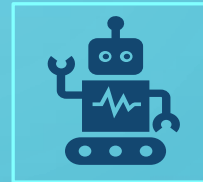


**EPSU conference: Digitalisation and collective bargaining.  
December 8-9, 2020**

# **BRINGING AI TO THE TABLE OF NEGOTIATIONS: PRACTICAL INSIGHTS**

Aida Ponce Del Castillo  
ETUI, Foresight Unit

# CONTENT



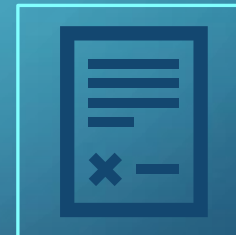
**ONE:** Section 3: “AI and guaranteeing the human in control principle”



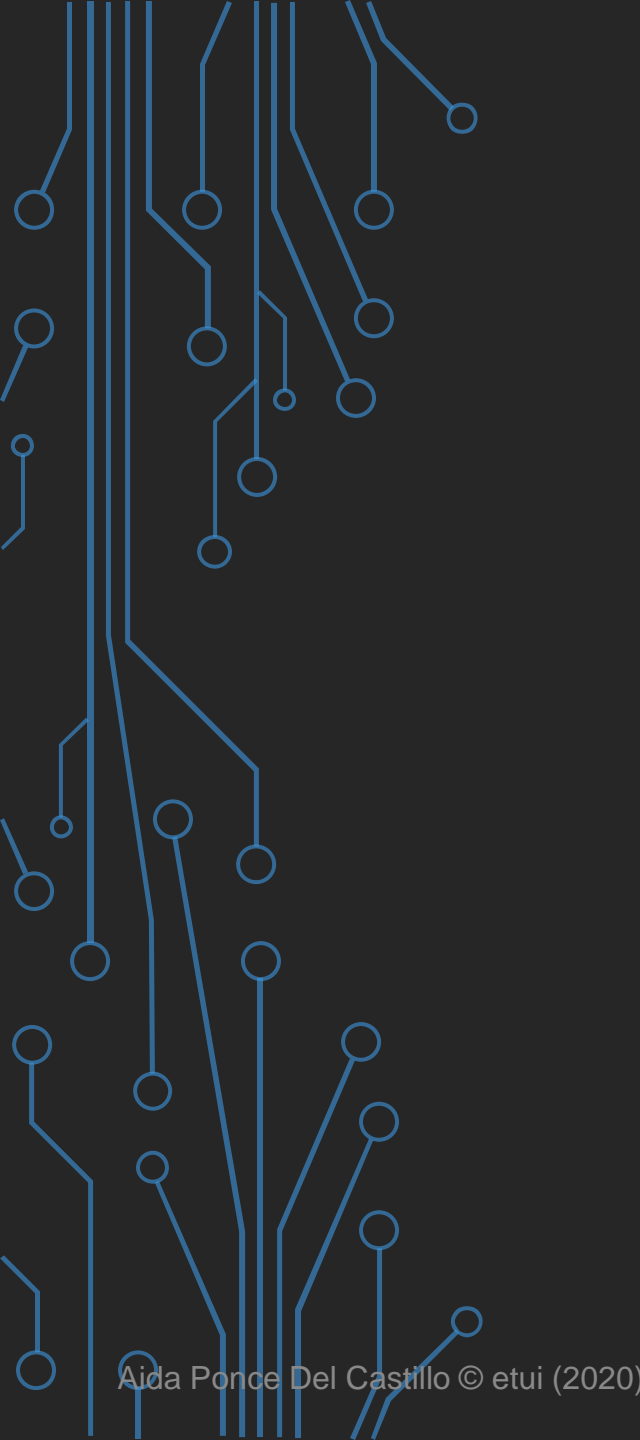
**TWO:** Section 4: “Respect of human dignity and Surveillance”



**THREE:** Key issues to be aware of?



**FOUR:** What action plan for negotiations?

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# SECTION 3: AI AND GUARANTEEING THE HUMAN IN CONTROL PRINCIPLE

Section 3 starts with introductory statements:

“... It is essential to explore the design options of using AI or machine learning systems for economic success and good working conditions.”

