

Draft European Social Partners Framework Agreement on digitalisation

Introduction

Aims

Scope

A partnership process between employers and workers' representatives

- 1. Digital skills and securing employment**
- 2. Modalities of connecting and disconnecting**
- 3. Artificial intelligence and guaranteeing the human in control principle**
- 4. Respect of human dignity and surveillance**

Implementation and follow-up

Introduction

The digital transformation of the economy is a multifaceted topic with large implications for labour markets, the world of work and society at large. It is dealt with in a variety of ways by EU member states, due to different social and economic situations, labour markets and industrial relations systems and existing initiatives, practices and collective agreements.

The digital transformation brings clear benefits for employers, workers and jobseekers alike, in terms of new job opportunities, increased productivity, improvements in working conditions and new ways of organising work and improved quality of services and products. Overall, with the right strategies, it can lead to employment growth and job retention.

The transition also comes with challenges and risks for workers and enterprises, as some tasks will disappear and many others will change. This requires the anticipation of change, the delivery of skills needed for workers and enterprises to succeed in the digital age. Others include work organisation and working conditions, work life balance and accessibility of technology, including infrastructure, across the economy and regions. Specific approaches are also needed for SMEs to embrace digitalisation in a way that is tailored to their specific circumstances.

Since the gains are not automatic, we need to adapt our labour markets, education and training, and social protection systems to make sure the transition is mutually beneficial for employers and workers. The EU and national governments have an important role to play, by ensuring that the framework conditions allow and support employers and workers to grasp the opportunities and leave them space to find appropriate solutions to deal with the challenges, bearing in mind that they know best the situation on the ground and what measures are needed to benefit enterprises and workers.

It is also important to take into account the climate and environmental impacts.

Furthermore, a shared commitment is needed on the part of employers, workers and their representatives to make the most of the opportunities and deal with the challenges in a partnership approach, whilst respecting the different roles of those involved.

This framework agreement is the shared commitment of the European cross-sectoral social partners to optimise the benefits and deal with the challenges of digitalisation in the world of work.

Aims

This framework agreement aims to:

- Raise awareness and improve understanding of employers, workers and their representatives of the opportunities and challenges in the world of work resulting from the digital transformation;
- Provide an action-oriented framework to encourage, guide and assist employers, workers and their representatives in devising measures and actions aimed at reaping these opportunities and dealing with the challenges, whilst taking into account existing initiatives, practices and collective agreements;
- Encourage a partnership approach between employers, workers and their representatives;
- Support development of a human-oriented approach to integration of digital technology in the world of work, to support/assist workers and enhance productivity;

By:

- Outlining a joint dynamic circular process, which takes into account the different roles and responsibilities of the different actors and can be tailored to different national, sectoral and/or enterprise situations, industrial relations systems, jobs and different digital technologies/tools;
- Highlighting concrete approaches, actions and measures, which employers, workers and their representatives can use, according to their specific needs and circumstances, to tackle topics such as skills, work organisation and working conditions.

