

Addressing AI risks in the workplace

Workers and algorithms

SUMMARY

Algorithms and artificial intelligence (AI) are changing the way people live and work. Depending on how AI technologies are used and what purpose they serve, they can drive progress and benefit the whole of society, but they also raise ethical concerns and may cause harm. When introduced to the world of work, their transformative potential runs into complex national and EU rules. Existing labour laws, put in place before AI systems came on the scene, do not appear fit to provide meaningful guiderails.

As with any new technologies, tensions arise between two opposing regulatory approaches: strict regulation to safeguard society from potential hazards and minimum regulation to promote the technology's deployment and innovation. For employers who invest in AI systems, the main motivation is better workplace organisation, increased productivity, and competitiveness. Workers, on the other hand, may fear losing their jobs, and also want to have a say in how AI and algorithms are to become part of their daily lives.

Focusing on workplace deployment of AI, this briefing looks at the state of play of algorithmic management in the workplace and some issues relating to the data that algorithms use and generate. It offers an overview of the current top-down EU legislative approach, of insights brought by the European Parliament, and of advances in collective bargaining, demonstrating the potential of a bottom-up approach to complement AI deployment.

The briefing looks at the potential use of sleeping clauses in the existing EU legal framework and – taking note of the views of both employers and trade unions – highlights the many open questions that remain.



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Introduction

Advancing automation, digitalisation and, in particular, the use of artificial intelligence (AI) systems are bringing about profound changes in how people live and work. While these technologies can be employed to drive progress and benefit the whole of society, they may also raise ethical concerns and cause harm, depending on how they are applied and what purposes they serve.

To help guide AI deployment, the Organisation for Economic Co-operation and Development (OECD) has established and continually updates a set of [principles for trustworthy AI](#) and monitors [AI incidents](#). The EU's approach is based on human-centric and trustworthy AI, which ensures that AI works for people and protects fundamental rights. These principles are reflected in the [European strategy on AI](#), the European Commission's [coordinated plan on AI](#), and the [ethics guidelines for trustworthy AI](#) developed by the [High-Level Expert Group](#) on AI. They are also enshrined in the newly adopted AI Act.¹

AI technologies are already used across economy sectors, impact all skill levels and have the potential to transform labour markets. Until recently, AI technologies used in traditional work settings were mostly limited to 'narrow AI' applications that automate specific tasks.² However, the avalanche of data-driven generative AI is eliminating many barriers and making general purpose AI foreseeable. The workplace is an important arena where new technologies can display their transformative potential. AI systems can quickly break down vast amounts of data, identify patterns, produce key learning points and provide decision-making assistance. This opens up opportunities for workplace improvements in terms of work organisation, efficiency and worker safety, resulting in productivity gains. It also raises a number of concerns related to the systems' explainability and accountability, workers' privacy, and equity and fairness.

Algorithmic management

Algorithmic management (AM), or the delegation of management tasks to algorithms, has the potential to optimise operations, increase productivity, streamline decision-making and provide data-driven insights. Independently of the level of development and automation involved, a practice is considered as AM when (1) the data on workers or the work process feed algorithms, (2) algorithms process such data and elaborate on it, and (3) these two elements support the coordination and control of workers exerted by management.³

Rather than being a technical innovation, AM consists of new uses of existing technologies such as big data analytics, machine learning, geolocation, connected mobile devices and wearables. Combining them with huge amounts of data turns them into a game-changer, which is potentially disruptive for the future of work. AM uses several [types](#) of AI tools:

- to **track and surveil** workers. These tools can measure the physical performance of work (via smartphones, GPS-based applications, wearables), record workers' movements, their work pace and their breaks. They can also monitor people's digital behaviour, via emails and internal chats, and track their keyboard strokes, use of applications and web history;
- to monitor workers' **physical health and mental status**, for instance through wearables equipped with sensors that measure workers' heart rate and blood pressure, but which can also record their emotional and mental state (by facial scans and voice recognition devices);
- to **make assumptions** or **take decisions** about workers, while evading established forms of oversight and worker participation.

