



Brussels, 22 November 2021
(OR. en)

13976/21

SOC 658
EMPL 492
GENDER 114
ANTIDISCRIM 97

NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	Draft Council Conclusions on the Impact of Artificial Intelligence on Gender Equality in the Labour Market <i>- Preparation for the Approval</i>

1. The Presidency has prepared a set of draft Council Conclusions on "the Impact of Artificial Intelligence on Gender Equality in the Labour Market."^[1]
2. The Conclusions are based on a report produced by the European Institute for Gender Equality (EIGE) on "Artificial intelligence, platform work and gender equality", which is set out in Addendum 1 to this document.
3. The Conclusions were examined by members of the Working Party on Social Questions during three informal videoconferences that took place on 24 September, 25 October and 15 November 2021.^[2] (This format was chosen due to the exceptional circumstances arising from the COVID-19 pandemic.)

^[1] Conclusions drawn up within the context of the review of the implementation of the Beijing Platform for Action, with particular reference to Critical Area of Concern F (Women and the Economy).

^[2] 9132/21, 11901/21 and 12966/21 + REV 1.

4. An agreement in principle has been reached on the draft text as set out in the Annex to this note.
5. The Permanent Representatives Committee is invited to
 - take note of EIGE’s report, as set out in Addendum 1 to this document; and
 - forward the draft Conclusions in the Annex to this note to the EPSCO Council for approval at its session on 6 December 2021.

The Impact of Artificial Intelligence on Gender Equality in the Labour Market

Draft Council Conclusions¹

NOTING that:

1. Gender equality and Human Rights are at the core of European values and 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.

¹ Conclusions drawn up within the context of the review of the implementation of the Beijing Platform for Action, with particular reference to Critical Area of Concern F (Women and the Economy).

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, including in the ICT sector, while also intensifying the fight against both horizontal and vertical gender segregation.
5. Digitalisation and new technologies, including artificial intelligence (AI), can play a critical role in accelerating progress towards the full and equal participation of 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 highlighted 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 opportunities created by AI use in different areas of the world of work, including platform work. Both women and men also need to be protected against possible risks. For example, the risk of opaque decision-making and algorithmic discrimination based on sex, racial or ethnic origin, religion or belief, disability, age, or sexual orientation needs to be assessed and solutions envisaged to prevent any violation of EU values and fundamental rights, including non-discrimination and gender equality.

7. As the Commission has underlined in its Gender Equality Strategy 2020-2025, “Artificial Intelligence (AI) has become an area of strategic importance and a key driver of economic progress, hence women have to be part of its development as researchers, programmers and users. While AI can bring solutions to many societal challenges, it risks intensifying gender inequalities. Algorithms and related machine-learning, if not transparent and robust enough, risk repeating, amplifying or contributing to gender biases that programmers may not be aware of or that are the result of specific data selection.”
8. TAKING NOTE of the Commission’s White Paper on “Artificial Intelligence – A European Approach to excellence and trust,” which calls for ethical and trustworthy AI development and use across the EU economy.
9. 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:

10. Take concrete steps to improve awareness of gender equality issues in AI research and in all sectors where AI is designed, developed and used, and to enhance efforts by all relevant actors to take a multidisciplinary approach to AI research.
11. 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.
12. 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. Activities considered may include:
 - a) Encouraging girls and young women, including those from disadvantaged backgrounds, to learn digital skills and achieve proficiency in programming during primary and secondary education and training, and supporting them in strengthening these competences, with the aim of reducing the digital gender gap in subsequent stages of life;
 - b) Encouraging girls and young women, including those from disadvantaged backgrounds, to choose education, training and career paths in the STEM² fields, including ICT and AI, and providing them with the necessary resources and support, as well as promoting female role models in this area;

² Science, technology, engineering and mathematics.

- c) Incorporating ethics and gender equality aspects into STEM fields of study and AI study programmes, with a view to raising awareness of the equality dimension;
- d) Pursuing research into the development and use of AI with a special emphasis on the need for human oversight; on legal implications, including the impact on fundamental rights and freedoms; and on social aspects, including in terms of gender equality; as well as on ethical aspects and the risk of discrimination;
- e) Supporting reskilling, upskilling and lifelong learning for both women and men, with the aim of providing them with the advanced digital skills which are required in many jobs; of making careers in data science and AI more accessible to everyone; and of reducing the digital skills gap, including with a view to ensuring equal opportunities in the context of job transitions;
- f) Taking specific measures to prevent and combat discrimination, including harassment, in educational settings and in the workplace, particularly in sectors where AI is designed, developed and used;
- g) Taking specific measures 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;
- h) Addressing the glass ceiling³ in workplaces and businesses, including through measures to ensure that AI does not perpetuate the existence of such a ceiling, including during the recruitment phase;

³ 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).

