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Democracy at Work through Transparent and Inclusive Algorithmic Management

STOCK-TAKING REPORTS

# Developments in Algorithmic Management from an IR-perspective

# EU-level

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# Content

# Section I – The regulation of AI on the EU level

Over the course of the last five years, there has been a growing debate within the EU institutions about Artificial Intelligence (AI). Typically, position papers and draft regulations present varieties of the "opportunities and risks" dualism well-known from technology debates. On the one hand, there are the societal benefits that AI is expected to bring about; ranging from the successful treatment of chronical diseases to fighting climate change and rendering resource use more efficient to AI technologies' potential to boost the competitiveness of the European Union in relations to other parts of the world (in particular, the United States and China). In some views, the emergence of AI is considered as ground-breaking as the steam engine and electricity were at their time (The European Commission, 2018), and is expected to contribute to resolving various challenges such as the green transition, inequality, or the development of the welfare state. On the other hand, the discourse focuses on the challenges and risks for European citizens and their fundamental rights.

Both sides of the discourse are converging on the concept of "Trustworthy AI" which is expected to provide a framework to both reap the fruits of AI and mitigate the associated risks and preserve the fundamental rights of European citizens. To close the gap between "social" and "economic" arguments, the trustworthiness of AI may even translate the EU's high legal and ethical standards into competitive advantages with potential global impacts. The EU approach on AI has been laid down in several documents. Before sketching out the context and their mutual relations of these documents, we provide a short summary of the most important ones.

- AI Strategy: In April 2018 the EU Commission published their Communication "Artificial Intelligence for Europe" to set out the AI Strategy. The aim of the strategy is threefold. In the first place, to boost the EU's technological and industrial capacity and AI uptake across the economy. Secondly, to prepare the EU for socioeconomic changes that AI will bring about (among other, for the labour market). Thirdly, to ensure an appropriate and legal framework.
- Deliverables published by the High-Level Expert Group on Artificial Intelligence (AI HLEG). As a part of the before mentioned AI Strategy and to support the implementation of the European approach on AI, the EU Commission set up the AI HLEG in June 2018. Since then, AI HLEG has published several documents. Their most cited one is their first deliverable: The Ethics Guidelines for Trustworthy AI (April 2019).
- White Paper on AI: In order to stimulate the debate about a policy framework on AI at European level, the EU Commission published in February 2020 its White Paper on AI. In the document, the EU Commission aims to create AI-ecosystems around "excellence" and "trust". In order to do so, the White Paper formulated six action points, and sketched the outlines of a future regulatory framework.
- Proposal for the AI Act: In April 2021, the EU Commission presented their proposal for a European regulatory framework on Artificial Intelligence (of which the idea was already announced in the beforementioned White Paper). In contrast to the previous steps taken by the EU-institutions, the future AI Act will be a regulation, which means it will directly be binding and applicable for all member states. Within the proposal, the EU Commission proposes to classify AI systems depending on the risk they present for health and safety and fundamental rights of natural persons, prohibiting all AI systems that present a "unacceptable risk", and force AI system that are considered having a "high risk" to compliance with a set of requirements.

Work and employment and digital technologies are of course already being addressed by regulation at the EU level. The GDPR establishes boundaries to data access along the principles of lawfulness, fairness, transparency, purpose limitation, data minimization and accuracy, and encourages more specific legislation by member states. In its Art.88. EU Directive 2002/14/EC it generally provides information and consultation rights to workers' representatives. OSH legislation requires employers to assess health and safety risks of technology at work, including psychosocial risks, and anti-discrimination legislation prohibits discrimination on legally recognized grounds. The draft Directive to improve the working conditions in platform work (COM (2021) 762 final) also addresses the algorithm-based assignment and organization of work by platforms. However, all of these provisions are so far implemented and enforced unevenly among member states and also in varied sectors of the economy. SMEs, less unionised and low-wage sectors, and the spheres of atypical employment are especially affected by gaps in enforcement (De Stefano & Wouters, 2022).

## 1.1. Artificial Intelligence and the European institutions

Although within the EU research agenda the topic of robotics has had a special place since 2004 (European Commission, 2020), and debates and regulations of data protection and privacy, digitalization at large and digital services have continued through these years, the emergence of a debate about the challenges of the appearance of AI for citizens and society only started quite recently. A key document that played a role in taking up this debate was the Resolution signed by the European Parliament (2017) (Stix, 2021; Niklas & Dencik, 2020). In the same year the European Council exhorted the EU Commission to develop "a sense of urgency" in addressing emerging trends such as AI "while at the same time ensuring a high level of data protection, digital rights and ethical standards", and invited the EU Commission to put forward a European approach to AI (European Council, 2017).