AM was initially limited to the context of **digital platforms** that use data and algorithms to plan and organise work, allocate tasks, coordinate, monitor and evaluate workers, and to discipline and reward workers. The combined use of data and algorithms strengthens platforms' screening and monitoring powers, with impacts on workers' access to work and their working conditions.

Nowadays, AM is spreading into more **traditional working environments**, mainly in big companies, where it interacts with the existing organisational structures. In traditional settings, its use is more difficult to identify than in digital platforms.

AM usage presents numerous **risks**. It can trigger changes in a company's structure by shifting the power balance within the company, altering work hierarchies, redefining tasks and roles, potentially making some job profiles redundant and downgrading others, and blurring the boundaries of the organisation, for instance by making subcontracting and outsourcing easier. At the same time, AM can have an impact on job quality and increase the demand for [specific skills](#) and the need for training, but can possibly also lead to de-skilling and a loss of worker autonomy. Task execution targets set by AM can result in increased workloads and work intensity. Workers have to adapt their pace of work to comply with what is requested by algorithms and can become subject to time pressure and stress, leading to increased [injuries](#). Work in time slots coordinated by algorithms can improve work organisation but also lead to last-minute requests to work and the necessity to be permanently connected to work communication channels, eroding the division between work and private life. AM may also reduce human interaction both among workers and with supervisors. One of the declared advantages of AM systems is that it can decrease human error, reduce bias and strengthen fairness in the workplace. However, when the data is biased, AM may replicate those biases and lead to systematic discrimination in recruitment, assignment of tasks or bonuses, and contract renewals. It can also foster competitive behaviour among workers, rather than cooperation.

AM is already commonly **used** in logistics, including transportation, storage and delivery services, as well as in manufacturing. It is progressing in the retail, food and accommodation sectors, from hotels to food chains, where algorithms allocate shifts, coordinate, rate and evaluate workers. AM is also found in other service industries, from banks and consultancies to call centres, and in public services such as healthcare and the police, where, for example, wearables can continuously monitor workers, their interactions and their movements. Employers across the board introduce AI-based practices to screen prospective employees and manage recruitment processes.

How AI will transform the workplace has become a key question for the future of work, as potential impacts on jobs, productivity and worker well-being are significant and uncertain. For instance, two multi-sectoral case studies (see box) affirm that, at present, AM and AI systems tend to assist rather than replace human decision-making, and their use leads more to job reorganisation than job displacement, but both studies note the risk of future job losses. Other studies, however, come to different conclusions. A 2024 [IMF report](#), for example, predicts that AI will reshape the world of work, impacting the majority of jobs worldwide. It also points out that women and college-educated people are more exposed to AI but can also better reap its benefits, while older workers are potentially less able to adapt.

Empirical studies of AM practices

A 2024 [study](#) of the **logistics and healthcare** sectors in France, Italy, India and South Africa shows that AM is used in both sectors, with benefits in terms of streamlining and simplification of work processes and efficiency gains. In logistics, AM software is used to monitor production flow, coordinate work processes and assess workers' performance. In the health sector, AM technologies helped to better organise workload, lower pressure, particularly in the emergency wards, and reduced the level of stress for healthcare workers. The main concerns were the potential for deteriorating job quality and worker surveillance.

A 2023 [study](#) of the **manufacturing and finance** sectors in eight OECD countries showed that, for now, automation tends to reorient jobs towards tasks in which humans have a comparative advantage. Workers seem to appreciate some AI-associated job improvements (such as the reduction of tedious tasks, increased worker engagement and improved physical safety). The main challenges included higher skill requirements, a deficit of specialised AI skills, greater task complexity, increased work intensity and stress, and worries over greater monitoring.