- i) Seeking to ensure that when AI is used for the management of human resources, it promotes transparency and gender equality, particularly in the areas of pay, training, access to promotion, and career progression;
 - j) Improving the working conditions among the invisible workforce behind AI⁴, of which more than half are women; identifying existing inequalities therein; and striving to eliminate the gender pay gap as well as other forms of gender inequality in all AI sectors; and
 - k) Undertaking research into ways in which the use of AI can contribute to improving working conditions and reduce the burden of routine activities in sectors such as personal and household services, healthcare and education.
13. Continue their efforts to ensure algorithmic transparency (*algorithmic awareness*)⁵ in the use of AI. The steps to be taken may include:
- a) Ensuring gender balance in the design of algorithms, especially those intended for employment procedures and decision-making, including by addressing the problem of historically biased input data, while ensuring a sufficient level of human oversight and control, including at the recruitment phase and when evaluating performance and behaviour.

⁴ Today women and some 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).

⁵ 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).

- 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 whose rights and interests may be affected by algorithmic management and ensuring the equal treatment and status of women and men;
 - c) Increasing the awareness of workers, their representatives and relevant national authorities regarding the role that algorithms play in managing work, and ensuring access to relevant information; and
 - 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.
14. Continue to analyse the national institutional and legal framework for platform work, taking into account the significant role played by AI in this context; ensure that this analysis includes a gender perspective; and devote special attention to assessing any 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.
15. Step up efforts to implement Council Recommendation 2019/C 387/01 on access to social protection for workers and the self-employed.
16. Take concrete steps to prevent discrimination and address bias within all AI systems and algorithms.

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

17. Strengthen the link between EU gender equality policies and EU policies for the digital transition, and ensure the systematic integration of a gender perspective into AI policies, with a particular focus on encouraging girls and women to participate and work in the field of AI research and in all sectors where AI is designed, developed and used.
18. Design, implement and monitor 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 a gender perspective in the field of AI by promoting gender balance in research, education and training and in 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 benefits of using AI tools in their work and also about 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, including persons involved in AI research and in the design, development and use of AI;
 - c) Measures to promote gender-sensitive research and development in the fields of AI and in particular machine learning; and
 - d) Measures to develop and disseminate guidance and tools for the gender-sensitive use of data when training machine learning systems.

19. Foster partnerships and cooperation with likeminded countries, with the social partners, and with businesses and business organisations working in the digital field, notably AI, including the ICT industry, and media and social media companies, as well as all other relevant sectors, including healthcare, education, engineering, finance, and agriculture, with a view to systematically promoting gender equality from within in the context of digitalisation and notably AI.
20. Strengthen their efforts to systematically address data bias in the collection of employment data in relevant contexts where AI is used, 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.
21. Intensify their efforts to fight against both horizontal and vertical gender segregation in the labour market.

CALLS UPON THE EUROPEAN COMMISSION to:

22. Continue its efforts to combat gender stereotypes in AI related fields.
23. Continue its efforts to ensure that AI policies at the EU level address the gender equality aspect in the design, development and use of AI, while paying particular attention to the need to avoid perpetuating gender-stereotypical assumptions.
24. Ensure appropriate further research into the design, development and use of AI from a gender equality perspective, including through funding, 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/info/sites/default/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)
- Council Conclusions on the Socio-Economic Impact of COVID-19 on Gender Equality (8884/21)

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)

White Paper on Artificial Intelligence – A European Approach to excellence and trust (COM(2020) 65 final)

"Opinion on Artificial Intelligence – opportunities and challenges for gender equality"
(Advisory Committee on Equal Opportunities between Women and Men, 18 March 2020)

6. European Parliament

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

7. EIGE

Gender Equality and the socio-economic impact of the COVID-19 pandemic, 2021. (8878/21 ADD1)

Artificial intelligence, platform work and gender equality. 13976/21 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. European Union Agency for Fundamental Rights (FRA)

Data quality and artificial intelligence – mitigating bias and error to protect fundamental rights (2019)

#BigData: Discrimination in data-supported decision making (2018)

9. 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.

10. 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.

11. 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

12. 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 \(doc. 15308/18\)](#)

