



Policy Paper

EU REGULATION OF WORKPLACE ALGORITHMS IN THE CZECH REPUBLIC: CLIMBING UP THE INNOVATION LADDER AT THE EXPENSE OF WORKERS?

Klára Votavová

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Introduction

As digitalization and automation progress, new dilemmas about balancing competitiveness and decent working standards emerge in the Czech Republic. For the small, export-oriented country at Europe's economic semi-periphery, successful digital transition is often seen as a proverbial ticket out of the "middle income trap".¹ Uptake of artificial intelligence, the National Strategy on Artificial Intelligence (NAIS) reads, will allow the Czech industry to shed its dependent position in global value chains and reorient itself towards final products and services, while also freeing workers from repetitive and hard tasks, allowing them to concentrate on more qualified, creative and better paid jobs.²

However, the assumption that artificial intelligence uptake is a win-win situation for both employers and employees should be contested. The experience from app delivery and logistic warehouses suggests that rather than AI simply replacing workers at low-quality jobs, freeing them to conduct more qualified and creative professions, it changes the jobs' character: and more often than not, to the worse.³

The so called "algorithmic management", one of AI applications, allows companies to delegate managerial tasks from humans to automated systems. Through phones, scanners, mandatory software and wearables, these systems collect workers' data, analyze and use them to navigate, order tasks, evaluate and provide feedback back to the workers. In practice, this often means forcing workers to perform tasks more efficiently, punishing and even firing them for not doing so fast enough or taking breaks. This kind of management can lead to frustration, insecurity and alienation of workers, who often do not understand why they are

¹ Middle income trap is an economic situation, whereby countries that recently reached middle-income status fail to further catch up with the developed countries. To escape a middle income trap, countries typically have to increase their productivity and innovation output, rather than increasing competitiveness through low wages

² Ministerstvo průmyslu a obchodu (2019): Národní strategie umělé inteligence v České republice

³ European Parliamentary Research Service (2022): AI and digital tools in workplace management and evaluation – An assessment of the EU's legal framework

assigned a specific task, rewarded or punished, and have limited ways to appeal these decisions. Introducing algorithms to the workplace also makes it more difficult to enforce data protection and privacy rights, can frustrate union activities and negatively impact workers' physical and psychological health. What is more, lenient self-employment regulation, which allows companies to hire workers as independent contractors and control their conduct at the same time (a practice known as "švarc system" in the Czech context)⁴, can make it easier to fire workers who do not fulfil the norms of algorithmic management.⁵

Against this background, the EU is stepping up its regulatory efforts vis-à-vis artificial intelligence in the workplace. In 2021, the Commission proposed two relevant legislative proposals, which are currently under negotiation and should enter the triilogue stage in the upcoming semester. These are, specifically, the Artificial Intelligence Act, whose goal is to promote the uptake of "trustworthy" AI in the EU Single Market, and the Directive on improving working conditions in platform work, which aims to improve the working conditions of approximately 28 million Europeans providing their services through digital platforms. Other regulation, including notably the GDPR, already limits ways algorithmic management and specifically personal data collection and processing can be used at workplaces, provided that it is properly understood and enforced.⁶

There is little data of how widespread algorithmic management is in Czech companies, also because this type of management progressively enters more and more workplaces. Approximately 260 thousand Czech employees work in

⁴ „švarc systém“ is a method of false self-employment, whereby a worker conducts dependent work for one specific employer, but is independent according to his contract. Invented in 1990s, it is a very common practice in the Czech Republic, likely concerning hundreds of thousands of workers.

⁵ European Parliamentary Research Service (2022): AI and digital tools in workplace management and evaluation – An assessment of the EU's legal framework; Kellog, K.C., Valentine, M.A., Christin, A. (2020): Algorithms at Work: The new contested terrain of control

⁶ European Parliamentary Research Service (2022): AI and digital tools in workplace management and evaluation – An assessment of the EU's legal framework

transport and logistics, sectors most affected by algorithmic management on the global level.⁷ A study on platformisation of work across Europe from 2019 counted that over 40 % of Czechs have experience offering their services through platforms. Although this number is likely to be hugely inflated, as it includes people who have once simply sold their possessions on eBay, the study importantly highlights that offering work through digital platforms is more prevalent in the Czech Republic and Central Europe than in the Western European countries. “The variable most likely to explain this pattern of national variation appears to be poverty,” the study puts crudely.⁸