Beyond the data

AM systems collect and process **large amounts of data in real time** and make decisions based on complex rules and criteria. The data collected is very granular and the measurement criteria often opaque, both for workers and managers. Workers are not only monitored and evaluated by algorithmic metrics and ratings, but their performance and capabilities are also **anticipated** and people analytics tools offer managers advisory functions to select nudge behaviours. This new form of **worker surveillance** relies on detailed personal data as much as on the systems' ability to measure things and derive conclusions from them. The key concern remains, however, that the **metrics** are hard to make and can be inaccurate and influenced by many factors, resulting in biased or missing information or even a wrong measurement. Furthermore, even sophisticated AI tools cannot solve the 'how to measure the productivity' question, as not all things important to workplace productivity can be measured, and certain technically possible things may not be lawful or ethical due to privacy and data protection rules. While some very large companies may have the capacity to address these issues 'in house', off-shelf surveillance-oriented software is no silver bullet.⁴

Both the data itself and the way it is analysed should not be blindly trusted, but **questioned**. Some data collected through worker monitoring can be of a very personal nature. When combined with data on the work environment (for instance, temperature or noise) and analysed using metrics that are unknown to workers, the results generated can be inaccurate or erroneous. Here, it can be useful to distinguish between **rule-based algorithms**, where rules for decision-making are explicitly stated, coded and thus readable by humans, and data-driven **machine learning** techniques that perform tasks without explicit instructions, where rules are expressed in complex mathematical functions, often non-readable by humans. Machine learning techniques learn directly from datasets, which makes them prone to replicating the biases that they may contain. These models present risks for the people affected, as they often lack robust training data and the datasets on which they have been trained diverge from the data to which they are applied. What is more, their complexity and opaqueness do not allow predictions as to the cases in which they could fail. While possibly even the developers behind the machine learning models may not know how exactly their models arrive at individual outcomes, explanations can be obtained, safeguards implemented and workers' interests accommodated, either by shaping the technical components or by introducing organisational safeguards.⁵

Analysing the potential impact of the latest wave of **generative AI** (such as chatGPT) on occupations, the International Labour Organisation (ILO) predicts that the [overall effect](#) will be to augment occupations, in particular clerical ones, where women are over-represented, rather than automating them. It argues that policies are needed, both preventive (anticipating changes) and corrective (addressing concerns), that are developed through collective multi-stakeholder engagement and strong, dialogue-based processes with a key role for governments and social partners.⁶

EU legal framework

EU legislation already has some building blocks in place, though not all are yet being applied. The **General Data Protection Regulation (GDPR)**, applied since May 2018, sets binding rules on personal data protection. It obliges employers to share information about their data processing and provides all 'data subjects' with a range of **individual rights** on information and access to personal data. Employers can introduce AI at work provided that the fundamental rights and interests of all the data subjects have been considered. Given that AI goals and functioning depend on the data available, the GDPR provides a basic framework to mitigate negative consequences of AI at work by establishing the principles of lawfulness, fairness, transparency, purpose limitation, data minimisation and accuracy. GDPR enforcement, however, remains a challenge.⁷

The **Artificial Intelligence Act (AI Act)**, the first binding regulation in the world on AI, lays down the [rules](#) for regulating the use and provision of AI systems in the EU.⁸ It [classifies](#) AI systems according to their potential risks and level of impact on individuals and society. Some AI systems are prohibited due to **unacceptable risk**. These include tools for emotion recognition at the workplace (except for medical or safety reasons – for instance, camera surveillance of truck and bus drivers) and social scoring.⁹ Certain AI systems used in employment and worker management, considered as **high-risk** because of their significant harmful impact on health, safety and fundamental rights, are authorised, but subject to **a set of safeguards**.¹⁰ **Providers** will have to ensure that their products comply with requirements on risk management, testing, technical robustness, data training and data governance, transparency, human oversight, and cybersecurity. This compliance, however, can be self-assessed. **Employers** deploying high-risk AI systems will have to ensure **human oversight** and **inform** the affected workers and their representatives of their use. AI systems of limited risk and general-purpose AI systems will only be subject to transparency requirements. As for the remedies available, a worker adversely impacted by an employer's decision made on the basis of the output from a high-risk AI system, will have the right to an explanation of the main elements of the decision taken and the role of the AI system in the process. Nevertheless, the AI Act states explicitly that it is without prejudice to other workers' rights.¹¹

