



Council of the
European Union

Brussels, 13 September 2021
(OR. en)

9132/21

SOC 351
EMPL 260
GENDER 68
ANTIDISCRIM 68

NOTE

From:	Presidency
To:	Delegations
Subject:	Draft Council Conclusions on the impact of artificial intelligence on gender equality

Delegations will find attached a set of draft Council Conclusions prepared by the Presidency. This document will be discussed in the Social Questions Working Party on 24 September 2021.

A report prepared by the European Institute for Gender Equality (EIGE) will be distributed in due course as an addendum to this document (ST 9132/21 ADD 1).

Procedure

*The Presidency hopes that an agreement on these Conclusions can be reached in two meetings. Delegations are therefore invited to make every effort to develop their positions in good time, with a view to holding a productive discussion at the meeting on 24 September. Written comments are welcome **even before the first meeting**, and should be sent to the following email addresses:*

LIFE.social@consilium.europa.eu and SIEPSCO.SPBR@gov.si.

*NB. The **deadline for written comments** after the first meeting will be **30 September 2021**.*

The impact of artificial intelligence on gender equality in the labour market**Draft Council Conclusions****NOTING that:**

1. Gender equality and Human Rights are at the core of European values. Equality between women and men is a fundamental principle of the European Union enshrined in the Treaties and recognised in Article 23 of the Charter of Fundamental Rights of the European Union. Article 8 of the Treaty on the Functioning of the European Union (TFEU) requires the Union, in all its activities, to aim to eliminate inequalities between women and men, and to promote equality.
2. With a view to ensuring full equality in practice between men and women in working life, Article 157 TFEU also allows the Member States to maintain or adopt positive action measures. Their aim is to provide for specific advantages in order to make it easier for the underrepresented sex to pursue a vocational activity or to prevent or compensate for disadvantages in professional careers. Article 157 TFEU requires the Member States to ensure that the principle of equal pay for male and female workers for equal work or work of equal value is applied.
3. Gender equality, secure and adaptable employment and work-life balance are affirmed in Principles 2, 5 and 9 of the European Pillar of Social Rights proclaimed by the European Parliament, the Council and the Commission on 17 November 2017. The European Pillar of Social Rights Action Plan emphasises that in order to have at least 78% of the population aged 20 to 64 in employment by 2030, Europe must strive to at least halve the gender employment gap compared to 2019.

4. Gender equality policies are important factors for smart, sustainable and inclusive growth and a precondition for the achievement of prosperity, competitiveness and full employment, as well as social cohesion, inclusiveness and wellbeing. Meanwhile, the shrinking of the workforce as a result of demographic developments within the EU makes it necessary to attract and retain highly trained specialists, especially women, in the labour market, while also increasing the number of men working in the care sector.
5. Digitalisation and new technologies, including artificial intelligence (AI), can play a critical role in accelerating the inclusion of more women in the labour market. The changes in working patterns caused by the COVID-19 crisis and the resulting increase in digitalised and AI-based solutions have shown the importance of addressing digitalisation, especially AI, in the context of gender equality.
6. AI is an important digital transformation tool and a key driver of change and innovation, including new forms of work and social inclusion, and it can have a different impact on women as compared with men. It is important to analyse the consequences of new forms of work from a gender perspective; to unlock women's full potential in this field; and to ensure women and men can benefit equally from the changes brought on by AI and platform work. The risk of opaque decision-making and algorithmic discrimination based on sex, age or race needs to be assessed and solutions envisaged to prevent any violation of EU values and fundamental rights, including non-discrimination and gender equality.
7. **TAKING NOTE** of the European Institute for Gender Equality (EIGE)'s report 'Artificial intelligence, platform work and gender equality', which sets out the important ways in which the growing use of AI-based technology is affecting gender equality on the labour market, including working conditions, work patterns and work-life balance for women and men engaged in platform work, and which outlines the key regulatory challenges in these areas.