As negotiations of new legislation progress, this paper highlights key trends, dilemmas and challenges regarding regulation of workplace artificial intelligence in the Czech Republic. The Czech Republic is emblematic of countries in the EU’s economic semi-periphery, hoping that the ongoing twin transition will allow it to finally “catch up” with its richer counterparts. As the paper claims, this accent on competitiveness and innovations may lead to at least a partial decrease of workers’ rights, as there is usually a trade-off between the two.

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⁷ Český statistický úřad (2023): Průměrný evidenční počet zaměstnanců a průměrné hrubé měsíční mzdy. Retrieved from: https://vdb.czso.cz/vdbvo2/faces/cs/index.jsf?page=vystup-objekt&z=T&f=TABULKA&skupId=3450&katalog=30852&pvo=MZDD920&pvo=MZDD920&evo=v255 ! MZDD-NACE_1&c=v3~8_RP2021

⁸ Huws, U., Spencer, N.H., Coates, M (2019): The platformisation of work in Europe: Highlights from research in 13 European countries

The Czech context: Finally catching up through the AI?

Where the right balance between regulation and innovation is remains far from self-evident. Should workers' rights be protected, even as it can lead to higher unemployment and falling behind other Member States and global powers in terms of technological progress? Or should countries alleviate their companies as much as possible, which can increase precarity and poverty of local workers, fueling also their discontentment with globalization and liberal democracy? The answer to these questions will always be influenced by Member States' economic structure, culture, traditions, ideological mindset and priorities of local policy-makers.

Outside of the EU economic core, in which most capital, innovative and decision making capacities are concentrated, this question is even more complex. Considerations if and how they can "catch up" with the core add another complex layer to the discussions on innovativeness in its relation to workers' rights at the EU (semi)peripheries.

This is also the situation of the Czech Republic. "We are not France," pointed out a government employee in a research interview. As a small, highly industrialized and export-oriented economy, it tries to avoid overregulation that would stifle local businesses.⁹ What is more, the Czech economy – including the dominant automotive industry – is yet to overcome its dependence on lower-added value tasks within the value chain, such as manufacturing.¹⁰ Ways to increase the added value of local industry and labor productivity through innovation are continuously pursued, with mixed results. As the 2022 European Commission Innovation Scoreboard shows, the Czech Republic has an above average number of home-

⁹ Interview with employees of the Czech government's digital unit, 26. 1. 2023

¹⁰ Pellényi, G.M. (2020): The Role of Central & Eastern Europe in Global Value Chains: Evidence from Occupation-Level Employment Data

grown innovators, but is lagging in tertiary education, life-long learning and public research and development expenditures.¹¹

As such, the country is particularly prone to deepening inequality between skilled and low-skilled workers as digitalization and automation progress. The 2019 NAIS strategy lists deepening problems in socially excluded regions, rising inequality and discrimination and higher unemployment among potential risks of the ongoing digital transformation.¹²

The Czech “catch up” strategy with the EU economic core has so far been

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conducted through tight integration into the EU and global value chains. As critics of this type of integration point out, this approach has often disregarded local working conditions, chasing competitiveness through low wages and low labor protection, rather than by investing into innovation and workforce.¹³ They also argue that this strategy has already fulfilled its potential: As foreign investors and their money entered Central Europe in the first 20 years of post-communist transformation, wages in the region did improve considerably. However, after 2008 crisis this convergence of wages (though not of HDP/capita) in

Central Europe slowed down, leaving the region in need of another prosperity strategy.¹⁴

¹¹ European Commission (2022): European Innovation Scoreboard 2022 – Czechia country profile

¹² Ministerstvo průmyslu a obchodu (2019): Národní strategie umělé inteligence v České republice

¹³ László Andór (2022): Europe’s social integration: Welfare models and economic transformations. Chapter Eastern Imbalance