Scope

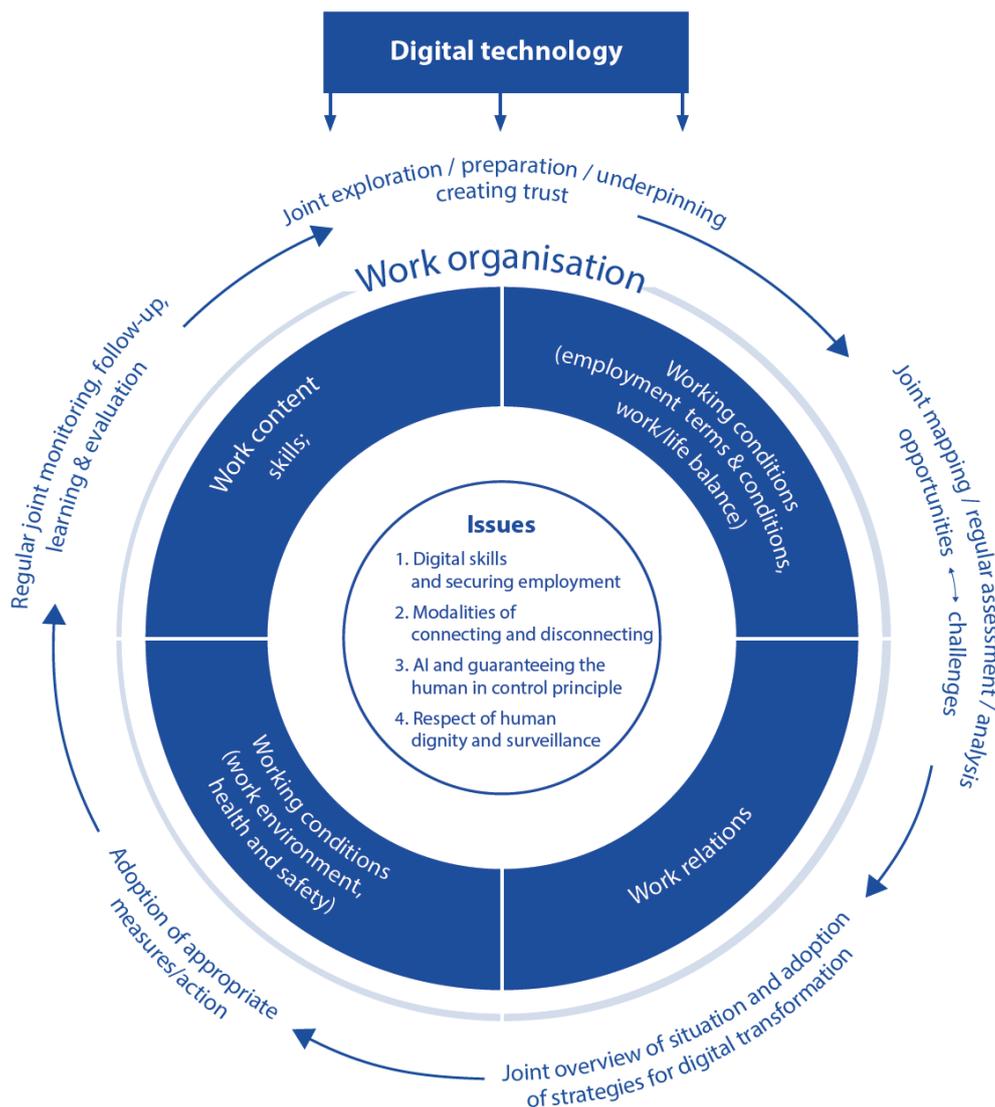
This Autonomous Agreement has been concluded by the European cross-sectoral social partners and applies to the whole of the EU/EEA.

It covers all workers and employers in the public and private sectors and in all economic activities including in activities using online platforms where an employment relationship exists, as defined nationally.

When referring to 'enterprises' in this agreement, we mean organisations from private and public sector.

When referring to 'workers representatives' in this agreement, the prerogatives of trade union representatives are to be recognised, in accordance with national law and practice.

Digitalisation partnership process



For a better understanding of the process, the concepts used in it have the following broadly accepted connotations:

Work organisation

The work organization is the distribution and coordination of work tasks and authority in an organization. Work organization is the way that tasks are distributed amongst the individuals in an organization and the ways in which these are then coordinated to achieve the final product or service. The work organisation or structure tells you who is doing what, be it in teams or not, and who is responsible for what.

Work content and skills

Work content is about looking into the impact of digital technology/tools on the content of the job and the skills needed to perform the work and to (digitally) interact with others (co-workers, management, clients, intermediaries). It takes into account aspects such as autonomy, coherence, variation, workload, information, clarity of the role.

Working conditions

Working conditions refers to the working environment (e.g. health, safety, physical and mental demands, wellbeing, climate, comfort, sanitary provisions, work equipment) and aspects of a workers' terms and conditions of employment. The latter covers matters such as: working time (schemes), rest periods, work location(s), work-life balance, leave systems, training and learning opportunities, evaluation mechanisms.

Work relations

The work relations or interpersonal relations have an impact on the performance and the wellbeing of the workers. These encompass the social interaction between workers themselves and between workers and the enterprise (formal and informal relations with the direct supervisor, the management, HR-function). Relations with clients and other third parties are also part of this. It is important to take into account the quality of the relations (collaboration, integration, contact moments and possibilities, communication, work atmosphere), the management style, the occurrence of violence or harassment, conflict management, support procedures and mechanisms.