“... It is also important to make sure that AI systems and solutions do not jeopardise but augment human involvement and capacities at work.”

“The **control of humans** over machines and artificial intelligence should be guaranteed in the workplace...”

Algorithms  
are controlled  
by humans

## Who are the humans that control the algorithms?

- The computer scientist who wrote it.
- The person who decided the variables and their meaning.
- The person making decision with the data analysed by the algorithm.



## IMPACT OF ALGORITHMS: RESHAPING WORKING CONDITIONS, EMPLOYMENT RELATIONS AND WORK ORGANIZATION

- **Amazon algorithm in warehouses:**

<https://www.theverge.com/2019/4/25/18516004/amazon-warehouse-fulfillment-centers-productivity-firing-terminations>

- **Amazon Flex algorithm:**

<https://www.inputmag.com/tech/amazon-plugged-a-hole-that-led-its-drivers-to-hang-phones-in-trees>

- **Barclays case:**

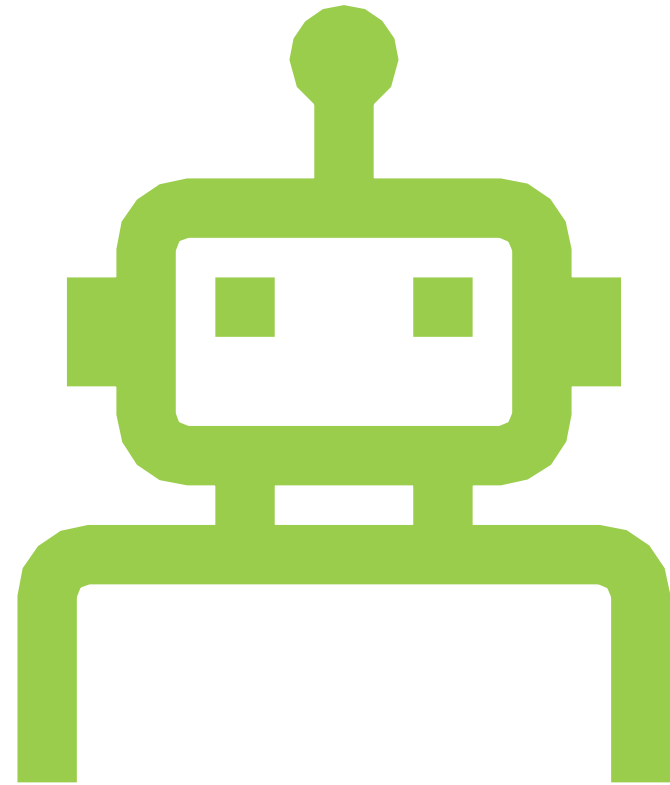
<https://www.theguardian.com/business/2020/feb/20/barclays-using-dystopian-big-brother-tactics-to-spy-on-staff-says-tuc>

- **Uber algorithm:**

<https://www.wired.co.uk/article/uber-fired-algorithm>

OBJECTIVE	IMPACT ON WORK & EMPLOYMENT	CASE
to direct workers	by <i>restricting</i> and <i>recommending</i>	Amazon Mechanical Turk
to evaluate workers	by <i>recording</i> and <i>rating</i>	Amazon Flex Uber
to discipline workers	by <i>replacing (dismissal)</i> and <i>rewarding</i>	Uber Amazon Warehouses: “Anytime Feedback Tool”
to monitor workers	by gathering and analysing personal data (biometrics)	Finance sector: Barclays 2020  UBER: Real-time ID verification