¹⁴ Pellényi, G.M. (2020): The Role of Central & Eastern Europe in Global Value Chains: Evidence from Occupation-Level Employment Data; Galgóczi, B. (2017): Wage convergence in Europe has reversed since the crisis: socially unjust and economically damaging. Retrieved from: https://medium.com/@ETUI_org/wage-convergence-in-europe-has-reversed-since-the-crisis-socially-unjust-and-economically-damaging-1fa8e9877c4

Against this background, the ongoing digital transformation is widely perceived as an opportunity for countries outside the EU economic core to improve their position within global value chains. In the Czech Republic, these hopes are clearly tied to artificial intelligence. According to the NAIS strategy, uptake of disruptive digital technologies by Czech companies, ideally “more quickly than by the competition”, is a way for the country to shed its dependent position in global value chains.¹⁵ “Both the countries have ambitions to use artificial intelligence to accelerate development, and thus make up the technological and economic gap that separates them from the rest of Western Europe,” reads Aspen Institute report on artificial intelligence in the Czech Republic and Poland.¹⁶

These ambitions are also confirmed in other Czech strategic documents. The program statement of the current government highlights the need for the Czech Republic to become an “innovation leader” through new digital technologies. Any adversarial effects of digitalization and automation at the workplace are to be addressed through reskilling of the workforce.¹⁷ Similarly, the Czech 2022 Council presidency highlighted rapid digitalization and frictionless digital single market as means to increase competitiveness and resilience of the EU industry.¹⁸

The NAIS strategy does notably involve a list of short-term and long-term measures that should prevent shocks to the Czech labor market and social system. The measures include “proposing changes to social and retirement systems in light of technological changes”, “exploring the possibility to shorten workweek in some parts of the working life” or “preventing the spread of precarious work.”¹⁹

¹⁵ Ministerstvo průmyslu a obchodu (2019): Národní strategie umělé inteligence v České republice

¹⁶ The Aspen Institute, Centre for International Relations (2020): Artificial intelligence in the public and private sectors in Poland and the Czech Republic

¹⁷ Vláda České republiky (2022): Programové prohlášení vlády. Retrieved from: https://www.vlada.cz/cz/programove-prohlaseni-vlady-193547/#prumysl_a_obchod

¹⁸ Vláda České republiky (2022): Program českého předsednictví. Retrieved from: <https://czech-presidency.consilium.europa.eu/cs/program/program-ceskeho-predsednictvi/>

¹⁹ Ministerstvo průmyslu a obchodu (2019): Národní strategie umělé inteligence v České republice

However, as it was also confirmed by the government employee, these measures are really broad and would require a larger reassessment of Czech labor and social security system.²⁰ As such, not much work has been done since 2019 to actually follow up on these measures.

Weak state, uninformed unions

Risks of this emphasis on rapid innovation and AI uptake in the Czech Republic as a way out of the middle income trap can be well illustrated on the case of Czech online supermarket Rohlík.cz. The company is one of the few country's business unicorns: a private startup company valued at over 1 billion dollars. It has successfully expanded from the Czech Republic to Hungary, Austria and Germany and plans to expand even further.²¹ Rohlík can be viewed as an example how an innovative business headquartered in Prague can thrive and create high added value and better jobs – in research, development, design, and marketing – in Central Europe.

There is nevertheless a caveat to this success: working conditions of both Rohlík couriers and warehouse workers have been described as subpar: as typical platform workers, they are ordered around by their scanners and phones, constantly evaluated, while not getting the standard employment contract and social benefits from the company.²² Interestingly, the company offers much better conditions to workers in Germany, likely because labor law is enforced more

²⁰ Interview with employees of the Czech government's digital unit, 26. 1. 2023

²¹ ČTK (2022): Famózní rok Rohlíku. Exxpandoval do Německa a zýšil obrat na 12 miliard. Retrieved from: <https://www.newstream.cz/zpravy-z-firem/famozni-rok-rohliku-expandoval-do-nemecka-a-zvysil-obrat-na-12-miliard>

