

ARTIFICIAL INTELLIGENCE IN THE WORLD OF WORK

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FOREWORD

Following the presentation of the Rifkin study by the Luxembourg government, the LCGB's governing instances decided in 2017 to analyse digitalisation and its potential impact on the world of work and our society, with a focus on the employee and the individual.

On the occasion of the 2019 social elections, the LCGB therefore presented its considerations and demands for humane digitalisation and subsequently published a brochure entitled "Diggi Pack - Digitalisation and Work 4.0". In addition to an overview of the needs and challenges of employees in the face of increasing digitalisation, the LCGB proposed solutions for safeguarding career paths, adapting training and working hours and intensifying co-determination in companies. At the same time, the LCGB has decided to develop and explore the potential of digitalisation in order to adapt the support it provides to its delegates and operational teams and to improve its services for members. The launch of the "YourLCGB" app at the beginning of 2023 is part of this process of digitalisation of the LCGB at the service of its members. In particular, it will enable LCGB members to make an appointment with an Info Centre advisor, receive advice via video conference and follow their ongoing dossiers in real time.

While digitalisation and its consequences are neither a new phenomenon nor a surprise, technological development is advancing in leaps and bounds. In addition to working via digital platforms, artificial intelligence is forcing the LCGB to rethink and adapt its thinking and demands in order to stay one step ahead tomorrow. In this context, the human accompaniment of digitalisation in all its forms will remain the LCGB's motto.



Marco WAGENER LCGB Executive Committee Advisor

1. INTRODUCTION

In advance of the social elections in 2019, the LCGB issued a statement on digitalization and Work 4.0.

The LCGB is not opposed to digitalization, since it offers numerous opportunities for the future, provided that the boundaries set for it are appropriate. For this reason, the action programme adopted on the 27th of March 2021 at the 60th National Congress of the LCGB includes a specific chapter dedicated to digitalization.

Concretely, the LCGB is committed to providing human and social support for digitalization in all its facets. The LCGB's trade union commitment relates specifically to :

- The fight against the growth of a digital chasm through improved training;
- The adjustment of the parameters of labour law to the challenges of working on platforms in order to obviate the risk of making the employees' situation precarious:
- » Protection of employees' privacy;
- » The right of employees to leave service;
- The development of alternative sources of funding for social insurance programmes, whose income has hitherto come almost exclusively from social contributions levied on employees' earned income.

Digitalisation surges ahead with great strides, and the new possibilities which artificial intelligence (AI) brings with it are accompanied by a myriad of both opportunities and challenges.

The size of the market for AI on the European continent is estimated to be over 62 billion Euros in 2023. An annual growth rate of almost 18% is predicted until 2030, which means that the market will triple by 2030!¹ The majority of this growth is based on machine learning.

Especially since the end of 2022, everyone has been talking about the *ChatGPT* application. It is a chatbot which uses artificial intelligence to communicate with users via text-based messages and images. It uses modern machine learning technology to generate answers that sound natural and are relevant to the conversation.

ChatGPT can, among other things, compose texts in the form of business plans, economics, communication, and homework. Even totally banal applications such as a repair manual for bicycle repair or for the assembly of furniture would be possible.

In the meantime, *ChatGPT* has been developed further into *GPT-4* and the program *Dall-E* allows the user to generate images from text descriptions.

Consequently, people working in industrial companies, administrations, publishing houses, law firms, schools, and many other businesses, along with actors and other cultural workers, are very worried about their future. Once again, there are fears that machines will take over human activities and make workers redundant. Even though digitalization has not yet led to these consequences (unemployment is still quite low and the employment rate is very high), there is still a risk that this time it will be different.

The LCGB finds addressing the issue of artificial intelligence an urgent matter. This discussion paper is intended to help the LCGB to conduct in-depth discussions within its trade union structures, to organize a round table to facilitate a first major public debate on the subject and to raise awareness among our political decision-makers.



In this paper we shall describe what artificial intelligence is, how it must be regulated, and how representatives of workers and unions can prevent the dehumanization of the working world that artificial intelligence brings with it.