# LET'S MAKE AN EXPERIMENT



## Algorithm on working conditions on supply chain

**Procedure:** QualityWorkingConditions = {WorkingTime + SafetyMeasures + AgeRange + DecentWage}

**ELSE**

**Print:** “unreasonable working conditions”  
and

**Print:** “Payment refused”

# WorkingTime  
# SafetyMeasures  
#AgeRange  
# DecentWage: HourlyPay, GrossPay, HoursPerWeek,  
MaxOvertime



“Trustworthy AI has three components, which should be met throughout the system’s entire life cycle and must be respected in the deployment in the world of work:

it should be lawful, fair, transparent, safe, and secure, complying with all applicable laws and regulations as well as fundamental rights and non-discrimination rules,

it should follow agreed ethical standards, ensuring adherence to EU Fundamental/human rights, equality and other ethical principles and,

it should be robust and sustainable, both from a technical and social perspective since, even with good intentions, AI systems can cause unintentional harm.”

The employer must comply with this as it is legally required by GDPR

Which ethical standards?

ISO

IEEE

HLG-EC

+80

How is ‘sustainability’ assessed? What criteria?

Unions can use the framework agreement + the rule in GDPR:

“Measures to consider: Deployment of AI systems:

should follow the human in control principle;

should be safe, i.e. it should prevent harm. A risk assessment, including opportunities to improve safety and prevent harm such as for human physical integrity, psychological safety, confirmation bias or cognitive fatigue should be undertaken;

should follow the principles of fairness, i.e. ensuring that workers and groups are free from unfair bias and discrimination;

needs to be transparent and explicable with effective oversight. The degree to which explicability is needed is dependent on the context, severity and consequences. Checks will need to be made to prevent erroneous AI output.”

Risk assessment before the tech is introduced with TU involvement

How to assess the bias?

What is “fairness”?

The employer needs to have a model that can explain how a AI decision was made.  
GDPR Art. 22

An abstract graphic on the left side of the slide, consisting of a dark grey vertical band. Overlaid on this band is a complex network of thin, light blue lines that resemble a circuit board or a neural network. These lines branch out horizontally and vertically, ending in small, open circles. The overall effect is a technical, digital aesthetic.

# SECTION 4: RESPECT OF HUMAN DIGNITY AND SURVEILLANCE”

# WHAT IS HUMAN DIGNITY?

## Who defines that?

BTW: It is not a fundamental right in the EU Charter of Fundamental Rights, but it constitutes the basis for them.

Who?

“In situations where AI systems are used in human-resource procedures, such as recruitment, evaluation, promotion and dismissal, performance analysis, transparency needs to be safeguarded through the provision of information. In addition, an affected worker can make a request for human intervention and/or contest the decision along with testing of the AI outcomes.

AI systems should be designed and operated to comply with existing law, including the General Data Protection Regulation (GDPR), guarantee privacy and dignity of the worker”

This is about automated decisions and GDPR Art 22:

Questions to the employer:

- > What software is used?
- > Does it analyse worker's sensitive data?
- > How can workers/ applicants exercise the right to contest the decision? ART. 13-15

The GDPR Art. 35 GDPR “Data protection Impact Assessment – DPIA”

Question to the employer:

Where is the DPIA?

The DPIA is a legal obligation.

The employer must carry it out.

Trade unions must be involved in doing it.

Measures to be considered include:

Enabling workers` representatives to address issues related to data, consent, privacy protection and surveillance.

Train your workers  
reps on GDPR

Always linking the collection of data to a concrete and transparent purpose. Data should not be collected or stored simply because it is possible or for an eventual future undefined purpose.