²² Šplíchal, P. (2022): Únava, bouračky a stálý dohled. Podle Čupra je ale 99 procent kurýrů Rohlíku spokojených. Retrieved from: <https://a2larm.cz/2022/01/unava-bouracky-a-staly-dohled-podle-cupra-je-ale-99-procent-kuryru-rohliku-spokojenych/>; Vasina, O., Votavová, K., Čeplová, E. (2022): Pracovníci Rohlíku nejsou lidé, ale bioroboti, tvrdí bývalý ukrajinský skladník. Retrieved at: <https://www.voxpot.cz/pracovnici-rohliku-nejsou-lide-ale-bioroboti-tvrdi-byvaly-ukrajinsky-skladnik/>

tightly there than in the Czech Republic.²³ After some unfavorable media attention to Rohlík, the labor inspectorate did in the end investigate conditions in Rohlík, concluding the couriers work under a Švarc system. The company consequently contested this.²⁴

The example of Rohlík shows it is far from clear whether Czech public authorities and trade unions will be able to protect workers' rights guaranteed in existing and upcoming EU legislation, especially as AI is increasingly rolled out into the workplace. This is in line with broader concerns about legislation enforcement of regulation across the EU, where low financial and human capacities of national labor inspectorates, data protection authorities and other bodies are often an issue.²⁵

In the cases of digital regulation – including acts such as DSA, DMA, and GDPR – Czech authorities often cannot agree who should be the enforcer, all of them citing their insufficient capacities.²⁶ Similarly, controls and powers of labor inspectorates in the Czech Republic have been long been deemed insufficient.²⁷ Consequently, breaches to the labor code remain common in low-paid jobs in the Czech Republic, as it was very well documented in the Limits of Work/Heroes of Capitalist Labor documentary and articles.²⁸ If even rather straight-forward rules such as these on working time is difficult to enforce, what will the inspectors do when they are

²³ Janečková, M. (2022): V Německu na smlouvu, v Česku na fakturu. Rohlík má u soused jinou politiku zaměstnávání kurýrů než doma. Retrieved from: <https://denikn.cz/791751/v-nemecku-na-smlouvu-v-cesku-na-fakturu-rohlik-ma-u-sousedu-jinou-politiku-zamestnavani-kuryru-nez-doma/?ref=list>

²⁴ Janečková, M. (2022): Rohlík jede na švarcsystému, píšou inspektoři. Jejich závěry jsou plně chyb a nedávají smysl, reaguje firma. Retrieved at: <https://denikn.cz/917752/rohlik-jede-na-svarcystemu-pisi-inspektori-jejich-zavery-jsou-plne-chyb-a-nedavaji-smysl-reaguje-firma/>

²⁵ European Parliamentary Research Service (2022): AI and digital tools in workplace management and evaluation – An assessment of the EU's legal framework

²⁶; Interview with employees of the Czech government's digital unit, 26. 1. 2023

²⁷ Homfray, Š. (2021): Kontroly ukazují na neúctu k zákoníku práce i právům zaměstnanců. Retrieved at: <https://a2larm.cz/2021/07/kontroly-ukazuji-na-neuctu-k-zakoniku-prace-i-pravum-zamestnancu/>; Uhlová, S. (2021): Proč má inspekce práce problémy zjišťovat porušování zákoníku práce. Retrieved from: <https://a2larm.cz/2021/07/proc-ma-inspekce-prace-problemy-zjistovat-porusovani-zakoniku-prace/>

²⁸ Political Critique (2017) : The Heroes of Capitalist Labor. Retrieved from: <https://dokweb.net/database/films/synopsis/ca10bbec-39a9-4bee-a3f6-a7713c4e4448/the-limits-of-work>

tasked to oversee whether algorithms are sufficiently fair and transparent to workers?

Another important player that could theoretically lobby for workers' interest as AI is deployed to the workplace is the trade unions. An example of this is the joint action of Amazon workers demanding the tech giant provides them with information on how it processes their personal data under GDPR²⁹ or the Gorajski case in Amazon in Poland, where courts invalidated Amazon's termination of a worker's contract for not fulfilling the company's norms.³⁰ The GDPR framework has nevertheless been rather underused by trade unions to protect workers' rights in the EU so far³¹, as it is certainly the case of the Czech Republic.

Trade unions were largely discredited in the eyes of Czechs during the previous state socialist regime and have not managed to clean themselves in the eyes of the public so far. Additionally, in line with broader global trends, work is becoming more atomized and precarious in the Czech Republic, leading to decrease in both union membership and collective agreement coverage. Only every tenth Czech employee is a member of the trade unions³² and the legal framework does not allow self-employed workers to become members. Furthermore, individual trade unions in the country are often not informed enough about rights provided to them by the current EU law, including GDPR, and it is questionable whether they

“Trade unions were largely discredited in the eyes of Czechs during the previous state socialist regime and have not managed to clean themselves in the eyes of the public so far.”