Artificial intelligence will have an increasing influence on our entire lives. This fact forces a plethora of very serious ethical questions to the surface. We shall also address the topic of artificial intelligence and society, because, as a union, we find that life and the working world aren't to be separated. As in the case of the general digitalisation, LCGB does not speak against the application of artificial intelligence at the workplace. Artificial intelligence can support workers in their activities and help them to their work for themselves and work better for their business. However, there can be situations in which the use of artificial intelligence cannot be allowed. We will also describe these areas.

At the start of our reflections, it is however important to provide an explanation of the term "artificial intelligence".

2. WHAT IS ARTIFICIAL INTELLIGENCE ?

According to the European Commission, the term "artificial intelligence" refers to a system constituted of "software, which has been developed certain techniques and concepts and with respect to a series of objectives which people specify, can produce results like content, predictions, recommendations, or decisions, which influence the surrounding environment, with which it interacts"².

While the EU Commission restricts the definition of AI by requiring it to use specific technologies and applications listed in an appendix, the European Economic and Social Committee (EESC) is in favour of a broader definition: Ac-

cording to the EWSA, it is a "system of artificial intelligence (Al-system), a kind of software, which, with respect to a series of objectives, which are specified by people, can automatically produce results such as content, predictions, recommendations, or decisions, which influence the environment with which they interact"³.

Stated more simply, one can also view AI as a collection of technological building blocks, which allow the machine to execute rational or mental activities, which were previously reserved only to humans.

These include speech and language, facial recognition, robotics, and process automation, along with knowledge optimization through analysis, warnings, and predictions.

Artificial intelligence is also always a prediction based on the processing of a gigantic quantity of data collected previously.

The LCGB is in favour of a broad definition of artificial intelligence to prevent risky Al applications from being enabled due to an overly precise, technology-based definition, as they do not fall under the defined techniques. For the LCGB, Al in the workplace should be what the trade unions and employee representatives deem Al to be.



3. CLASSIFICATION OF AI-SYSTEMS

3.1. Classification according to the European Commission

The Ordinance suggested by the European Commission follows a risk-based approach, in which one distinguishes between applications of Al which constitute either i) an unacceptable risk, ii) a high risk and iii) a limited or minimal risk.

Counted among the **prohibited**, unacceptable practices are all Al-systems which impinge on the rights of the union, for example, basic rights. The prohibitions apply to practices, which have significant potential for manipulating people in that they make use of techniques of subliminal influence of which these persons are not consciously aware, or which exploit the weaknesses of certain groups that need protection such as children or handicapped persons, in order to influence their behaviour so massively, that they themselves or other persons could be psychologically or physically harmed.

The proposal also provides for a ban on the evaluation of social behaviour for general purposes by means of Al by public authorities ("social scoring"). Finally, the use of real-time biometric remote identification systems in publicly accessible areas for law enforcement purposes should be prohibited, with a few exceptions.

The ordinance likewise contains specific regulations for Al-systems, which constitute a **high risk** to the health and safety or the human rights of natural persons.

² Proposal for a Regulation COM(2021) 206 final

³ Comment INT/940 of 22 September 2021

In accord with the risk-based approach, such high-risk Al-systems are allowed on the European market, to the extent that they meet the absolutely prescribed requirements and that a conformity assessment is carried out in advance. The classification as a high-risk Al-system is based on the intended purpose of the Al-systems corresponds to the existing EU-Product Safety Regulations.

These high-risk AI systems likewise include AI-systems used in the framework of employment and personnel management. We will return to this later.

The classification from the EU is however only **one** possible classification. There are also other classifications of the various Al-applications, for example that of the Hans-Böckler-Foundation in Germany.

3.2. The Classification of the Hans-Böckler-Foundation

According to the union-supporting Hans-Boeckler-Foundation, one will distinguish as a rule in AI between several levels of development and/or powers of intelligence. So-called "weak AI" specialises in a single task or area of work e.g. chatbots, digital language assistants, image recognition, recommendation software on shopping platforms on the internet. The term "strong" AI refers to the abilities, which go right along with the independent expansion of the areas of activities up to the development of a consciousness of its own. In this sense, they compete with human thinking and/or exceed human intelligence – and can become a sort of super-AI. In the field of strong AI is currently being intensively researched and developed, but current systems are all to be classified as weak AI⁴.

