

EPSU contribution to the Stakeholders' Consultation on Draft AI Ethics Guidelines

Introduction: Rationale and Foresight of the Guidelines

1. EPSU agrees with the ETUC/ETUI that there is a need for strong, consistent, and enforceable regulation on AI and recall some of the main elements of their response.
3. AI is the most disruptive technology that we had in several decades, workers and citizens are worried about their future and how that will impact their life and jobs and that of their children. This concern cannot just be overlooked or disregarded. Experts claim that with AI some jobs will disappear, but other jobs will be created. However the new jobs that will come and those that will go away are not interchangeable. **Re-skilling is not the solution** and it is not going to work for everyone. Protective and redistributive buffers need to be embedded into social protection systems and the labour market globally.
4. Many voices in Europe claim that if we legislate AI then we will lag behind other world super powers (USA and China). This argument ignores the strengths that Europe's values, fundamental rights, and principles (including the precautionary principle) bring to overall social and economic performance.

Chapter I: Respecting Fundamental Rights, Principles and Values - Ethical Purpose

The ethical purpose of the guidelines promotes a **unilateral and voluntary industry-action**. Moreover, it limits Union action. A unilateral approach that relies only on industry is not the right way to do this. We need both sides to be involved: employers and unions. The EC recognises the limits of self-regulation in the proposal for a "*regulation on promoting fairness and transparency for business users of online intermediation services*". Here the EC says clearly "*Limiting Union action to promoting voluntary industry-action and certain accompanying measures is possible but unlikely to be effective, as this would essentially rely on the industry's own incentives and willingness to change the status quo..*"

Respecting ethical values and principles is valuable but **it is unlikely to be effective**, because it will essentially rely on the industry's own incentives and **there is no system to monitor oversight** or to solve issues when values get in conflict with other values.

Chapter II: Realising Trustworthy AI

The selection of the principles looks only to the side of the developers and there **is no mention to the principles of precaution, prevention, solidarity, common good nor distributive justice**.

We need more than code of conducts, declaration of principles and 'private governance' mechanisms, because this is too important to be entrusted to developers, companies and innovators without a sanction system. It is too important to base it in code of conduct and principles that are not enforceable.

Ethical principles are not associated with any sanction system. the relationship risk/reward is so unbalanced, that some actors may decide that it makes financial sense to break or disrespect the principles.

The ETUI has followed the way nanotechnologies have been 'regulated' for the past 10 years, and correctly point out the similarities in that process with the AI 'regulatory' process today. We need not end up with a toothless Observatory of AI, like has been done with nanomaterials. We need proper legislation that can be updated to take account of AI developments, including the General Data Protection Legislation, Product Safety Directive, directive on Liability for Defective Products, Directive on Safety at work, and Medical Devices Regulation.

Chapter III: Assessing Trustworthy AI

What is important is to implement technology through monitoring mechanisms, so values are effectively respected.

Being judge and jury at the same time does not work. Ethical responsibility cannot be left to AI developers. There needs to be an external body to follow developments and to **attribute liability**. "Minimum regulatory standards need to be developed in order to attribute responsibility and liability in cases where the artificial agent has 'learning and teaching' features and is able to exercise unintended outcomes" (Ponce del Castillo, 2017).

An **effective regulatory framework** is ultimately required in order to ensure that artificial agents co-exist harmoniously with humans and that they are specifically designed for, operating according to human values and needs that are themselves dynamic. **Regulators will need to figure out how to manage risks and attribute liability**, particularly as machines increasingly acquire the ability to learn and take independent decisions. Without a legal framework, transparency and trust will not exist, which will be detrimental to everyone, including industry. (Ponce del Castillo, 2018).