As a response to the resolution of the Parliament and the invitation of the European Council, in April 2018 the European Commission launched the EU Strategy for AI, in which it articulated the threefold objective of boosting the EU's industrial capacity (1), preparing the Union for the socioeconomic changes (2), and ensuring an appropriate and legal framework (3). As a part of the last objective, the EU Commission set up a High-Level Expert Group (AI HLEG), consisting of 52 members (ranging from academics to representatives of the technology industry, and – notably - one trade unionist, ETUC's Confederal secretary Thiébaut Weber.)

Since its establishment, the AI HLEG has published several documents. Their most cited is the Ethics Guidelines for Trustworthy AI with the final version published in April 2019. In the Guidelines, three components of AI "through which it should be met through the system's entire life cycle" are formulated, namely its being lawful, ethical, and robust. Furthermore, the AI HLEG identified seven key requirements that AI should meet in order to be trustworthy: human agency and oversight (1), technical robustness and safety (2), privacy and data governance (3), transparency (4), diversity, non-discrimination, and fairness (5), societal and environmental wellbeing (6) and accountability (7).). Overall, the AI HLEG played a key part in framing the "social" side of AI policy and governance in terms of trust, accountability and ethics.

## 1.2. Last milestones under the Presidency of von der Leyen: White Paper on AI and Proposal for the Artificial Intelligence Act.

Building on these steps previously taken by the EU institutions, the newly appointed President von der Leyen announced in her Political Guidelines her ambition to put forward legislation for a coordinated European

approach on the human and ethical implications of AI as a priority during her first hundred days in office. This commitment has been reflected in the publication of first, the White Paper on Artificial Intelligence (February 2020) and then the Proposal for the Artificial Intelligence Act (AIA) (April 2021).

The White Paper set out the aim to work towards both an "ecosystem of excellence" and an "ecosystem of trust" in the use of AI systems. This echoes the dualism of opportunities and risks. In order to further build an "ecosystem of excellence", the White Paper formulates six action points to develop European AI technology (among others, the announcement of investments in AI research and setting up of Digital Innovation Hubs and public-private partnerships). The bulk of the White Paper concentrates on the steps to work towards an ecosystem of trust. In the perspective of the EU Commission, a lack of trust is a main factor of "holding back a broader uptake of AI". The Paper is concerned with the issues of privacy, personal data protection, consumer rights and non-discrimination.

The proposal for this European legal framework was presented in April 2021. The Proposal for the AIA further elaborates the ideas already presented in the White Paper, namely: a risk-based approach (in analogy to health and safety regulations) related to the impact of AI systems upon health and safety and also fundamental rights of natural persons. The proposal prohibits AI systems that are considered to carry an unacceptable risk (for example, social scoring by public authorities or real time biometric identification in public spaces). AI systems that are considered high-risk are permitted, "but subject to compliance with certain mandatory requirements and an ex-ante conformity assessment" (p. 13). The requirements they formulate are based on the Guidelines by the AI HLEG (data governance, documentation and record keeping, transparency and provision of information to users, human oversight, robustness, accuracy, and security). For AI that are considered low- or minimum risk, compliance with these requirements remains voluntary.

Intended AI uses related to "employment, workers management, and access to self-employment" generally fall into the high-risk category. Employment addresses the use of AI-bases systems on an employer's external labour market: job advertising, selection and assessment of job candidates. Workers management refers to the existing workforce and to both HR and work organisation: AI-based decisions on "promotion and termination of work-related contractual relationships," for task allocation and for performance and behaviour appraisal. AI-based decisions on access to education or vocational training or on student and candidate assessment are also considered high-risk-uses. Such uses are to be internally assessed, documented and monitored by tech providers with regard to appropriate data governance and management practices, transparency of procedures, human oversight and 'an appropriate level of accuracy, robustness, and cybersecurity'.

The proposal at the beginning of 2023 is still a draft and needs to be adopted through a bicameral procedure (as well by the European Parliament as by the European Council).