A partnership process between employers and workers' representatives

Considering that:

The overall goal is to achieve a consensual transition by a successful integration of digital technologies at the workplace and by reaping the opportunities as well as preventing and minimising the risks for both workers and employers and to ensure the best possible outcome for both employers and workers;

Multiple topics play a role or should be taken into account. A broad multidisciplinary approach is suggested, which captures the relevant workplace elements;

Most of these topics are interlinked and should not be dealt with in isolation;

There is a need for tailoring the approach to the size of enterprise and to deal with different situations or circumstances whereas some features are the same for all enterprises independently of their size;

A shared commitment by employers, workers and their representatives for an agreed and jointly managed process is important for success.

An agreed and jointly managed dynamic circular process is a suitable way for implementation of the agreement, whilst respecting the roles/responsibilities of different actors including workers' representatives.

The presence or introduction of digital technologies or tools has an impact on several topics that are often interrelated. These topics are shown in the diagram:

- Work content – skills
- Working conditions (employment terms and conditions, work-life balance)
- Working conditions (work environment, health and safety)
- Work relations
- Work organisation

In the different steps of the process, all these topics have to be discussed and taken into account.

In relation to the topics referred to above the following issues should also be discussed and taken into account as part of the process:

- Digital skills and securing employment
- Modalities of connecting and disconnecting
- Artificial Intelligence (AI) and guaranteeing the human in control principle
- Respect of human dignity and surveillance

Digital technologies or tools can also be used/introduced to improve on those topics (e.g. by better work organisation, communication, more learning possibilities, improved work relations, better work-life-balance, gender equality).

Stages in the Process

- The first stage ***‘Joint exploration/preparation/underpinning’*** is about exploring, raising awareness and creating the right support base and climate of trust to be able to openly discuss the opportunities and challenges/risks of digitalisation, their impact at the workplace and about the possible actions and solutions.
- The second stage ***‘Joint mapping/regular assessment/analysis’*** is a mapping exercise looking into the topic areas in terms of benefits and opportunities (how successful integration of digital technology can benefit the workers and the enterprise) and in terms of challenges/risks. Possible measures and actions are also identified at this stage. SMEs may need external advice/support.
- The third stage ***‘Joint overview of situation and adoption of strategies for digital transformation’*** is the result of the above steps. It is about having a basic understanding of the opportunities and challenges/risks, the different elements and their interrelationships, as well as agreeing on digital strategies setting goals for the enterprise going forward.
- The fourth stage ***‘Adoption of appropriate measures/actions’*** is based on the joint overview of the situation. It includes:
 - the possibility for a testing / piloting of the envisaged solutions;
 - priority setting;
 - timing, implementation in sequential time-bound phases;
 - clarifying/defining the roles and responsibilities of management and workers and their representatives;
 - resources;
 - accompanying measures such as (expert) support, monitoring, etc.
- The fifth stage ***‘Regular joint monitoring / follow-up, learning, evaluation’*** is where we come full circle to a joint assessment of the effectiveness of the actions and discussion on whether further analysis, awareness-raising, underpinning or actions are necessary.

Workers’ representatives will be provided with such facilities and information as necessary to effectively engage in the different stages of the process.

Tailoring

Although the process steps would remain identical, this process should be tailored to different national, sectoral and/or enterprise situations and industrial relations systems by adjusting the tools used in the process, the content and/or the people/experts involved. It allows to have an approach which is relevant to different jobs, enterprises and sectors.

The agreement acknowledges that a wide range of digital tools, training arrangements and joint procedures have already been introduced, in some cases by social partners. Consequently, these existing tools and procedures should be taken into account in the joint mapping/regular assessment/analysis and where there are concerns about the impacts on working conditions and health and safety needing urgent attention, action is taken.

It is in the interest of employers and workers to adapt work organisation, where needed, to the ongoing transformation of work deriving from the use of digital work devices. This adaptation should occur in a way that respects workers’ interests and employers’ prerogatives in terms of work organisation at the enterprise level.

1 - Digital skills and securing employment

Main objective and success factor

The main objective is to prepare our current and future workforce and enterprises with the appropriate skills by continuous learning, to reap the opportunities and deal with the challenges of the digital transformation in the world of work.

Shared interest of social partners

The challenges and opportunities presented by digitalisation mean that social partners have a shared interest in facilitating access to quality and effective training and skills development while respecting the diversity and flexibility of training systems, which vary according to diverse industrial relations practices. This entails employers' commitment to use digital technology positively, seeking to improve innovation and productivity, for the long-term health of enterprises, and for the employment security of the workforce and for better working conditions. Along with workers' commitment to support the growth and success of enterprises and to recognise the potential role of digital technology, if enterprises are to remain competitive in the modern world.