THE COUNCIL OF THE EUROPEAN UNION

CALLS UPON THE MEMBER STATES, in accordance with their competences and taking into account national circumstances and the role and autonomy of the social partners, to:

8. Strive for greater awareness of gender equality issues in the AI sectors and to enhance efforts by all relevant actors to take a multidisciplinary approach to AI research.
9. Address the needs of people engaged in platform work in measures to mitigate the impact of the COVID-19 pandemic on the economy and society and the self-employed, devoting special attention to female platform workers who might have received less financial support during the pandemic compared with men.
10. Enhance their efforts to achieve a balanced representation of women and men in occupations related to the creation and deployment of AI tools and in AI research, including in the following ways:
 - a) Encouraging girls and young women to learn programming during basic and secondary education and training, with the aim of reducing the digital gender gap in subsequent stages of life;
 - b) Encouraging girls and young women to choose education and training and career paths in the STEM¹ fields;
 - c) Pursuing research into the development and use of AI with a special emphasis on the social consequences and ethical aspects thereof;
 - d) Taking specific measures to promote working conditions designed to prevent gender-based discrimination and harassment at the workplace and to facilitate an appropriate work-life balance for workers in organisations that develop AI as well as in organisations, including online platforms, that use digital automation for management purposes;

¹ Science, technology, engineering and mathematics.

- e) Addressing the glass ceiling² in workplaces and businesses, including through measures to ensure that AI does not perpetuate the existence of such a ceiling;
 - f) Improving the working conditions among the invisible workforce behind AI³, of which more than half are women; identifying existing inequalities therein; and striving to eliminate the gender pay gap as well as other gender inequalities in all AI sectors.
11. Continue their efforts to ensure algorithmic transparency (*algorithmic awareness*)⁴ in the use of AI; areas to which special attention should be devoted include:
- a) Ensuring gender balance in the design of algorithms intended for employment procedures, while ensuring a sufficient level of human oversight and control;
 - b) Promoting transparency in algorithmic monitoring and evaluation, as well as the transparency of criteria used in the algorithmic management of work distribution and task assignment in work environments, with the aim of improving the information available to people affected by algorithmic management on how their work behaviour influences the systems and ensuring the equal treatment and status of women and men;
 - c) Improving access for workers, their representatives and relevant national authorities, to information regarding the role that algorithms play in managing work;

² Artificial impediments and invisible barriers that hamper women's access to top decision-making and managerial positions in an organisation, whether public or private and in whatever domain (EIGE, 2021).

³ Today women and other marginalised groups still bring important added value to the artificial intelligence sector; however, their contribution is disproportionately undervalued in relation to the knowledge they help create. The artificial intelligence industry does not include only jobs for highly qualified employees, but also low-paid jobs. Women and men working at these jobs, generally called the invisible workforce behind artificial intelligence, perform supporting tasks in the training of algorithms for machine learning (e.g. data labelling) (EIGE, 2021).

⁴ Algorithmic transparency is an important safeguard for accountability and fairness in decision-making. From various AI applications to ranking results in search engines, algorithms govern the way we access information online. This has large implications for consumers and businesses in areas such as online platforms. Understanding algorithmic transparency in an in-depth manner is key for informed policy-making. Algorithmic transparency also enhances the awareness of the possible adverse impacts of artificial intelligence algorithms on social dynamics (in this case on the power relations between women and men) (European Commission, 2020).

- d) Preventing less favourable treatment of employees with care responsibilities due to any failure to appropriately take into account these responsibilities in designing algorithms for assigning work responsibilities.
12. Develop and adopt measures to enable workers, including those engaged in AI development to genuinely disconnect from work during the rest time provided for by law and to ensure that they do not suffer adverse consequences for doing so.
13. Continue developing or establish an institutional, political and legal framework for platform work, taking into account the significant role played by AI in this context; ensure that this framework includes a gender perspective; and devote special attention to:
- a) Addressing the legal vacuum and uncertainties regarding the employment status of people engaged in platform work in order to improve their working conditions and avoid an increase in precarious forms of work while taking into account the heterogeneity of platforms;
 - b) Adopting measures to ensure an adequate level of social protection for people engaged in platform work, including the possibility of exercising maternity, paternity and parental rights (or receiving maternity, paternity and parental benefits), regardless of their employment status; in this regard, step up efforts to implement Council Recommendation 2019/C 387/01 on access to social protection for workers and the self-employed; and
 - c) Take concrete steps to prevent discrimination and address bias within AI systems and algorithms.