The **directive on improving working conditions in platform work (platform workers directive)** seeks to ensure correct classification of the employment status of platform workers and regulates the use of algorithms by digital labour platforms.¹² Platforms will be forbidden from processing certain types of personal data by automated monitoring or decision-making systems – for instance, on the emotional or psychological state of workers, or their private exchanges with colleagues and their representatives – and from collecting data when the worker is off work. Platforms will have to **inform** workers and their representatives, in writing, about automated systems that are in place, the categories of monitoring, the types and parameters of decision-making made by the technology, and the grounds for decisions to restrict, suspend or terminate their account or refuse a payment. Platforms will have to ensure **human oversight** of decisions taken by automated systems and workers will have the **right to contest** such decisions. Decisions to restrict, suspend or terminate workers' accounts will have to be taken by a human being. Further rules relate to safety and health at work, information and consultation of workers and their representatives. Workers will have the right to redress and platforms will have to create a possibility for workers to communicate with each other and their representatives, without monitoring such communications. The rules on algorithmic management will cover all persons performing platform work, employees and self-employed alike.

European Parliament's positions

Parliament has repeatedly underlined the importance of AI regulation. In 2019, it called for clear ethical guidelines for AI in [transport](#) and insisted on 'ethics by design' for AI models in EU [industrial policy](#). In 2020, Parliament adopted three AI-related resolutions, proposing a [regulation](#) on ethical principles for the development, deployment and use of AI and related technologies.¹³ It regards both 'employment' and 'recruitment' as high-risk AI areas that should be subject to an assessment of compliance with ethical principles and to full human oversight at any time. In 2021, reacting to the Commission report on [GDPR implementation](#), Parliament was concerned with the weak enforcement of GDPR at national level, with the often compromised use of 'consent' and the abusive use of 'legitimate interest' as a legal ground for data processing. It recommended that each new legislative initiative be consistent with the GDPR and address legal gaps.

The 2022 [Report on Artificial Intelligence in a Digital Age](#) prepared by Parliament's Special Committee on Artificial Intelligence in a Digital Age¹⁴ recognises a number of positive AI impacts on the labour market, but warns that algorithmic management could lead to power imbalances between management and employees and obscured decision-making. Parliament also condemns the increased recourse to AI-fuelled surveillance in the workplace, which should not be allowed.

In negotiations on the [platform workers directive](#), Parliament strengthened the provisions on AM. In the context of increased use of telework, it asked the Commission to propose a [directive](#) on minimum standards for workers' [right to disconnect](#) and the use of digital tools for work purposes.

Collective bargaining

The EU's regulatory approach to AI governance, supported with product standards, may be complemented with specific guidelines, self-regulation or ethics codes. There is also room for complementary AI governance through social dialogue and collective bargaining.

European social partners, in their 2020 [Framework Agreement on Digitalisation](#), set out that the deployment of AI systems should follow the '**human in control**' principle, be transparent and explicable, with effective oversight. As regards data, the measures 'to be considered' include enabling workers' representatives to address issues related to data, consent, privacy protection and surveillance, as well as always linking the collection of data to a concrete and transparent purpose.

Collective bargaining and trade union initiatives can be an effective [means](#) to implement the existing legal safeguards against the risks associated with AM and to adopt flexible approaches to the constantly evolving development of AI. While workers can face difficulties when asserting their individual rights in the context of AM – for instance, when trying to access their data and verify the data processing relating to them – action based on collective rights can improve labour protection and help workers assert their rights. Where social partners have a shared understanding of the problems and solutions, but also the [skills and capacities](#) to implement them, collective agreements can set limits to AI surveillance and establish criteria to improve the transparency of AI-assisted decision-making, taking into account the interests of both workers and employees.¹⁵

Trade unions have already '[negotiated the algorithm](#)' in European countries with different industrial relations models.¹⁶ The European trade union federation ([UNI Europa](#)) keeps a [database](#) of AI and AM in collective bargaining agreements, which currently lists 23 agreements. A 2023 [report](#) argues that workers' representatives should focus on implementation at company level, where workers' interests can be integrated when algorithmic systems are being planned, developed and put into practice.