²⁹ Uni Global Union (2022): Under the GDPR, Amazon workers demand data transparency. Retrieved from: https://uniglobalunion.org/news/gdpr_amazon/

³⁰ Votavová, K. (2021): In Central Europe, concern over toll, fairness of Amazon algorithms. Retrieved from: <https://balkaninsight.com/2021/09/13/in-central-europe-concern-over-toll-fairness-of-amazon-algorithms/>

³¹ European Parliamentary Research Service (2022): AI and digital tools in workplace management and evaluation – An assessment of the EU's legal framework

³² OECD (2023): Trade union dataset. Retrieved from: <https://stats.oecd.org/Index.aspx?DataSetCode=TUD>; European Commission (2020): Impact Assessment for the Proposal for a Directive on adequate minimum wages in the European union

will be able to understand and enforce their rights stemming from the upcoming legislation.³³ What is more, Czech trade unions do not take part in discussions and working groups on digital regulation to the extent their counterparts from business associations do, further tipping the competitiveness vs. workers' rights balance onto the competitiveness side.³⁴

To summarize, enforcement is the key challenge in regulating workplace algorithms in the Czech Republic, probably to an even larger extent than in other EU countries. A clear guidance on how existing and upcoming regulation on algorithmic management should be enforced, as well as strengthening capacities of labor inspectorates and data protection offices, are therefore especially important in the country. An active role of Czech unions in the legislative process, collective bargaining and in front of courts is also key to empower Czech workers as AI is deployed at workplaces.

New EU regulation: Fit for the Czech Republic?

As already mentioned, there are two pieces of legislation relevant for algorithmic management currently in the negotiation process: For the Artificial Intelligence Act, the Council has already agreed on its triilogue negotiating position, but the European Parliament has not. For the Directive on improving working conditions in platform work, the Council is yet to agree on the position, and the European Parliament votes for it on the 2nd February this year. Both these proposals should nevertheless enter the triilogue phase in the coming months.

These legislative proposals contain several important provisions that could aid workers' position when negotiating with firms on algorithmic management. These are notably:

³³ Votavová, K. (2021): In Central Europe, concern over toll, fairness of Amazon algorithms. Retrieved from: <https://balkaninsight.com/2021/09/13/in-central-europe-concern-over-toll-fairness-of-amazon-algorithms/>

³⁴ Interview with employees of the Czech government's digital unit, 26. 1. 2023

Directive on improving working conditions in platform work³⁵

- Criteria according to which a worker should be presumed to be an employee of a platform, rather than an independent contractor;
- The workers' right to be informed of the fact an automated monitoring system is used and of the main parameters the system takes into account when deciding to restrict, suspend or terminate his account;
- The workers' right for explanations and appeal of platforms' decision and for access to human operators;
- Explicit ban to use workers' personal data beyond what is strictly necessary for the performance of a contract, ban on collection of sensitive data (emotions, psychological state, health);
- The workers' right to inform and consult with platform workers' representatives before substantial changes in automated monitoring systems occur;
- Obligation for the platforms to evaluate health and safety risks, including psychosocial ones, of the automated decision making system;
- Obligation for the platforms to provide information to labor protection authorities about number of persons employed through a platform and their terms and conditions

Regulation laying down harmonised rules on artificial intelligence (Artificial Intelligence Act)³⁶

³⁵ European Commission (2021): Proposal for a directive on improving working conditions in platform work

³⁶ European Commission (2021)? Proposal for a regulation laying down harmonized rules on artificial intelligence (Artificial Intelligence Act)

Artificial intelligence systems used in employment and workers management are deemed to be a high risk system under this Act, and as such, they need to pass the following criteria to be deemed trustworthy:

- The developers of AI shall put into place a risk management system, where they identify, analyse and try to mitigate possible risks throughout the system's lifecycle;
- The developers of AI shall put into place a trustworthy governance of training, validation and testing data;
- The developers of AI shall design the systems so that they are appropriately accurate, robust and secure;
- The AI systems shall be overseen by humans in order to mitigate risks;
- The developers of AI shall ensure systems' transparency towards users, so that they can understand the system's output. Among others, the information shall contain identity and contact details of the developers, information on the intended purpose, the level of accuracy, robustness and cybersecurity of data and human oversight measures.