### 1.3. The AIA's Relation to social rights

In the AIA and its preparatory documents, human rights are mentioned frequently, but mostly in terms of individual rights to privacy and non-discrimination and some procedural provisions to ensure consent and transparency. However, the risk management approach of the AIA suggests a balancing of these risks against the technologies' economic and potentially social opportunities:

> *"Providers do not have to eliminate the risk, they are simply expected to notice it, monitor it, and provide information about it." (Ponce Del Castillo, 2021, p. 5)*

Observers from legal and civil society perspectives and also the OECD's study of ethical implications of workplace AI (Salvi del Pero et al., 2022) thus recommend a stronger priority on human rights at large, including workers' and citizens' rights to representation, organization and participation. Beyond the focus on individual rights, Niklas & Dencik (2021) point out that collective and social rights such as equal opportunities, access to the labor market, fair working conditions, social protection and inclusion only play a marginal role in the debate. In the consultation on the White Paper, some 1,215 citizens and stakeholders responded, including 130 business associations and 22 trade unions (Niklas & Dencik, 2021). In these authors' analysis of comments on the White Paper, very few stakeholders addressed social and collective rights, such as participation and consulting rights or rights to fair working conditions. Ponce summarizes the "regulatory narrative" of the Commission's efforts as follows:

> *"This Regulation addresses risks and, in so doing, creates trust; member states invest in AI and innovate and, in so doing, create excellence; and the result is an acceleration of the uptake of AI. Protecting fundamental rights, which should be the core objective, comes secondary. Protecting workers' rights is absent altogether" (2021, p.4).*

Vice versa, recent EC documents on social rights address AI somewhat cursorily but make some inroads into digital rights. "Strong Social Europe for Just Transitions" (European Commission, 2021a) expects AI-related structural changes in the labor market, supports digital skills, and favors the development of digital technologies that avoid "new patterns of discrimination" and risks to health and safety, and improve conditions for platform workers. The "Action Plan for the Pillar of Social Rights" (European Commission, 2021b) mentions surveillance, data use and algorithmic management tools, the right to disconnect, digital education and the adaptation of social security to technological change (Niklas & Dencik, 2021).

# Section II – Positions of the social partners and civil society regarding Artificial Intelligence and Employment

Dedicated social partner positions on Artificial Intelligence so far are currently few. In this section the position of the trade unions (2.1.), the employers' organizations (2.2), the European Economic and Social Committee (2.3) will be outlined. In the last section (2.4) the current joint position papers in the European Sectoral Social Dialogue are briefly reviewed.

All of these documents start with the already mentioned duality of technological opportunities to be reaped and risks to be addressed. They aim for win-win-configurations of AI and digitalization uses that enhance productivity, employment and working conditions. Emphases vary, in particular with sector-specific implementation modes and actual and potential uses of digital and AI-based.

## 2.1. Trade Union positions

Trade Unions are among the most active voices in channeling the concerns related to the impact of Artificial Intelligence, by raising awareness for the risks of de-skilling and automation of jobs or addressing the

surveillance tactics enhanced by new technology. Since they have hardly been represented or mentioned in the EC's strategy and the AIA, the major trade unions on the European level have been publishing Policy Briefs and/or Resolutions to voice their concerns regarding the deployment of AI in the workplace. The European Trade Union Institute (ETUI) in particular has been an active voice in the debate about AI and working conditions (Ponce Del Castillo, 2018, 2020, 2021). Ponce argues that the use of AI and AM in the workplace require a distinct stand-alone directive that addresses the specific risks in the employment relationship in the light of the speed of development of the technology as well as the known capabilities and expertise of social partners to shape technological change.

ETUC – the major trade union confederation on European level – adopted a Resolution on AI in June 2020, affirming the need that any EU framework should pay attention to workplace related situations and tackle possible abuses (ETUC, 2020). According to ETUC, a recognition of the power-imbalance between employers and workers is missing in the AI Act (ETUC, 2020). They call for a bigger role for trade unions and competent authorities in scrutinizing the use of AI within the workplace. Taking all this in consideration, the ETUC considered that the proposal for the AIA falls short in protecting the rights of workers. Also, the ETUI has argued that the proposed regulation "fails to address the specificity of AI uses in employment" and criticised the European Commission's focus on "trust": "it is not about being afraid or not trusting AI or any other technology but about objecting to specific uses that have been demonstrated to be excessive, disproportionate or which contravene fundamental rights", particularly in the context of employment (Ponce del Castillo, 2021, p. 8).