Looking ahead

EU legislation contains several possible **openings** for future action to ensure that the benefits of AI in the workplace are shared among employers and workers. The one [mentioned](#) most often is in the [GDPR](#), where Article 88 specifically targets data protection in the context of employment and allows Member States to adopt more specific rules to protect employees' personal data by law or by collective agreements. The rules applicable under older EU directives, on informing and consulting employees and on the protection of workers' health and safety, could be strengthened through explicit guidance.¹⁷

Even if such 'sleeping clauses' are built upon, some **grey zones** will persist unless specifically addressed. The **GDPR**, for instance, uses the concept of consent, but the challenge is to ensure that consent has been given to all purposes for which the data may be used. It establishes the right to access personal data, but the data alone may not be enough, and a worker may need an explanation.

As a market-regulating instrument, the **AI Act** follows the logic of risk mitigation, seeking to ensure baseline protection against the most dangerous systems entering the EU market. It imposes obligations on AI deployers, including developers and employers, but includes no specific provisions applicable to workers. It does not set standards for the design and use of algorithmic systems in the workplace, leaving these issues to other national or EU laws.¹⁸ From an employee perspective, this may be considered an inadequate safeguard.¹⁹

The **platform workers directive** brings a set of AI-related rights that are, however, limited to digital platform workers. Once the directive applies, it will be difficult to [justify](#) the fact that such workers

have certain rights and protections while, for instance, an [Amazon](#) worker managed by an automated handheld device and subject to extensive monitoring and algorithmic decision-making does not enjoy the same rights and protections. Given the rapid spread of AM practices, this poses the question whether these rights should cover [all workers](#) subject to automated monitoring.

Looking at stakeholders' positions, **employers**, represented by [BusinessEurope](#), consider that proportionate, meaningful and appropriate steps to increase transparency are needed to build trust in AM; in their view, this is already sufficiently covered by EU legislation. Any AM-oriented initiative should seek to help companies mitigate its risks and harness its potential without creating legislative red tape. They suggest involving social partners in a discussion on a code of ethical principles and developing guidelines on how to apply the existing laws. Private employment services ([World Employment Confederation](#)) have put forward a [code of ethical principles in the use of AI](#).

Considering the AI Act to be [insufficient](#), **trade unions** ([ETUC](#), [IndustriAll](#)) call for an EU directive to define minimum standards for the design and use of algorithmic systems in the workplace. ETUC argues that the directive should strengthen trade unions' collective bargaining rights as well as the rights of workers' representatives to information, consultation and participation. It should also define the human-in-command principle, protect the rights of human decision-makers, and give workers the right to check and revise algorithmic decisions. AM applications should only be allowed if their use is negotiated with trade unions and/or workers' representatives.

These demands highlight the fundamental issues, namely: should the use of AM be permitted at all (legality)? Are decisions adopted by AI valid (validity)? Can decisions and actions performed by AI be enforced (enforceability)? Who is liable (liability)?²⁰ With a 'human in control', whose interests does that human represent? How can a line be drawn between 'worker monitoring' and worker surveillance?²¹ The answers to such questions could pave the way to AI deployment that can benefit everyone.

MAIN REFERENCES

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Ponce Del Castillo A. (ed.), [Artificial intelligence, labour and society](#), ETUI, 2024.

ENDNOTES

¹ The [AI Act](#) text as adopted; European Commission [website](#) on the AI Act, European Parliament [press release](#), 13 March 2024. For AI regulatory approaches in the world, see T. Madiaga, [Artificial intelligence act](#), EPRS, European Parliament, 2024.

² [Ethical digitalisation at work: From theory to practice](#), Eurofound, 2023.

³ S. Baiocco, E. Fernández-Macías, U. Rani and A. Pesole, [The Algorithmic Management of work and its implications in different contexts](#), European Commission, 2022.

⁴ S. Gould, Measuring work is hard. Subcontracting it won't help. Explainable AI won't help, in Ponce del Castillo (ed.) [Artificial intelligence, labour and society](#), ETUI, 2024, pp. 105-113.

⁵ L. Hondrich and A. Mollen, Implementing employee interest along the machine learning pipeline, in Ponce Del Castillo A. (ed.), [Artificial intelligence, labour and society](#), ETUI, 2024, pp. 95-102.

⁶ P. Gmyrek, J. Berg and D. Bescond, [Generative AI and jobs: Policies to manage the transition](#), ILO, 2023.

