

Companies' opportunities to take advantage of new technologies must be supported



The objectives of the European Commission for the 2024–2029 legislative period include a new political commitment to launch an initiative on artificial intelligence in working life, especially algorithmic management.

The Confederation of Finnish Industries does not consider it necessary to increase EU-level regulation related to AI or algorithmic management. Existing EU regulation deals extensively with potential risks inherent in the use of AI, such as discrimination, health and safety, and takes into account employees' information and consultation needs as well as data protection issues.

The implementation and enforcement of the already existing comprehensive legal framework, including an estimated 116 pieces of legislation included in the EU's Digital Agenda 2030, should be a top priority for the Commission.

Any new AI at work initiatives should focus primarily on the implementation and enforcement of existing requirements and avoid at all costs additional administrative burden and costs for companies. This is particularly important in view of the Commission's political commitment to reduce reporting requirements and administrative burden by 25% and the significant need to improve the competitiveness of European companies. The ability of European companies to compete globally depends on their ability to react to and adapt to highly dynamic markets and rapidly developing new technologies.

The use of algorithmic management is still very limited in traditional workplaces. Any future initiative should not be based on the assumption that the provisions of the Platform Work Directive concerning algorithmic management are as such applicable to the algorithmic management practices of companies other than platform companies. If all companies are treated as if they were digital employment platforms, the uptake of new technologies by European companies will become significantly more difficult. In order to assess the need for regulation, more information is needed on the use of algorithmic management in different fields.

The EU can support Member States in ensuring that the education systems evolve in line with technological developments, including by labour market relevant programmes on skills development. In addition, we need national investments in skills development, up-skilling and re-skilling to support employees' technological capacity.

EK's key messages:

- Before taking new initiatives, a careful assessment should be made of how existing regulation and measures taken by the EU social partners, such as the Autonomous Framework Agreement on Digitalisation from 2020, respond to the potential risks associated with the use of AI and algorithmic management.
- The Member States and the social partners must have room to develop labour regulations and collective agreements as necessary, taking into account the specific features of each Member State's labour market system and different sectors.
- It is important to enable companies to develop responsible and ethical approaches to the use of AI technology. The exclusive competence of employers to take decisions regarding the implementation of algorithmic management tools in their organisation must also be respected.
- The starting point for any initiative related to algorithmic management should be to support companies in reducing the risks that may be associated with the use of algorithmic management and in adopting new technologies.
- National measures are needed to develop employees' technological capacity, which can be supported by EU skills programmes.

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There is already plenty of EU-level regulation on AI



The General Data Protection Regulation (EU) 2016/679 requires organisations to adequately protect employees' personal data, including in algorithmic management systems, when personal data collected from employees is processed by the AI system. The obligations related to risk assessment, transparency and employees' right to check their personal data under the General Data Protection Regulation, as well as restrictions on the collection of sensitive personal data, will also apply. Member States also have the possibility to introduce provisions more favourable to the protection of workers' rights and freedoms when personal data is processed in the context of an employment relationship. The Regulation also protects a person's right not to be subject to a decision based solely on automated processing, such as profiling, which produces legal effects concerning them.

The Artificial Intelligence Act (EU) 2024/1689 defines certain AI systems intended for use in areas such as recruitment, career development and contract termination decisions, task allocation or monitoring the performance and behaviour of employees as "high-risk" systems. In high-risk systems, the company must meet the regulatory requirements for risk management, data quality and data management, documentation and record-keeping, transparency and information to users, reliability, accuracy and security. In addition, the regulation requires that such systems are human-controlled. The Regulation allows Member States to adopt provisions more favourable to the protection of workers' rights.

The Platform Work Directive (EU) 2024/2831 aims to directly address the impact of algorithmic management on working conditions when working through digital labour platforms. The Directive introduces specific obligations for digital labour platforms concerning for example the transparency of the use of automated monitoring and decision-making systems (Article 9), human oversight of automated monitoring systems and automated decision-making systems (Article 10), human review of significant decisions (Article 11) and information and consultation rights of platform workers (Article 13).

The Directive on informing and consulting employees (2002/14/EC) already adequately addresses the need for employee involvement in introducing algorithmic management tools in the workplace. The Directive obliges Member States to lay down detailed rules for information and consultation at the appropriate level, including information and consultation on decisions which may significantly alter work organisation and contractual relations.

In addition, existing regulation on occupational health and safety at work already provides a framework to adequately protect against the risks that may be related to the use of algorithmic management in the workplace. Existing non-discrimination legislation also protects employees from the potential risks of discrimination related to the use of algorithmic management, for example in recruitment. Existing regulations also safeguard employees' right to an effective remedy and a fair trial.

The EU social partners' 2020 autonomous framework agreement on digitalisation identifies "guaranteeing the principle of human control over AI" as one of the key pillars of the agreement. The Framework Agreement identifies three key principles that should be respected throughout the lifecycle of an AI system and must be followed in its introduction at the workplace. These principles state that an automated decision-making system should be fair, transparent, reliable and comply with all applicable laws and regulations, fundamental rights and non-discrimination rules. In addition, it should comply with agreed ethical standards ensuring compliance with EU fundamental / human rights, equality and other ethical principles, and be sustainable from both a technical and a social point of view. The Framework Agreement recommends that the deployment of AI systems also takes into account the necessary occupational health and safety risk assessment, transparency and effective supervision.

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