UNI Europa's ICTS group and industriAll have also published their own position papers on the AI Act (IndustriAll 2019; UNI Europa 2019, 2021). As we might expect, position papers by trade unions are more ambitious regarding the principle of "humans in control", stating that "humans should "never become the underlings of machines" (industriAll, 2019) and thus demand comprehensive information, consultation and agreement rights on data, metrics, training data, biases and statistics on reliability and accuracy of machine learning systems. UNI Europa (UNI Europa, 2021) translate human oversight into clear chains of responsibilities from system developers to companies that use algorithms. IndustriAll also argue that the GDPR logic of "informed consent" cannot be applied in a work context since individual consent may not be entirely voluntary if a job or advancement depend on it. Hence such consent in employment relationships should only be possible collectively.

IndustriAll (2019) also puts forward a wider view on possible impacts that extends beyond "risks" into the political economy of data access and property rights: sensors and monitoring devices gather data at work and ownership may be ill-defined between users and providers of the systems already, leading to a further expansion of digital monopolies.

> *"A private capture of machine-generated data in a professional environment would be particularly damaging, because this data embeds the professional experience of workers, so that the data monopolist would de facto capture this experience." (p. 5).*

In order to enable such data to be used in workers' or the wider public interest, this would require "a regime of mandatory nonexclusive licensing of machine-collected data".

## 2.2. Employer's organizations

From the side of employers' organizations, BusinessEurope published several position papers in which they took a stance regarding AI. Overall, their focus is on the importance of research and investment to ensure its

success; especially taking into consideration the advantages that the United States and China are expected to have (BusinessEurope, 2019). Besides reiterating the importance of a skilled workforce, and the role of education in providing the necessary skills, they do not comment on any impact it might have on working conditions. With reference to the AIA, BusinessEurope welcomed the initiative but warned about the unintended consequences and administrative burdens it might put on investment into AI which might slow down innovation and put the competitiveness of the EU in danger (BusinessEurope, 2021).

With regard to AI and AM in recruiting and staffing, the comments of the World Employment Confederation – Europe, that is, the staffing agencies' association, are of interest as well. They focus on AI's potential to combat and mitigate bias in hiring decisions and warn EU legislators that heavy regulatory burdens might stifle such AI innovations that could contribute to more inclusive labour markets. Hence, they suggest to restrict the high-risk classifications to AI systems that directly support hiring decisions whereas systems that support searching, competence assessment, matching, or career management should be considered less risky, especially as the GDPR still applies to them (World Employment Confederation - Europe, 2022).

### 2.3. The EESC

Since the emergence of the EU-debate on AI, the European Economic and Social Committee has been outspoken about the impacts of AI on employment and work organization. Already in 2017, they emphasized the importance of a human-in-control approach, a code of ethics, a standardization system for verifying, validating, and monitoring AI systems, and a European governance infrastructure (EESC, 2017). Also, they proposed a strong collaboration between the EU, national governments, and the social partners to jointly identify the job sectors that are expected to be most affected by AI find solutions to address emerging problems.

The proposal for the AI Act has been welcomed by the EESC, but they also raised some concerns (EESC, 2021). As the AI Act opens the door to AI systems that are considered high-risk, the EESC warns of a normalizing effect of such uses. Even though these AI uses must comply with a set of requirements, the EESC questions the effectiveness of the regulation in mitigating social risks. In their Opinion, they suggest some extensions of unacceptable risks such as the prohibition of social scoring not only by public authorities, but also by semi-public authorities and private organizations. They also put forward a need for full information and consultation of workers and the social partners on the use of AI in the workplace, as well as on its development, procurement, and deployment.

2.4. Joint Position Papers from the Sectoral Social Dialogue

Joint Declarations have been concluded in the telecommunications industry and the insurance sector (ETNO & UNI Europa, 2020; UNI Europa Finance et al., 2021) – both sectors with long histories of digitalisation and utilisation of "big data". AI is also addressed in the joint position papers on digitalisation by CEEMET, the employer association of the Metal, Engineering and Technology Industries and the manufacturing unions' federation industriAll (CEEMET & industriAll, 2020), and in the overarching European Social Partners' Framework Agreement on Digitalisation concluded by BusinessEurope, SMEunited, CEEP, ETUC, and Eurocadres/CEC (BusinessEurope et al., 2020). The social partner joint papers all address the familiar social partnership issues of employment and employability, in particular skills, reskilling and upskilling, and the uses of technology to "enhance rather than replace human abilities". Skills are treated as more of a subject of digitalization at large than of AI specifically, and are indeed a traditional subject of building consensus among social partners.