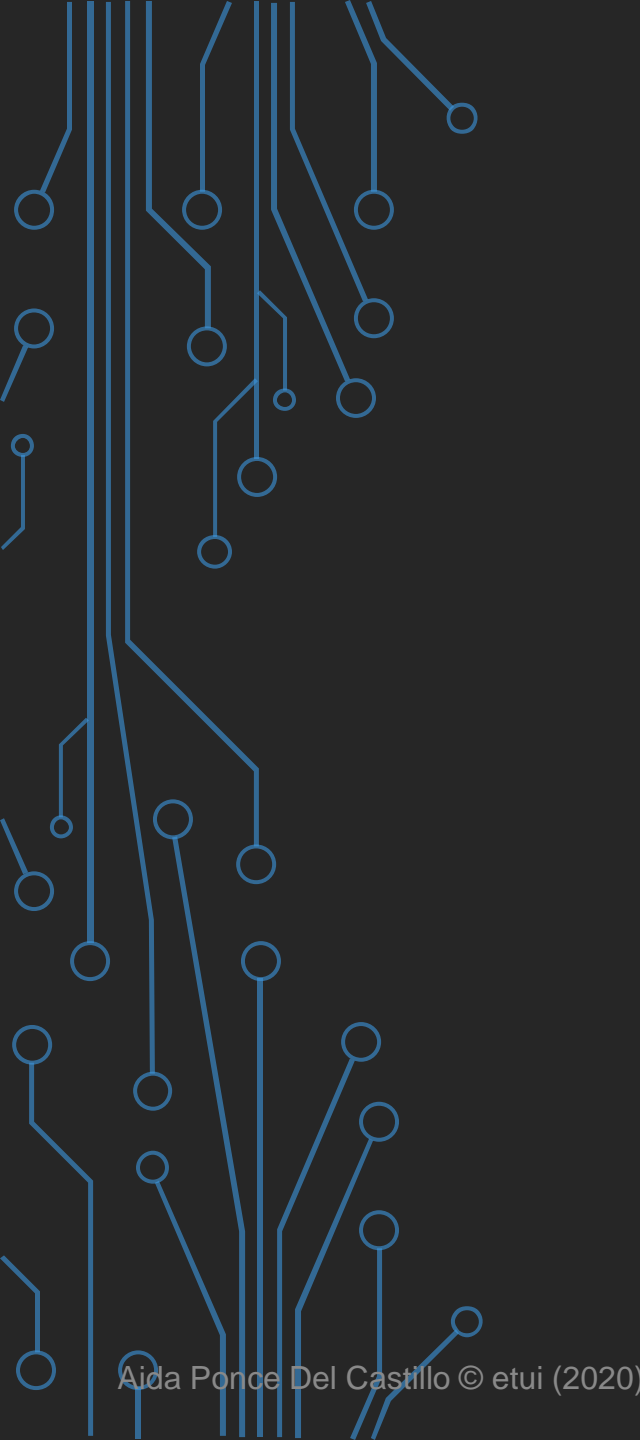
This has legal basis on  
GDPR Art. 5: All  
companies must comply  
with the principles  
relating to processing of  
personal data

Providing workers representatives with facilities and (digital) tools, e.g. digital notice boards, to fulfil their duties in a digital era.