Identification of skills needs as a key challenge

A key challenge social partners face is to determine which (digital) skills and change of processes are necessary to be introduced and, in consequence, to organise adequate training measures. This is valid for the national, sectoral and enterprise level, in line with the different national industrial relations systems.

Key elements

- There is a shared interest but different responsibility of employers and workers to contribute to upskilling and reskilling, leading to successful enterprises and high-quality public services and an appropriately skilled workforce.
- Involvement of social partners at the appropriate level, as well as HR and line-managers and workers' representatives and (European) works councils, in: motivating staff to take part in training, creating frameworks based on open communication, and in information, consultation and participation, in accordance with national industrial relations systems, should be promoted at all steps of the up-skilling process.
- Social partners can play a supportive role for enterprises in their efforts to set up skills plans to accommodate ongoing and future changes. SMEs' particular needs for support have to be taken into account.
- Depending on the type of digital tools introduced and the specific national, sector and enterprise situation, a skill set that includes and combines technical, sector-specific skills, as well as a range of transversal and soft skills and competences like problem-solving capacity, critical thinking, collaborative and communicative skills, co-creation and creativity will be needed for the workforce. In parallel, human and social skills and competences, such as people management, emotional intelligence and judgement need to be further developed and enhanced.
- Taking into account the speed of change in the labour market, intelligence tools, such as skills anticipation measures, and a regular assessment of a worker's existing skill set as part of a competence development approach to lifelong learning are extremely relevant to correctly identify future skills needs and choose the right training measures in close cooperation with workers' representatives.

- A change-over towards a real learning culture in society and in enterprises and mobilising the workforce's positive attitude to change, is essential to make the digital transformation an opportunity, making commitment, creativity and solution-oriented approaches the core of social partners adaptation endeavours, whilst minimising possible risks at the same time.

Fostering digital transformation strategies supporting employment

The agreement encourages social partners at the appropriate levels and enterprises to introduce digital transformation strategies in a partnership approach, to pursue the following objectives:

- Foster employment transitions of workers in enterprises, and more broadly between enterprises and sectors, through investment in skills that ensure skills updating and the continuous employability of the workforce and the resilience of enterprises;
- Provide the conditions for digital transformation of enterprises that leads to employment creation, including employers' commitment to introduce technology in a way that benefits at the same time employment, productivity and the work content and improved working conditions.

A shared analysis and joint commitment to action needs to be supported by social dialogue structures, comprising employer and workers representatives, to assess and identify training needs linked to digitalisation for the enterprise or sector and its workforce. These can be hard skills and soft skills, set out in an agreed skills training approach.

Measures to be considered include:

- The commitment of both parties to upskill or reskill to meet the digital challenges of the enterprise.
- Access to and arrangements of training, in line with diverse national industrial relations and training practices and taking into account the diversity of the workforce, such as in the forms of training funds / sectoral funds, learning accounts, competence development plans, vouchers. Training provisions should spell out clearly the conditions of participation, including in terms of duration, financial aspects, and worker commitment.
- Where an employer requests to a worker to participate in a job-related training that is directly linked to the digital transformation of the enterprise, the training is paid by the employer or in line with the collective agreement or national practice. This training can be in-house or off-site and takes place at an appropriate and agreed time for both the employer and the worker, and where possible during working hours. If the training takes place outside of working time, appropriate compensation should be arranged.
- A focus on quality and effective training: This means to provide access to relevant training responding to the identified training needs of the employer and the worker. A key aspect of this in the context of the digital transformation is to train workers, to help them make the best possible use of the digital technologies that are introduced.
- Training arrangements that provide skills which could support mobility between and within sectors.
- Internal or external training validation solutions.
- The operation of schemes such as short time work that combines a reduction of working hours with training, in well-defined circumstances.