Positions on skill enhancement are much in line with the EC 2020 New Skills Agenda, and AI adds little to that. Insurance, telecommunications and MET industries social partners as well as the Framework Agreement agree on improving VET systems and advancing skills mapping and anticipation on the sectoral, cross-sectoral and company level. The aim is to deliver a combination of technological and transversal skills that also comprises AI skills. The insurance sector declaration explicitly addresses possible "responsible" AI uses (in combination with a "people plan") to tailor trainings and provide employees with tools to assess their own skills, identify career paths and training possibilities. The telecoms declaration sees skill development as more of a central, cross-sectoral concern (and possibly, bottleneck), especially with regard to the roll-out of the 5G mobile communications standard which is to provide the technological infrastructure for ongoing digitalization across sectors. This means addressing up-to-date technological and transversal skills along value chains and involving multiple industries and stakeholders in skill building. In telecommunications, skills initiatives have two target groups: the re-training and skill upgrading of existing workforces and the recruitment of newer, more diverse employees to an ageing, male- and often autochthonous-dominated workforce.

AI-specifically all joint position papers and declarations make positive reference to the HLEG papers and the concept of "trustworthy AI", which entails lawful, ethical, robust, socially and ecologically sustainable AI uses, and human rights considerations. They also refer to compliance with the GDPR and refer to its Art.88 in particular that provides for more advanced regulations by member states. As befits the providers of central digitalization infrastructures, the telecommunications declaration is the most politically ambitious: it extends trustworthy AI to an overall ecosystem of "trusted innovation" and raises the aspiration to extend AI standards beyond the EU.

The principle of "humans in control" is also referenced across the joint declarations and frameworks. The insurance sector phrases it in the following way: ""Using AI should therefore not, a priori, exclude its results being challenged, intervened with, ignored or further completed by humans. It is also important to make sure that AI systems and solutions do not jeopardize but rather augment human involvement and capacities at work" (UNI Europa Finance et al., 2021, p. 3). However, a situation of "humans receiving instructions from algorithms" is noted as a point for discussion in this agreement rather than something to be avoided. A possible explanation is that in financial services, services and products have been digitized for decades. For example, customer advisors are commonly supported or guided by computer-generated, not necessarily AI-based, sales recommendations.

Risks of AI are generally seen in terms of monitoring, privacy, and "algorithmic bias" or discrimination. Automated, extended and intensified monitoring of workers can become more intrusive if, for example, facial recognition or biometric data are used. Whereas the actual processing of sensitive personal data is covered by the GDPR, AI-based "profiling" allows indirect guesses at such data (e.g. health risks, sexual orientation) and thus might undermine the GDPR's provisions. Whereas unions argue for prohibition of such uses, the joint declarations agree on awareness raising and discussion of ethical boundaries.

Another central risk is seen by both social partners in unfair biases in AI-based or AI-supported HR decisions with regard to recruitment, promotion or termination of employment with impacts on workers' well-being and health and safety as well as human rights. Generally, as in the AI Act, prevention of such risks is aimed for, but alertness to unfavorable outcomes, mitigation or redress of unwanted effect are also foreseen. The insurance joint declaration foresees assessment and mitigation of such biases by humans, and regular reviews, and the telecoms sector aims to "provide for robust mechanisms that mitigate the unwanted effects of AI-based decisions and that help employees to ensure the negative impact of AI on their rights is averted or corrected" (p. 3). In line with the "human in control" principle and the GDPR, all declarations aim for procedures of complaint and redress.

In the ways the Joint Declarations address risks and unwanted outcomes, some ambiguities in wording suggest that the general aspiration to enhance human capabilities and achieve positive feedback between productivity, employment and job quality may require some effort or even conflict. Social partners do not appear entirely confident that a level European playing field with strong provisions for workers' rights translates into competitive advantages. The MET industry joint paper aims to strike a "balance" between data protection and ensuring competitiveness. The telecommunications social partners point out that "human oversight models should be proportional to the risks involved by the AI application at hand" (ETNO & UNI Europa, 2020). An interesting wording that deviates from a stronger prevention principle is found in both the BusinessEurope et al. framework agreement (2020) and the joint declaration of the insurance sector (2021): "potential tensions between respect for human autonomy, prevention of harm, fairness and explicability of decision making should be acknowledged and addressed." This appears somewhat counterintuitive as these uncontroversial aims appear rather more compatible than likely conflicts of interest over surveillance, worker monitoring and participation rights.