For proper understanding of this legislation, it is important to highlight somewhat different aims of these proposals.

The AI Act's primary aim is to facilitate the uptake of AI across the Single Market. As such, the Act has been criticized for not protecting workers' rights against algorithmic management to the same extent as the directive does. Under the current proposals, a worker in a warehouse managed through algorithms would not have the same rights to information, consultation, personal data protection or appeal as his/her counterpart working through a platform. The Act has also been criticized for not involving third parties in the obligatory risk management assessment (though this may change in upcoming European Parliament

amendments to the Act³⁷) and for essentially setting a regulatory ceiling to workplace regulation. Basing this Act on article 114 of TFEU, whose aim is to harmonise rules in the Single Market, effectively means that once the Act is in force, Member States would have to notify the Commission if they want to introduce additional rules on algorithms at the workplace.³⁸

In turn, the platform work directive is more ambitious on workers' rights, as it is its primary aim to protect them. It nevertheless still could be more ambitious: for instance, it could outright ban some practices such as permanent termination of workers' accounts and provide more clarity on how workers can defend their rights for personal data processing at courts – something that has already proved challenging under GDPR.³⁹

It is worth noting that the interplay between innovativeness and workers' rights protection figures in discussions about these two pieces of legislation as well. The Artificial Intelligence Act is based on the presumption that the uptake of AI is essentially a good thing, sidelining concerns about workers' rights in order to facilitate its spread across the Single Market. Because it is part of Single Market legislation, it is also easier for the Commission to justify its action on the EU level. Contrarily, the primary concern of the directive of platform workers is social, which inherently fuels questions about subsidiarity and proportionality of the EU action.⁴⁰ Here again, the social dimension and powers of the EU prove to be somewhat weaker than the market ones.

³⁷ Bertuzzi, L. (2023) : AI Act : MEPs want fundamental rights assessments, obligations for high-risk users. Retrieved from: <https://www.euractiv.com/section/artificial-intelligence/news/ai-act-meps-want-fundamental-rights-assessments-obligations-for-high-risk-users/>

³⁸ European Parliamentary Research Service (2022): AI and digital tools in workplace management and evaluation – An assessment of the EU's legal framework

³⁹ European Parliamentary Research Service (2022): AI and digital tools in workplace management and evaluation – An assessment of the EU's legal framework; Ponce Del Castillo, A., Naranjo, D. (2022): ETUI Policy Brief: Regulating algorithmic management

⁴⁰ Politico (2023): A wonk's guide to the Swedish EU presidency policy agenda. Retrieved from: <https://www.politico.eu/article/wonk-guide-sweden-eu-presidency-policy-agenda/>; Business Europe (2022): Commission proposal for a directive on improving working conditions in platform work. Retrieved from:

Zooming in on the Czech Republic, the interplay between these two acts is a telling example of how the current Czech government, dominated by right and center-right parties, threads the balance between innovation and workers' rights protection. During its 2022 Council Presidency, the country was leading Council negotiations of general approaches of both these proposals. For the Artificial Intelligence Act the general approach was successfully concluded in December 2022 and has been consequently highlighted as one the Presidency's key accomplishments.⁴¹ But for the more socially oriented platform work directive, the Presidency failed to reach the approach and was even criticized by several Member States and the European Commission for being too lenient vis-à-vis the online platforms in its compromise proposals.⁴²

What is likely to happen once this legislation enters into force in the Czech Republic? Notably, the platform directive will enter a space where false self-employment is a rather common practice in areas far outreaching platform workers, and where the current government has further incentivized workers and companies to engage in this behavior through its recent tax reforms.⁴³ The final set of criteria

“The new EU regulation on algorithmic management will certainly be useful, at least as an instrument workers can use in collective bargaining and in front of courts, when they have capacities to do so.”