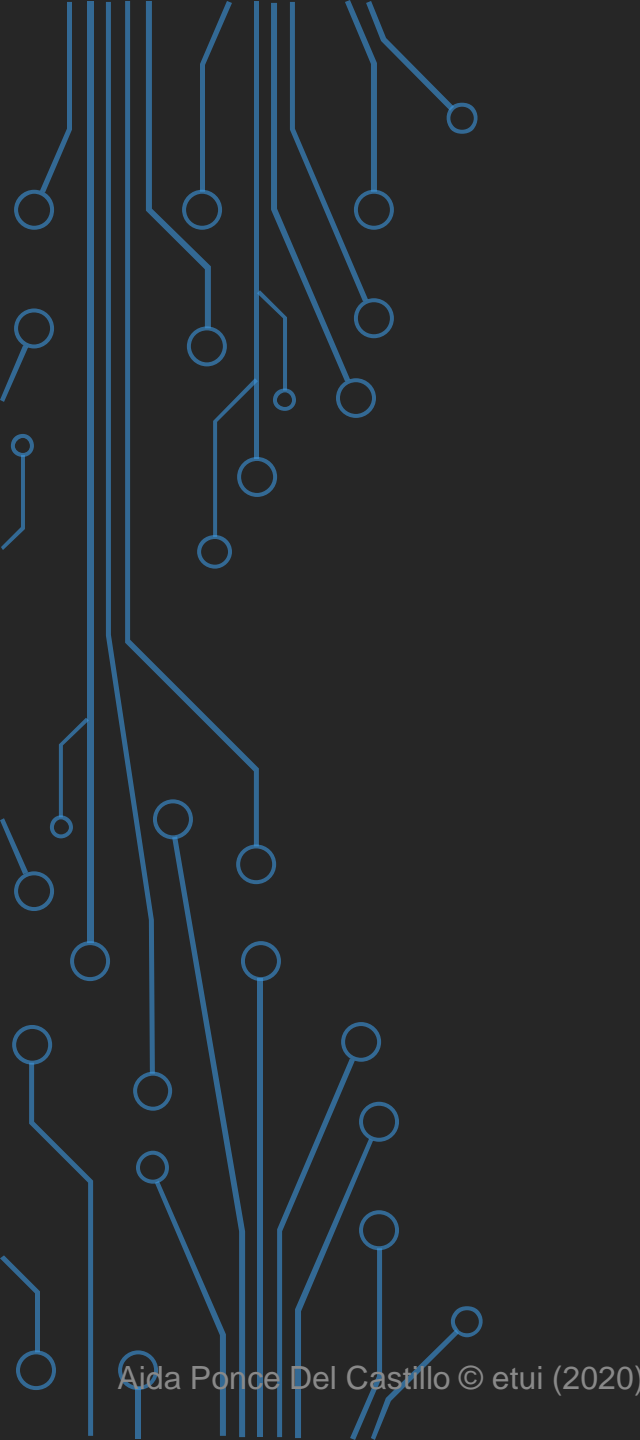
The Data  
Protection  
Officer must a  
union ally

Cross-fertilisation:  
DPOs can learn  
from the union  
reps. and vice  
versa





# KEY ACTIONS FOR TRADE UNIONS

- 
1. Investigate where AI is really used
  2. Collect cases on workplace surveillance
    - what software?
    - what tasks?
    - what personal data is collected?
    - who analyses the data?
    - how can that analysis impact workers?

A decorative graphic on the left side of the slide, consisting of a network of light blue lines and small circles, resembling a circuit board or a neural network, set against a dark grey background.

# ACTION PLANS FOR IMPLEMENTATION MUST INCLUDE 3 DIMENSIONS

On personal data	On the technology	Keep and eye on the European policy 2020-2021
Get trained on GDPR	The TU must be involved in the selection of the technology	<ul style="list-style-type: none"> <li>• EC AI strategy</li> <li>• EC Data strategy</li> <li>• EC Cybersecurity strategy</li> </ul>
The DPO must be ally of trade unions	Safety and technology risk assessments have to be carried out before implementation	
Investigate what personal data of workers is collected	How does the software work?	
Check that there are DPIAs	How is bias managed?	
Check how to exercise “right to explanation”	How to integrate workers views into the technology itself?	
Check how to exercise right to contest an algorithmic decision		
Collect cases of surveillance and contact ETUI		
Look at interesting cases on employment resolved by your National Data Protection Authorities		



## ETUI AI game

**ETUI Education Dept. & Foresight Unit:** 5-year long series of training courses on AI and data until 2023

**Aim: Building 'AI literacy'** through a game for trade unionists using AI as the game driver

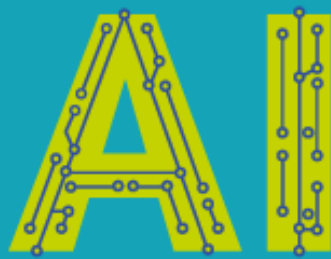
**How?** Negotiate solutions (with different actors) in which AI is a game changer.

**How? (2):** Collect practical cases and situations in which AI and workers rights co-exist.

**Key topics are:**  
Worker's personal data  
Autonomy and decision-making  
Human-machine interaction, bias, etc.

The '**ETUI AI Game**' is coming soon, interested in trying it?  
Contact us.