Social partners should consider measures at the appropriate levels to ensure that the impact on employment is well anticipated and managed in digital transformation strategies supporting employment retention and creation. It is critical that digital technology is introduced in timely consultation with the workforce, and their representatives, in the framework of industrial relations systems, so that trust in the process can be built. An objective of digital transformation strategies is avoiding jobs losses as well as creating new opportunities, including by looking into re-design of jobs. Strategies should ensure that both the enterprise and the workers benefit from the introduction of digital technology, e.g. working conditions, innovation, productivity and share of productivity gains, business continuity, employability. Strategies are built on a shared commitment of social partners to:

- Retraining and upskilling, so that workers can transfer to new jobs or adapt to redesigned jobs within the enterprise, in agreed conditions;
- The redesign of jobs to allow workers to remain within the enterprise in a new role if some of their tasks or their job disappears due to digital technology;
- The redesign of work organisation if necessary, to take account of changed tasks, roles or competences;
- An equal opportunities policy to ensure that digital technology results in benefit for all workers. If digital technology contributes to inequality for example between women and men, this issue must be addressed by the social partners.

2 - Modalities of connecting and disconnecting

It is in the interest of employers and workers to adapt work organisation, where needed, to the ongoing transformation of work deriving from the use of digital work devices. Achieving clarity on the legitimate expectations that can be placed on workers when using such devices can be supported by collective bargaining at the appropriate levels in the Member States.

The presence and/or introduction of digital devices/tools in workplaces can provide many new opportunities and possibilities to organise work in a flexible way to the benefit of employers and workers. At the same time, this may create risks and challenges around the delineation of work and of personal time both during and beyond working time.

It is the employer's duty to ensure the safety and health of workers in every aspect related to the work. To avoid possible negative effects on workers' health and safety and on the functioning of the enterprise, the focus should be on prevention. This refers to a culture where employers and workers actively participate in securing a safe and healthy working environment through a system of defined rights, responsibilities and duties, and where the principle of prevention is accorded the highest priority.

Measures to be considered include:

- Training and awareness raising measures
- Respect of working time rules and teleworking and mobile work rules
- Appropriate measures to ensure compliance
- Providing guidance and information for employers and workers on how to respect working time rules and teleworking and mobile work rules including on how to use digital tools, e.g. emails, including the risks of being overly connected particularly for health and safety
- Being clear about the policies and/or the agreed rules on the use of digital tools for private purposes during working time
- Commitment from management to create a culture that avoids out of hours contact;
- Work organisation and workload, including the number of staff, are key aspects which need to be identified and evaluated jointly.
- Achievement of organisational objectives should not require out of hours connection. With full respect for working time legislation and working time provisions in collective agreements and contractual arrangements, for any additional out of hours contacting of workers by employers, the worker is not obliged to be contactable.
- And in respect of the bullet point above, appropriate compensation for any extra time worked, and;
Alert and support procedures in a no-blame culture to find solutions and to guard against detriment for workers for not being contactable.
- Regular exchanges between managers and workers and/or their representatives on the workload and work processes
- Alert and support procedures
- Prevention of isolation at work.

3 - Artificial Intelligence (AI) and Guaranteeing the Human in Control Principle

Artificial intelligence (AI) will have a significant impact on the working world of tomorrow. Today most enterprises in Europe are still in the early stages of using new AI-based possibilities to optimise work processes or create new business models. At this point of departure, it is essential to explore the design options of using AI or Machine Learning systems for economic success and good working conditions.

Whereas AI systems and solutions have the valuable potential to increase the productivity of the enterprise and the well-being of the workforce and a better allocation of tasks between humans, between different parts of the enterprise, and between machines and humans, it is also important to make sure that AI systems and solutions do not jeopardise but augment human involvement and capacities at work.

This Social Partners' Autonomous Agreement sets out some direction and principles of how and under which circumstances AI is introduced in the world of work.

The control of humans over machines and artificial intelligence should be guaranteed in the workplace and should underpin the use of robotics and artificial intelligence applications whilst respecting and complying with safety and security controls.

Trustworthy AI has three components, which should be met throughout the system's entire life cycle and must be respected in the deployment in the world of work:

- it should be lawful, fair, transparent, safe, and secure, complying with all applicable laws and regulations as well as fundamental rights and non-discrimination rules,
- it should follow agreed ethical standards, ensuring adherence to EU Fundamental/human rights, equality and other ethical principles and,
- it should be robust and sustainable, both from a technical and social perspective since, even with good intentions, AI systems can cause unintentional harm.

Social partners at the level of the enterprise and at other appropriate levels should pro-actively explore the potential of digital technology and AI to increase the productivity of the enterprise and the well-being of the workforce, including a better allocation of tasks, augmented competence development and work capacities, the reduction of exposure to harmful working conditions.