4. THE ETHICAL PRINCIPLES IN THE APPLICATION OF AI-SYSTEMS

In order to assure security in the use of Al-systems, it is indispensable that a set of principles be established, which prevent artificial intelligence from mutating into something which would be detrimental to the rights and dignity of man.

The following principles were drafted by the Organisation for Economic Cooperation and Development, the OECD⁵, but we find these principles likewise at work of several other organisations.

These principles complement each other and must be viewed as a whole.

They are general and apply to all areas of human life. For us as a trade union, however, it is also important to emphasize that these principles must be applied in the working world and in business enterprises.

a) Integrative Growth, Sustainable Development and Well-Being

All users and stakeholders should proactively advocate for the responsible use of trustworthy Al to achieve positive outcomes for people and the planet. In particular, it should be used to enhance human capabilities and creativity, advance the inclusion of underrepresented populations, reduce economic, social, gender and other inequalities and protect the natural environment as well as to promote inclusive growth, sustainable development, and prosperity.

b)Human-focused Values and Fairness

Al actors, and in particular companies, should respect the rule of law, human rights, and democratic values throughout the lifecycle of any given Al system. These include freedom, dignity and autonomy, privacy and data protection, non-discrimination and equality, diversity, fairness, social justice, and workers' rights.

To this end, Al-actors should introduce mechanisms and protective measures which assure that humans remain in control ultimately.

c) Transparency and Explicability

Al-actors should commit themselves to transparency and responsible disclosure with respect to Al-systems. To this end they should provide authoritative and comprehensible information, which is appropriate to the specific context,

- in order to promote a general understanding of KI-systems,
- to make the parties involved aware of their interactions with AI-systems also in the workplace,
- to enable persons who are affected by an Al-system to understand the consequences of this, and
- » to enable persons effected by an Al-system to dispute the results and do so on the basis of simple and easily understood information about the factors and the logic which are the basis of the prediction, recommendation, or decision.



⁴ Nr. 026 · November 2022 · Hans-Böckler-Stiftung: KI VERSTEHEN, BEWERTEN UND BEGRENZEN (2022) - Portrait über den Einsatz von Systemen der künstlichen Intelligenz bei der IBM Central Holding GmbH, Bettina Seibold und Jonas Grasy ⁵ OECD, Recommendation of the Council on Artificial Intelligence, OECD/LEGAL/0449

Al systems are often a black box whose functions are not understood by the user. This con conceals dangers which must be eliminated through transparency and explicability.

d) Robustness, Security and Protection

Al systems should be robust, secure, and protected throughout their operational lifecycle so that they function as intended in normal use but also under adverse conditions and do not pose an unreasonable safety risk.

To this end, the Al-actors should assure trackability, even with respect to data sets, processes, and decisions which were made during the operational life of the Al system, in order to facilitate an analysis of the results from the Al-system.

Al stakeholders should use a systematic **risk management approach** at all times and at each stage of the Al system operational lifecycle to address risks associated with Al systems, including privacy, digital security, safety, and bias.

It must be ensured that those involved are not only informed when an Al system is introduced, but also during all further developments of the system.

e) Accountability

Al actors should be accountable for the proper functioning of Al systems and for compliance with the principles elucidated above, as determined by their role, the context and in line with the state of the art.

The LCGB notes that the employer is responsible for the health and safety of his employees. This obligation must also be respected and enforced when confronting the harmful effects of AI systems.

5. AI AND THE WORKING WORLD

At first glance, there are few sectors of the economy and areas of activity which, sooner or later, will not make use of the opportunities provided by artificial intelligence. In addition to logistics companies, retail business, transportation and healthcare are among the first areas in which Al could soon take the lead, for example in the intelligent monitoring of a patient's treatment, ordering options and deliveries on demand for customers.

The continuing education of employees and HR work are two concrete examples of work which by their nature rapidly offer accelerated performance through the use of AI. Thus, the adaption of the training rhythm to the employee's skills or automating the recruitment process are among the possibilities offered by algorithms based on AI.