# Labour in the age of

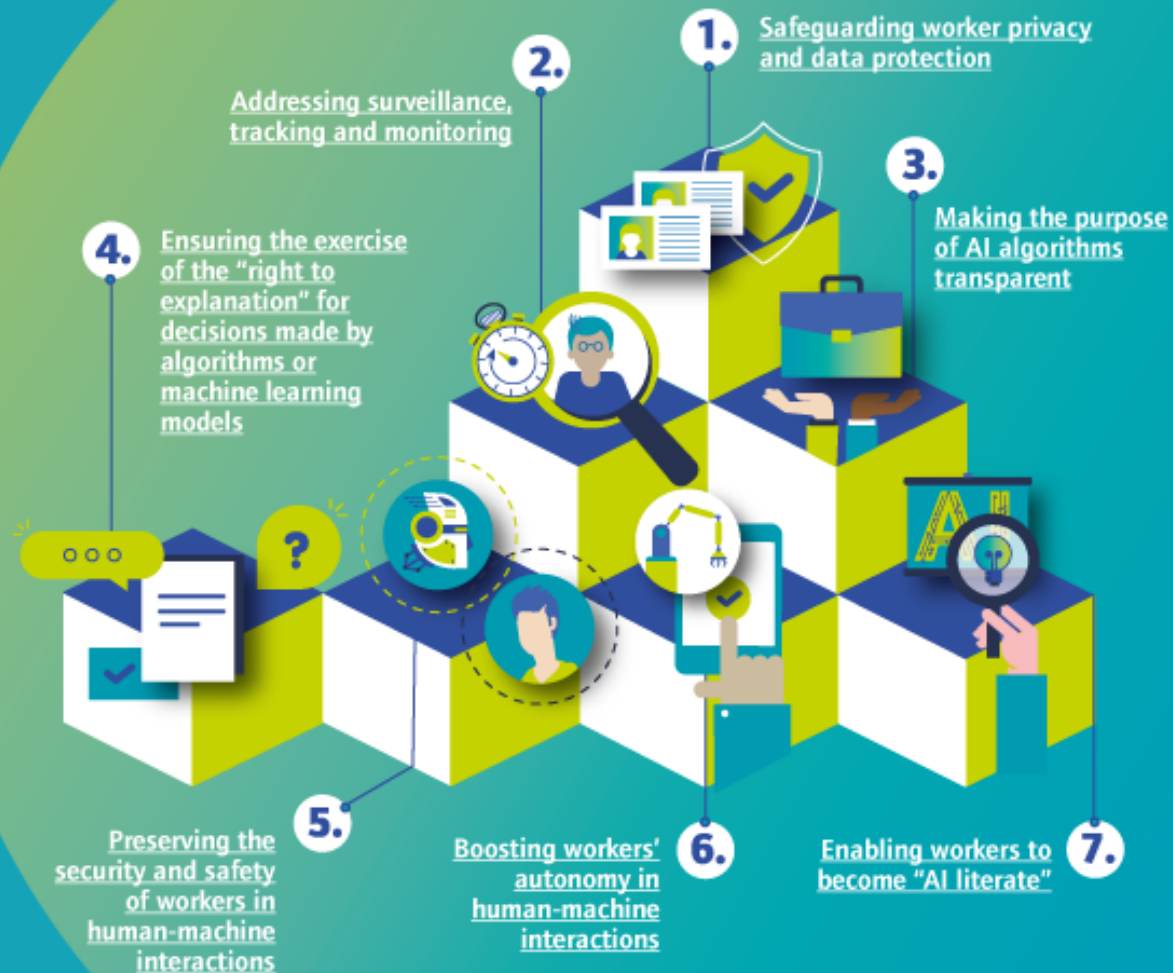


## 7 dimensions that regulation can protect workers

Find out more!

#AI4workers

etui.



# THANK YOU

[aponce@etui.org](mailto:aponce@etui.org)