The potential tensions between respect for human autonomy, prevention of harm, fairness and explicability of decision making should be acknowledged and addressed.

Measures to be considered include:

- Deployment of AI systems:
 - should follow the human in control principle;
 - should be safe, i.e. it should prevent harm. A risk assessment, including opportunities to improve safety and prevent harm such as for human physical integrity, psychological safety, confirmation bias or cognitive fatigue should be undertaken;
 - should follow the principles of fairness, i.e. ensuring that workers and groups are free from unfair bias and discrimination;
 - needs to be transparent and explicable with effective oversight. The degree to which explicability is needed is dependent on the context, severity and consequences. Checks will need to be made to prevent erroneous AI output.
- In situations where AI systems are used in human-resource procedures, such as recruitment, evaluation, promotion and dismissal, performance analysis, transparency needs to be safeguarded through the provision of information. In addition, an affected worker can make a request for human intervention and/or contest the decision along with testing of the AI outcomes.
- AI systems should be designed and operated to comply with existing law, including the General Data Protection Regulation (GDPR), guarantee privacy and dignity of the worker.

4 - Respect of human dignity and surveillance

Digital technology and AI surveillance systems, along with data processing, offer the possibility of securing the working environment and ensuring healthy and safe working conditions and improving enterprise efficiency. However, at the same time, they raise the risk of compromising the dignity of the human being, particularly in cases of personal monitoring. This could lead to deterioration of working conditions and well-being of workers.

Data minimisation and transparency along with clear rules on the processing of personal data limits the risk of intrusive monitoring and misuse of personal data.

GDPR provides for rules in relation to the processing of personal data of workers in the employment context that need to be respected.

The social partners in this agreement recall article 88 of the GDPR which refers to possibilities to lay down by means of collective agreements, more specific rules to ensure the protection of the rights and freedom with regards to the processing of personal data of employees in the context of employment relationships.

Measures to be considered include:

- Enabling workers' representatives to address issues related to data, consent, privacy protection and surveillance.
- Always linking the collection of data to a concrete and transparent purpose. Data should not be collected or stored simply because it is possible or for an eventual future undefined purpose.
- Providing workers representatives with facilities and (digital) tools, e.g. digital notice boards, to fulfil their duties in a digital era.

Implementation and follow-up

This framework agreement is an autonomous initiative and the result of negotiations between the European social partners as part of their sixth multiannual work programme for 2019-2021. In the context of article 155 of the Treaty, this autonomous European framework agreement commits the members of BusinessEurope, SMEunited, CEEP and ETUC (and the liaison committee EUROCADRES/CEC) to promote and to implement tools and measures, where necessary at national, sectoral and/or enterprise levels, in accordance with the procedures and practices specific to management and labour in the Member States and in the countries of the European Economic Area. The signatory parties also invite their member organisations in candidate countries to implement this agreement. The implementation of this agreement will be carried out within three years after the date of signature of this agreement.

The implementation process should encourage the adoption of measures that are sustainable and that their effectiveness is evaluated by the social partners at the appropriate level.

The social partners should make use of their existing national experience drawn in the process of implementation of previous autonomous agreements of European social partners.

Member organisations will report on the implementation of this agreement to the Social Dialogue Committee. During the first three years after the date of signature of this agreement, the Social Dialogue Committee will prepare and adopt a yearly table summarising the ongoing implementation of the agreement. A full report on the implementation actions taken will be prepared by the Social Dialogue Committee and adopted by the European social partners during the fourth year. In case of no reporting and/or implementation after four years and after evaluation in, and when supported by, the Social Dialogue Committee, the European social partners will engage in joint actions together with the national social partners of the countries concerned in order to identify the best way forward in implementing this framework agreement in the national context.

The signatory parties shall evaluate and review the agreement any time after the five years following the date of signature, if requested by one of them.

In case of questions on the content of this agreement, member organisations involved can jointly or separately refer to the signatory parties, who will jointly or separately reply. When implementing this agreement, the members of the signatory parties avoid unnecessary burdens on SMEs. Implementation of this agreement does not constitute valid grounds to reduce the general level of protection afforded to workers in the field of this agreement. This agreement does not prejudice the right of social partners to conclude, at the appropriate level, including European level, agreements adapting and/or complementing this agreement in a manner which will take note of the specific needs of the social partners concerned.