In light of the myriad possible applications of AI, we have to ask the question about the potential impact of AI on our labour relations now. For the LCGB, it is of paramount importance that we ensure that the technological innovation made possible by AI does not bring with it a deterioration of existing social protection or a questioning of fundamental rights.

6. EFFECTS OF AI ON THE LABOUR MARKET AND EMPLOYMENT

In 2013, the two Oxford academic researchers Carl Benedikt FREY and Michael A. OSBORNE published a study called "The Future of Employment". Their study investigated the impact of digitalization on the labour market and came to an alarming conclusion. According to the experts, almost half of all jobs (47% in the USA and 42% in Germany) are at risk of being replaced by automated processes.

This study led to large-scale discussions and additional studies focused on the future of employment and the work of the future. The LCGB also addressed this

⁶ Odoxa, Oktober 2023

issue before the last social elections and wrote its paper on digitalization.

Fortunately, the horror scenario announced by FREY and OSBORNE has not been realized up to now. However, the question arises as to whether the increased use of artificial intelligence will make human activities superfluous in the future and lead to a reduction in employment.



According to a poll taken in France, 43% of employed people fear that Al will render their work at least in part superfluous⁶. According to a study done by Goldman Sachs from March of 2023, 300 million jobs could be threatened by generative Al.



Nevertheless, it hardly makes sense to conduct the debate over artificial intelligence if we are driven by fear and paralyzed by apocalyptic visions of the future. On the contrary, the LCGB advocates confidently confronting the use of artificial intelligence and shaping the further development of digitalization in a spirit of social cooperation.

Human work will continue to have a place of value and dignity in the future and employees have a right to shape the coming structural changes.

7. AI AS AN IMPORTANT TOPIC IN SOCIAL DIALOGUE

As a trade union, the LCGB is committed to social dialog. In the past, our trade union organization has often called for the Tripartite to be convened when the position of the Luxembourg economy, the preservation of jobs, and maintaining purchasing power were at stake.

Because artificial intelligence is going to influence all aspects of our lives and shall have a particular impact on the world of work, the LCGB believes that a broadbased discussion within the structured social dialog is essential. During the presidency of the LCGB, an opinion on the Luxembourg economic, social, and societal model in technological change (Lëtzebuerg 4.0) had already been adopted in the Economic and Social Council (ESC) in 2018.

The ESC also drafted joint statements and proposals with the social partners on teleworking and the right to disconnect. These proposals have been incorporated into legislation.

The LCGB is committed to ensuring that the use of AI systems in the workplace is negotiated in the WSR, but also in other social partnership bodies such as the Comité permanent pour le travail et l'emploi.

Should it so happen that the use of AI leads to displacements in the world of work and job losses, the LCGB will call for the Tripartite to be convened to decide possible solutions.

8. THE ROLE OF TRADE UNIONS

In addition to regulating and restricting Al systems, a more open approach to these tools should also be promoted since they can support employees in their work. Information about the rational and less rational uses of Al as well



as the need for accompanying support are therefore useful.

Among other things, the LCGB will address the new possibilities for surveillance and data protection issues in connection with Al. There are danger zones here where early legislation can prevent unrestricted surveillance.

In the context of employee participation, it is also the role of trade unions to remind corporations that they themselves can very quickly get into difficulties in the course of these transformational technological changes. By using external AI services, companies can rapidly become more dependent on the various providers and lose their decision-making autonomy.

The LCGB is also aware that some occupational groups affected by the use of Al systems are not part of the trade unions' usual clientele. These include platform workers and false self-employed workers. Reaching these people is both an opportunity and a challenge.

9. APPLICATION IN BUSINESS ENTERPRISES

9.1. Risk Assessment

The LCGB is in favour of a risk assessment being carried out before AI systems are used in a company.

One example could be the use of a risk matrix such as the one used by IBM⁷.

This risk matrix encompasses 5 categories:

Category I (No Risk) encompasses Al-systems without behavioural and/or performance controls.

These Al-systems and systems of **Category 2 (Low Risk, e.g. data only go to employees and the relevant manager)** will be assessed and documented on a list in the business operation.

Risk-rich Al-systems (Category 3/ Moderate Risk And Category 4/ High Risk) will be regulated in detail using protocol notes or extensive agreements.