It is the unions' own position papers (see above) and the joint papers by the more unionized sectors, i.e. telecommunication and MET industries that emphasize strengthening the role of social partners in shaping AI uses favorably. The cross-sectoral framework agreement (BusinessEurope et al., 2020) designs an iterative, practice-focused process to jointly map and assess developments in skills, working conditions, work relations and work organisation, adopt digital transformation strategies and develop concrete, context-specific actions and measures. Similarly, the MET social partners aim for a jointly managed approach that also makes space for new actors that represent new forms of work. The telecommunications social partners, aim to bring their sector-specific expertise and strong industrial relations tradition to the development of norms and implementation mechanisms. UNI Europa, with regard to the very limited involvement of unions in the HLEG demand a structural and systematic involvement of unions and workers' representatives, and industriAll aim for a mode of governance in which legislation provides a general framework and detailed implementation of AI regulation takes place in collective agreements on the appropriate level and/or legislation.

# Section III – Unions and civil society views on AI governance

Overall, unions, labour and intrnet law experts and civil society organisations' comments on the AIA favour a more "systemic" and dynamic approach to the governance of AI and AM that gives human, social and workers' rights more of a priority and brings AI governance up to the standard of the more ambitious legislation on worker rights, anti-discrimination and data protection.

Effective enforcement thus is considered a key issue (Salvi del Pero et al., 2022), the more so since key technological players in IT and platforms have a track record of disruptive business models involving some social dumping: "most of their comparative advantage of platforms is gained through sustained efforts to undermine existing regulation, mostly employment and social security rules, often resulting in unfair competition and in an unlevel playing field" (Potocka-Sionek & Aloisi, 2021).

In the light of existing regulation, observers from trade unions, labour law and civil society backgrounds consider the provisions of the AI Act somewhat weak. The risk-assessment approach with its roots in product safety legislation is seen as inadequate to a dynamic and "self-learning" general purpose technology with uncertain outcomes (Colclough, 2022; Edwards, 2022). In this context, the categorization of risks in the AIA

appears too static. The AIA makes it difficult to change as AI uses take shape in Europe, new risks may emerge and others be successfully mitigated (Circiumaru, 2022). Edwards (2022) also points out that the AIA puts the onus of risk assessment on technology providers. This is at odds with common lifecycles and value chains in AI development where both open and commercial modules may be combined, AI deployers create own adaptations and responsibilities are hard to assign (cf. (UNI Europa, 2021).

The self-assessment of high-risk uses in employment and work by providers may lead to mere "box-ticking" exercises and a lack of context-specific risk prevention. Unions and civil rights and data protection experts demand provisions for independent monitoring by (adequately funded) national and European bodies such as AI Boards, ombudspersons etc.. They also demand higher standards of explainability of AI- or algorithm-based decisions. This should entail "an understanding of how an algorithm has pushed, nudged or influenced matters in a certain direction" (Ponce Del Castillo, 2021, p.7), and in addition, efforts to develop "AI literacy" among workers. Currently, much of the focus of ensuring explainability appears to lie on technical provisions (Salvi del Pero et al., 2022).

In particular, they focus on participation of those who are affected by AI uses. This means workers and their representatives but also consumers and citizens in their roles as patients, clients of public services, education etc. (Edwards, 2022), who could form evaluation and stewardship bodies (Colclough, 2020). In line with the social partners' Joint Declarations, these authors also argue that the AIA needs better provisions for complaints, grievances and redress.

In addition, the fit of the AI Act with other European legal provisions appears somewhat incoherent. Critics argue strongly for a more consistent, mutually enhancing regime that strengthens rule of law, human rights and the rights and participation of all types of workers and their representatives (De Stefano & Wouters, 2022; Ponce Del Castillo, 2018, 2020). In this context, the GDPR has some clearer and better provisions on data uses (Aloisi & Gramano, 2019) and also on governance, foreseeing repeated reviews. However, its principles of purpose limitations and data minimization are at some odds with the logic of AI and its potential to draw inferences from heterogeneous and unstructured data (Salvi del Pero et al., 2022). Some authors (like the union industriALL) also point out that its principle of "informed consent" is not easy to apply in an employment context with its asymmetrical power relations (Ponce Del Castillo, 2021).

A key concern is that in the AIA (other than the GDPR's Art. 88) there is no provision for more specific regulations by member states. Such provisions might then be considered obstacles to the development of the single European market and of innovation in AI-based technologies and business models, in effect superseding more ambitious regulation (De Stefano and Aloisi 2021).

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