⁷ Some workers' rights may be circumvented by asking the worker to give explicit consent, for instance to the processing of special categories of personal data (Article 9) and the right not to be subject to a decision based solely on automated processing (Article 22). Workers have the right to seek judicial remedy, also through a non-profit organisation, in line with national law, but such representation must be mandated by a worker, unless national rules allow representing organisations to act independently (Article 80).

⁸ Adopted by the Council on [21 May 2024](#), the regulation will be fully applicable 24 months after publication, with obligations for high-risk systems kicking in 36 months later. An 'AI system' means a machine-based system that is designed to operate with varying levels of autonomy and that may exhibit adaptiveness after deployment, and that, for explicit or implicit objectives, infers, from the input it receives, how to generate outputs such as predictions, content, recommendations, or decisions that can influence physical or virtual environments.

- ⁹ Biometric categorisation systems that make it possible to deduce a person's race, political opinions, trade union membership, religious or philosophical beliefs, sex life or sexual orientation.
- ¹⁰ Annex III, 4 (a) AI systems (...) used for the recruitment or selection of natural persons, (...) to place targeted job advertisements, to analyse and filter job applications, and to evaluate candidates; (b) AI systems (...) used to make decisions affecting terms of work contracts, the promotion or termination of work contracts, to allocate tasks based on individual behaviour or personal traits or characteristics or to monitor and evaluate the performance and behaviour of persons (...). See also recital (57).
- ¹¹ Article 2.11: the EU and Member States can maintain or introduce laws (...) or provisions that are more favourable to workers in terms of protecting their rights in respect of the use of AI systems by employers; and encourage or allow the application of collective agreements that are more favourable to workers. See also recital (92).
- ¹² Adopted by Parliament in [April 2024](#). It still needs to be adopted formally by the Council, after which Member States will have two years to introduce the new rules ([procedure file](#)).
- ¹³ Three resolutions adopted on 20 October 2020: on a [civil liability regime for AI](#), on [intellectual property rights for the development of AI technologies](#), and on a [framework of ethical aspects of AI, robotics and related technologies](#).
- ¹⁴ Parliament set up a [Special Committee](#) on Artificial Intelligence in a Digital Age in June 2020. Its [mandate](#) included analysing the future impact of AI on the EU economy, particularly in areas such as employment.
- ¹⁵ However, while the International Labour Organisation (ILO) [Convention 98](#) on the right to organise and collective bargaining, ratified by 168 countries, requires governments to promote collective bargaining, it is often [not the case](#).
- ¹⁶ For instance, in [France](#), [Spain](#), [Italy](#), [Germany](#) and the [United Kingdom](#). See also a [comparative analysis](#) of Denmark, Germany, Hungary and Spain.
- ¹⁷ Under [Directive 2002/14/EC](#), employers (with at least 20 or 50 employees) have to inform and consult employees on any anticipatory measure (...) and any decision that leads to 'substantial changes' in work organisation, in which case the consultation is to be conducted 'with a view of reaching an agreement'. Under [Directive 89/391/EEC](#), employers have to ensure the safety and health of workers in all work-related aspects, provide information and training, and consult workers or their representatives on any measure that may substantially affect safety and health.
- ¹⁸ See recital (9): this Regulation (...) is complementary to the existing EU law, (...) all rights and remedies provided for by EU law to (...) persons on whom AI systems may have a negative impact (...) remain unaffected and fully applicable.
- ¹⁹ L. Hondrich and A. Mollen, Implementing employee interest along the machine learning pipeline, in Ponce Del Castillo A. (ed.), [Artificial intelligence, labour and society](#), ETUI, 2024, pp. 95-102.
- ²⁰ T. Rodríguez de las Heras Ballell, Automating employment: a taxonomy of the key legal issues and the question of liability, in A. Ponce Del Castillo (ed.), [Artificial intelligence, labour and society](#), ETUI, 2024, pp. 141-153.
- ²¹ A. Ponce Del Castillo and M. Molè, Worker monitoring vs worker surveillance: the need for a legal differentiation, in A. Ponce Del Castillo (ed.), [Artificial intelligence, labour and society](#), ETUI, 2024, pp. 157-169.

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