⁷ Nr. 026 · November 2022 · Hans-Böckler-Stiftung: KI VERSTEHEN, BEWERTEN UND BEGRENZEN (2022) - Portrait über den Einsatz von Systemen der künstlichen Intelligenz bei der IBM Central Holding GmbH, Bettina Seibold und Jonas Grasy

High Risk-Al-systems (Category 5/ Very High Risk) absolutely may not be introduced for sake of protecting the employees: these are e.g. systems which autonomously decide on individual HR matters. The Works Council will evaluate the Al based on a structured catalogue of questions which the employer must answer and assign it to one of the five risk categories.

In this respect, the IBM agreement is stricter than the EU regulation. Although the latter also considers the following areas to be high-risk systems in the context of employment and personnel management, it does not outright prohibit them:

- Al systems which are intended for used in the recruitment or selection of natural persons, in particular for advertising vacancies, screening or filtering job applications and evaluating applicants in interviews or tests;
- Al systems that are intended for use in decisions on promotions and terminations of employment contracts, in the assignment of tasks and in the monitoring and evaluation of the performance and behaviour of persons in such employment relationships.

9.2. KI-Profiles or AI-Cards

Another interesting approach to co-determination during the introduction of AI systems are the AI cards that are already used at Siemens⁸. These AI cards are fact sheets that clearly present all the relevant functions and forms of use of an AI application.

They are organised in 3 blocks of questions:

- I. The Ist block contains questions about the use of AI (why?), service providers (who supplies the AI?), services (what is used from the application of AI?), algorithms: Which company provides which service with which algorithm? What data was used to train it? What decision-making level is it used for?
- 2. The 2nd block deals with questions about the application of the AI, the data used, the use of he AI, maturity of the AI and its application.

The summary question in this area is: In what application for what business process will we use which data with which effects on which users/employees?

3. The 3rd block contains more ethical and risk-related questions: key performance indicators, ethical and risk-related considerations, precautions and recommendations, risk assessment, contact details.

This third block of questions can be summarized with the following questions: How is this service audited? On the basis of which key figures? With which risk assessment and which mitigation measures for the associated risks?

Using these 3 blocks of questions, employee representatives and decision-makers in the company can quickly and easily recognize the character of and risk behind certain procedures and applications without detailed technical knowledge and then decide whether the application must be treated and regulated separately - both at the time of introduction and during ongoing use.

9.3. Employee Participation in Luxembourgian Lawmaking

Employee participation in Luxembourgian lawmaking already provides a series of provisions which grant the employee representatives rights to information and consultation.

In smaller businesses the right of the Works Council is restricted to information and consultation.

However, in companies with more than 150 employees, Article L. 414-9 of the Luxembourgian Labour Code stipulates that decisions must be made by mutual consent of the employer and the staff delegation concerning, among other things, the following:

- technical equipment which is supposed to control the behaviour and performance of the employees at their workplaces,
- measures which relate to the health and safety of employees as well as the prevention of occupational diseases,
- criteria for personnel selection in hiring, promoting, transferring, and dismissing employees,
- criteria for employee assessments,
- » teleworking,
- right to shut down.

In view of these existing rights and duties of employee representatives, the LCGB believes that the right to co-determination, and not just information and consultation, should be clearly established for employee representatives when AI systems are used in companies.

The right to worker participation in decisions may not be restricted to large businesses. In light of the possible risks to the employees and their bodily and mental health, this right must also be extended to smaller businesses.

⁸ Nr. 029 · März 2023 · Hans-Böckler-Stiftung: DIE KOMPLEXITÄT VON KI-SYSTEMEN DURCH STECKBRIEFE BEWÄLTI-GEN(2023) - Portrait über den Einsatz sogenannter Al-Cards bei der Siemens AG, Jonas Grasy und Bettina Seibold

9.4. The European Works Council

Among the tasks and rights of the European Works Councils are likewise the rights to information and consultation in the event of significant changes in the organisation or on the introduction of new work procedures or production methods.

But even the general situation and the development of employment within the business must be discussed in the European Works Council, if the use of Al-systems would lead to the elimination of jobs.

