	<b>40 000 € (VAT and all taxes included)</b>

The subcontractor will be remunerated in various instalments (advance and final payment). This amount covers the fees but does not include the travel and subsistence costs incurred for attending project meetings (such as Steering Committee meetings and Conferences). These will be covered by ETUC on the basis of EU rules & thresholds (see the EC table of maximum amounts per EU member state).

## 7. Selection criteria

The selection criteria are:

- Verifiable expertise, experience and skills, as required and described in part 3 of this call;
- Quality of the methodology proposed in the offer;
- Proven track record of ensuring the quality of written materials produced, both in terms of content and format (i.e. previous publications), in the relevant subjects specified in this call for tenders;
- Price/Quality ratio;
- Previous research/work undertaken in the field of subcontracting and its impact on employment and labour.

## 8. Form, structure and content of the tender

Tenders must be written in English. They must be signed by the tenderer or his duly authorised representative and be perfectly legible so that there can be no doubt as to words and figures. Tenders must be clear and concise and assembled in a coherent fashion.

Since tenderers will be judged on the content of their written bids, they must make it clear that they are able to meet the requirements of the specifications.

All tenders must include at least two sections:

- i) Technical proposal

The technical proposal must provide all the information needed for the purpose of awarding the contract, including:

- Specific information covering the technical and professional capacity, as required, in particular:
  - Description of relevant professional experience with emphasis on the specific fields covered by the invitation to tender;
  - Detailed curriculum vitae of key coordinator and of the other team members;
  - A selection of the main works and/or articles published by all the experts involved, in relation to the relevant subjects specified in this tender.
- Specific information concerning the proposed methodology for delivering the tasks listed in part 2 of this call.

ii) Financial proposal

Prices of the financial proposal must be quoted in euros, including if the subcontractor is based in a country which is not in the euro-area. As far as the tenderers of those countries are concerned, they cannot change the amount of the bid because of the evolution of the exchange rate. The tenderers choose the exchange rate and assume all risks or opportunities relating to the rate fluctuation.

Prices must be fixed amounts and shall not include travel expenses and daily allowances for the attendance to the Steering Committee meetings and other project events which will be covered by ETUC on the basis of EU rules & thresholds.

The maximum amount available for this contract is EUR 40.000 (VAT and all taxes included).

Prices shall be fixed and not subject to revision during the performance of the contract.

## 9. Award Criteria

The contract will be awarded to the tender offering the best value for money, taking into account the specific objectives, requirements and selection criteria of the tender. The principles of transparency and equal treatment will be respected with a view to avoiding any conflicts of interest.

## 10. Content and selection of the bids

**This call for tenders will be published on the ETUC website on Tuesday 16 April 2024. The deadline for submission is Monday 13 May 10.00a.m..**

Offers must be sent to ETUC, in electronic format (by e-mail to [nfranke@etuc.org](mailto:nfranke@etuc.org) & [amartin@etuc.org](mailto:amartin@etuc.org)), and refer to our “Call for Tenders – Democracy at Work Project”.

A committee will be formed comprising of 3 representatives of the ETUC. One member of this committee will confirm the date and time of receipt of each bid. The committee members will sign the report on the bids received, which will list the admissible bids and provide reasons for rejecting bids owing to their failure to comply with the stipulations of the tendering process.

This committee will also evaluate the tenders that have been deemed admissible. An evaluation report and classification of participation requests will be drawn up, dated and signed by all the members of the evaluation committee and kept for future reference.

This report will include:

1. The name and address of the contracting authority, the purpose and value of the contract;
2. The names of any excluded candidates and the reasons for their rejection;
3. The names of candidates selected for consideration and the justification for their selection;
4. The names of candidates put forward and justification of their choice in terms of the selection or award criteria.