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Policy brief

ALGORITHMIC MANAGEMENT AND DEMOCRACY AT WORK IN SPAIN

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Democracy at Work through Transparent and Inclusive Algorithmic Management

This paper was developed as part of the INCODING project – Democracy at Work through Transparent and Inclusive Algorithmic Management. The objective of this companion piece is to position the project's research work and findings within the broader policy context and decision processes.

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Introduction

 The public debate on the implications of the use of Artificial Intelligence (AI) technologies over the labour market in Spain has mainly focused on its effects on employment, particularly in relation to the misclassification of platform food delivery workers. This led to the approval of the Royal Decree-Law 9/2021 (the so-called "Riders' act") by the Ministry of Work and Social Economy in 2021, aimed at protecting labour rights of platform delivery workers. The law also introduced transparency rights in the use of algorithms and AI-based systems in decision-making that may affect workers in the private sector.

In response to these developments, social actors have engaged towards the collective governance of the use of these technologies at work. CC.OO. union was ground-breaking regulating in the collective agreement of the Banking sector the right to not fall victim to any form of algorithmic decision-making. The suspicion that algorithms were playing an increasing role in the implementation of collective layoffs in the sector, pushed the union to address this issue in collective negotiations. Its Catalan federation was also proactive in implementing the transparency rights included in the law, particularly in the design and implementation of a strategy to request information at company level (CC.OO. Catalunya, 2022). And the UGT union has warned about the risks of the use of these technologies at work without union control (UGT, 2023), alongside organizing collectively platform workers. In relation to employers, the Spanish Association of the Digital Economy (Adigital) launched a program for Algorithmic Transparency Certification in 2023. This initiative aims at promoting transparent and inclusive AI use among companies, aligning with Royal Decree-Law 9/2021 and anticipating the European Union's forthcoming AI Regulation (Adigital, 2023).

In this context, the INCODING project has researched the implications of AI-based systems at work and its collective governance in the manufacturing and the food-delivery sectors, focusing on digitalized companies where algorithmic management are relevant and workers representation is present through Work Councils. Particularly, the study has analysed two cases at company level. First, the biggest Spanish centre (part of a multinational) manufacturing trains, trams, and metros for railway operators. And secondly, one of the largest platform delivery companies, being the first to establish its own network of couriers with employment contracts, even before the enactment of Royal Decree-Law 9/2021. The study emphasizes the importance of negotiations, collective action, and regulation at the company level.

Synthesis of major findings and highlights

The research carried out in the context of the INCODING project in Spain (Godino, Junte & Molina, 2023) has delivered several important research outcomes:

- ☑ First, unlike the food-delivery platform where algorithmic usage is intrinsic to its business model, technological change is introduced in the industrial sector within an already consolidated work organization.

- ☑ Both cases are characterized by a focus on data collection for decision-making: the factory through the implementation of a Manufacturing Execution System (MES), and the delivery company through algorithmic management executed through an application on the smartphone. In both cases workers are forced to report on their productivity results. Despite this commonality, there are also important differences.

- ☑ Whereas the workers in the train factory enjoy a work environment which is more akin to a highly technologized workshop than an automated assembly line, the platform delivery personnel have virtually no decision-making power over routes, breaks, work pace, or any other aspect of the work process.

- ☑ The results show how in both cases there is an automated comparison process between standardized timeframes and the actual time employees spend on certain tasks. This information serves to evaluate labour productivity. However, while the outcome of this evaluation serves a compensatory/incentive role in the factory, the metrics of couriers are used with a disciplinary intent and to foster competition among colleagues.

- ☑ The project has found that the collective organization of workers at the studied factory has ensured for years that productivity bonuses were applied collectively rather than individually. In contrast, the performance of couriers of the platform delivery company is evaluated in real-time not for productivity bonuses, but for disciplinary measures. These measures are individually applied, fostering dynamics of lateral conflict among employees, thereby discouraging collective organization.

- ☑ The project also shows that these differing trends are largely influenced by sectoral patterns, reflected in their industrial relations model. The industrial sector boasts high collective bargaining coverage and unions with associative and institutional power. Consequently, the manufacturing company under study has strong unions, high union density, and an institutionalized tradition of collective bargaining. In contrast, workers in the platform delivery sector are highly demobilized, with low union density, and lacking direct employment contract until relatively recently, resulting in weak union representation.

☑ The delivery company studied was the first one in the sector to directly hire its employees. The work council is newly formed, and unions are just beginning to design their strategies for collective action. Given this relative weakness, the workers' representatives predominantly rely on the collective action of unions at the sectoral and national levels (being its first collective agreement bargained by sectoral

Policy recommendations

Some policy recommendations can be formulated in relation to collective bargaining and Artificial Intelligence technologies at work based on the results of the project:

➜ Improvement transparency of AI-based systems
First, we consider it relevant for social partners to advocate for and implement policies that increase the transparency of AI-based systems within companies. This means that information about the use and functionality of these technologies in organizations should be shared. Strengthening the legal framework to ensure workers' rights to access information about the use of algorithms for human resources decision-making can improve collective action and effective governance. Even though Spain was pioneer in granting the right of the work council to be informed about the use of algorithms (ET 64.4), the results show that precisely because of its opaque character of these system it is difficult to enforce, As legislation in other European countries has shown, authorizing the work council to call in views from (external) experts is fundamental to help them enforce their right effectively.

➜ Integration of CB mechanisms
Second, stakeholders should work towards integrating established collective bargaining mechanisms that address the use of AI-based systems, particularly those related to measuring labour efficiency and its impact on working conditions. Policies should encourage the collective setting of standards for technology-driven evaluations and rewards, thereby mitigating potential negative effects on work pace and occupational health. It is essential for unions at the company level to proactively seek to understand and negotiate the terms of the use of these technologies.

➜ Strengthen and enhance technological training
Third, encouraging employers' organizations and trade unions to prioritize algorithmic transparency and engage in sectoral level discussions is also key to advancing collective bargaining processes. This involves incorporating individuals with technological expertise into negotiation tables, enhancing the technological training of actors involved in collective bargaining processes, and developing sector-specific mechanisms for algorithmic usage governance that can be adopted across companies.

➜ Be aware of risks

Fourth, because of the novelty of the phenomenon it might not be clear that the implementation AI comes with risks. Because of the intelligibly of these systems, this might be the case for the unions as well for the companies themselves. Hence, we encourage the union and employers' organization to continue with training their affiliates on the risks involved in the implementation of these systems.

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