The LCGB likewise notes that material relevant to protecting the health and safety of employees is spart of the information which must be communicated to the European Works Council.

10. TRAINING AND CONTINU-ING EDUCATION IN THE AREA OF TECHNOLOGICAL DEVELOPMENT

The use of AI-systems is a challenge for employees and employers.

The LCGB demands the right to training and continuing education in the field of technological development. Employees must be able to understand and use the systems in order to gain the greatest possible benefit for their work.

This education also applies, of course, to employees who have been employed for a long time, as well as to younger people. Young people are often very positive about new digital developments but do not have the impulse to critically question their use and risks.

The point here is to avoid the digital gap in every way it can manifest itself.



11. EXPANDING THE FINANCING MODELL FOR SOCIAL INSURANCE PROVIDERS

Our social insurance is currently only financed by contributions on employees' earned income. The LCGB advocates, in the event that the use of AI-systems leads to a decline in employment, but also to an explosion in corporate profits, for the mandatory introduction of new taxes which support the social insurance system.

The goal here is to prevent work from being replaced by AI systems. Until now, work has been taxed much more heavily than corporate capital. For this reason, incentives to substitute capital for labour, i.e. to automate production processes, must also become less interesting from a tax perspective.

This is by the way, a suggestion made by Carl Benedikt FREY, one of the authors of the above-cited study "The Future of Employment"⁹.

12. CONCLUSION

The LCGB does not argue against the use of AI-systems but does point out the numerous existing risks and the asyet-unknown effects.

The introduction of regulations governing AI is therefore urgently necessary. The planned EU regulation serves as a solid foundation, although it needs to be made more strenuous in some areas. The current legal regime may by no



means be watered down in the interests of the supposed competitiveness of the European digital economy.

In companies, the LCGB is committed to ensuring that the definition, applications, and risks of Al are identified within the framework of joint decision-making between employers and employee representatives.

Al has to remain subordinate to human control. Further, we must never forget that Al is only a set of predictive texts and selected images based on billions of pieces of data that have been collected beforehand. Al cannot therefore reliably make decisions for the future and certainly cannot replace humans in their cognitive, emotional, and creative entirety.

⁹ Interview in der Süddeutschen Zeitung, Ausgabe vom Samstag, 25. November 2023

In view of the considerations outlined in this paper, the LCGB has the following 12 demands:

12 DEMANDS AND SUGGESTIONS FROM THE LCGB ON ARTIFICIAL INTELLIGENCE

The LCGB proposes a **broad definition of AI**. Al cannot be limited to a few isolated technologies. The principle which should apply: Al is, what we think Al is.

The LCGB denounces argument in favour of introducing Al which are based entirely on economics and competition: In all applications, the focus must be on the security of employees.

The LCGB is committed to a broad-based discussion within the framework of the **structured social dialog**, namely in the Economic and Social Council, the Comité permanent du travail et de l'emploi and the Tripartite.

- The LCGB demands, that **AI-systems must be comprehensible to people** (transparency). They cannot be forced to blindly use a black box.
- 5 The LCGB demands, that a **risk assessment** with the participation of the members of the works council be carried before the use of an Al-systems.
- 6 The LCGB advocates a complete **ban on the use of highrisk AI**, especially if such systems are used to monitor, assess and select employees.

7

The LCGB demands a clear definition of the **employer's responsibility** for the use of AI systems. Just as the employer is responsible for the health and safety of employees, it must also be accountable for the harmful effects of AI.

- 8 The LCGB demands an amendment to legislation governing employer-employee joint decision-making: Applications of Al-Systems must be subject to the joint decision of employers and representatives of the employees.
- The LCGB calls for **training and continuing education programmes** in the use of Al systems in the workplace and training in digital skills for both older and younger employees.
- 10 The LCGB demands a just **distribution of the productiv**ity gains, which result from the use of Al.
- 1 In order to counteract a reduction in employment, the LCGB is advocating a **tax on Al applications**. This additional revenue should serve as a new source of funding for social insurance schemes.
- 12 Finally, the LCGB demands it be assured that human action and supervision take precedence in all applications, in accordance with its principle: "Man in the centre".





































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