CALLS UPON THE EUROPEAN COMMISSION AND MEMBER STATES, in accordance with their competences, including in the area of education, and taking into account the national circumstances of the Member States and the role and autonomy of the social partners, to:

14. Strengthen the link between EU gender equality policies and EU policies for the digital transition, with a particular focus on encouraging girls and women to participate in the development of AI and to work within AI sectors;
15. Design and implement targeted measures to overcome gender stereotypes in the context of AI, with the aim of ensuring gender equality in this area. These measures may include:
 - a) Measures to integrate the gender perspective in the field of AI by promoting gender balance and diversity in education and training and employment in jobs that involve work in the field of AI. Special attention should be paid to raising the awareness of human resource services about the use of AI tools in their work and the potential risks, with the aim of preventing and addressing gender bias and potential discriminatory practices;
 - b) Measures to support the provision of training on gender equality and gender stereotypes for AI experts; and
 - c) Measures to promote gender-sensitive research and development in the fields of AI and machine learning, including with a view to endowing these tools with the capacity to recognise hate speech and revenge pornography⁵, with the aim of eliminating them from publicly accessible online fora.

⁵ Revenge pornography means publishing the intimate recordings of individuals without their knowledge, most often due to the rejection of an intimate relationship with the perpetrator of this criminal offence. The bigger social media platforms, such as Facebook and Instagram, are already using AI to detect revenge porn before it is reported. The technology is trained to recognise a “nearly naked” photo or video coupled with derogatory, hateful or shaming text that would imply someone uploaded the photo to embarrass or seek revenge on someone else.

16. Foster partnerships and cooperation with all businesses and business organisations working in the digital and AI fields, including the ICT industry, media and social media companies, as well as all other relevant sectors, including healthcare, education, engineering, and agriculture, with a view to systematically promoting gender equality from within in the context of digitalisation and AI.
17. Intensify their efforts to fight against horizontal gender segregation in the labour market;
18. Strengthen its efforts to systematically collect data in the field of AI, with the aim of preventing the perpetuation of gender inequalities on the labour market and beyond; this data should be broken down by sex and age, taking into account the intersectional perspective.

CALLS UPON THE EUROPEAN COMMISSION to:

19. Continue its efforts to overcome gender stereotypes in accordance with the EU Gender Equality Strategy 2020–2025.
20. Continue its efforts to ensure that AI policies at the EU level address the gender equality aspect, while paying particular attention to the need to avoid perpetuating gender-stereotypical assumptions;
21. Ensure appropriate further research into development and use of AI from a gender equality perspective, paying particular emphasis to intersectional discrimination, taking into account the study by EIGE.

References

1. EU interinstitutional

European Pillar of Social Rights

https://ec.europa.eu/commission/sites/beta-political/files/social-summit-european-pillar-social-rights-booklet_en.pdf

2. EU legislation

Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services. (*OJ L 373, 21.12.2004, p. 37–43.*)

Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast) (*OJ L 204, 26.7.2006, p. 23–36.*)

Directive (EU) 2019/1158 of the European Parliament and of the Council of 20 June 2019 on work-life balance for parents and carers and repealing Council Directive 2010/18/EU (*OJ L 188, 12.7.2019, p. 79–93.*)

Regulation (EU) 2021/241 of the European Parliament and of the Council establishing a Recovery and Resilience Facility. (*OJ L 57, 18.2.2021, p. 17–75.*)

3. Council

All Council Conclusions on gender equality and other relevant subjects, including especially those cited below:

- Council Conclusions on Moving towards more inclusive labour markets (7017/15)
- Council Conclusions on Enhancing the Skills of Women and Men in the EU Labour Market (6889/17)
- Council Conclusions on Enhanced measures to reduce horizontal gender segregation in education and employment (15468/17)
- Council Conclusions on Closing the Gender Pay Gap: Key Policies and Measures (10349/19)
- Council Conclusions on the Economy of Wellbeing (13432/19)
- Council Conclusions on Gender-Equal Economies in the EU: The Way Forward: Taking Stock of 25 Years of Implementation of the Beijing Platform for Action (14938/19)
- Council Conclusions on Enhancing Well-being at work (8688/20)
- Council Conclusions on Tackling the Gender Pay Gap: Valuation and Distribution of Paid Work and Unpaid Care Work (13584/20)

4. Trio Presidency

Trio Presidency Declaration on Gender Equality signed by Germany, Portugal and Slovenia (July 2020)

5. **European Commission**

Communication from the Commission of 26 April 2017: "An initiative to support work-life balance for working parents and carers" (COM(2017) 252 final)

Communication 'Digital Education Action Plan (2021 to 2027) Resetting Education for the Digital Age', COM(2020) 624 final

2021 Report on equality between women and men in the European Union (6774/21)

A Union of Equality: Gender Equality Strategy 2020-2025. 6678/20. (Commission reference: COM(2020) 152 final.)

Communication on A Strong Social Europe for Just Transitions. (COM(2020) 14 final.)

Communication 'European Skills Agenda for sustainable competitiveness, social fairness and resilience' (COM(2020) 274 final)

European Commission 2020: Labour Market and Wage Developments in Europe, Annual Review 2020. (ISSN 2443-6771)

The European Pillar of Social Rights Action Plan (6649/21 + ADD 1 + ADD 2)

6. **European Parliament**

Resolution entitled "Framework of ethical aspects of artificial intelligence, robotics and related technologies." (P9_TA(2020)0275)

7. **EIGE**

Artificial intelligence, platform work and gender equality. 9132/21 ADD 1.

"Gender Equality Index 2020: Digitalisation and the future of work," 2020.

<https://eige.europa.eu/publications/gender-equality-index-2020-digitalisation-and-future-work>

8. Eurofound

“Regulations to address work–life balance in digital flexible working arrangements,” New forms of employment series, 2020.

“Telework and ICT-based mobile work: Flexible working in the digital age,” New forms of employment series, 2020

https://www.eurofound.europa.eu/sites/default/files/ef_publication/field_ef_document/ef19032en.pdf

“Platform economy: Developments in the COVID-19 crisis,” 2020.

<https://www.eurofound.europa.eu/data/platform-economy/dossiers/developments-in-the-covid-19-crisis>

“Labour market change: Trends and policy approaches towards flexibilisation, Challenges and prospects in the EU series,” 2020.

9. European Economic and Social Committee

"Teleworking and gender equality – conditions so that teleworking does not exacerbate the unequal distribution of unpaid care and domestic work between women and men and for it to be an engine for promoting gender equality." SOC/662-EESC-2020.

10. United Nations

The Beijing Declaration and Platform for Action (UN agenda for gender equality and women's empowerment)

The UN Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW)

Sustainable Development Goal (SGD) 5.4 of the United Nations 2030 Agenda for Sustainable Development

11. Other

OECD, “Women at the core of the fight against Covid-19 crisis”, OECD Policy Responses to Coronavirus (Covid-19). Version 1st April 2020

<https://www.oecd.org/coronavirus/policy-responses/women-at-the-core-of-the-fight-against-covid-19-crisis-553a8269/#biblio-d1e2093>.

[Council of Europe Recommendation CM/Rec\(2019\)1 on preventing and combating sexism](#).

[Presidency Conclusions of 6 December 2018 on Gender Equality, Youth and Digitalisation \(doc. 15308/18\)](#)