<https://www.businesseurope.eu/publications/commission-proposal-directive-improving-working-conditions-platform-work-0>

⁴¹ České předsednictví v Radě Evropské unie (2022): Rada pro dopravu, telekomunikace a energetiku. Retrieved from: <https://czech-presidency.consilium.europa.eu/cs/program/vysledky-ceskeho-predsednictvi-v-rade-eu-puvodni-korenova-stranka/rada-pro-dopravu-telekomunikace-a-energetiku/>

⁴² Bourgerie-Gonse, T. (2022): EU Commissioner: Council should revert to platform workers' directive original text. Retrieved from: <https://www.euractiv.com/section/gig-economy/interview/eu-commissioner-council-should-revert-to-platform-workers-directive-original-text/>, <https://www.euractiv.com/section/sharing-economy/news/eight-eu-countries-push-back-against-stricter-conditions-for-platform-workers-status/>

Bourgerie-Gonse, T. (2022): Eight EU countries push back against stricter conditions for platform workers' status. Retrieved from: <https://www.euractiv.com/section/sharing-economy/news/czech-presidency-pushes-for-general-approach-on-platform-worker-directive/>

⁴³ Hovorková, K. (2022): Reforma paušální daně nahřává švarcsystému. Zaměstnanci přijdou zkrátka, míní experti. Retrieved from: <https://zpravy.aktualne.cz/ekonomika/nova-podoba-pausalni-dane-podpori-svarcysystem-varuji-odborni/r~885d3b42f15811ec9ae20cc47ab5f122/>

determining how platform workers' are classified in the directive may in turn either legitimize, or further question this status quo. Paradoxically, regarding the employment status, Czech platform workers may even start to enjoy some protections other groups of workers do not have.

As for algorithmic management clauses, the outlined problem of enforcement is a very real concern. It is unclear whether the Czech labor inspectorates and the data protection office will be able to ensure compliance with the often technical provisions of the AI Act and platform work directive, if they are often unable to enforce even much simpler legislation, such as that on working time. The same is unclear about local trade unions, who still lack members, trust and are in general rather inactive in discussions on digital issues. Another problem is the lack knowledge of rights by workers, who are consequently unable to claim them in collective bargaining and in front of courts. Transparency alone, which forms the cornerstone of both the AI Act and platform work directive, unfortunately does not mean workers will understand how algorithms operate and will be able to react on it.

As such, the new EU regulation on algorithmic management will certainly be useful, at least as an instrument workers can use in collective bargaining and in front of courts, when they have capacities to do so. However, without being allocated proper resources to enforce the upcoming legislation, which is unlikely to happen under the current right wing, indebted, and austerity oriented government, the enforcement problem is likely to even increase in the Czech Republic.

Conclusion and recommendations

The goal of this policy paper was to highlight key trends, dilemmas and challenges regarding regulation of workplace artificial intelligence in the Czech Republic.

While local strategies and policy makers often claim that they want to both increase competitiveness through artificial intelligence and protect citizens' and workers' rights,⁴⁴ this paper argues that there is usually a trade-off between competitiveness and innovativeness on the one hand and workers' rights protection on the other.

What is more, countries at the EU (semi)peripheries like the Czech Republic find themselves in an especially delicate position when trying to strike the right balance between competitiveness and rights protection. It is understandable that such a country will try to use the upcoming digital transformation to increase its competitiveness and catch up with the EU core economies. However, unless such strategy explicitly minds the risks the transformation can bring to workers and attempts to address them, it is likely to fall into an existing pattern; competitiveness will be increased at the expense of workers. The resulting discontentment with people's economic and labor situation will, in turn, further fuel their discontentment with liberal democracy, globalization and the EU itself.

Naturally, artificial intelligence does not have to always be detrimental to the workers. It can also be designed to help them. There is also a clear distinction between qualified and non-qualified jobs related to artificial intelligence. While qualified professionals can use or even design AI to collect better data, gain new insights and attain their goals more efficiently, non-qualified workers under algorithmic management usually do not understand how the AI systems operate, work completely on their whim and lose the last shred of work autonomy and even skill. If the Czech Republic wants to use artificial intelligence to lead workers into more creative and fulfilling jobs, reskilling them so they can use AI more creatively and autonomously is indeed necessary.

⁴⁴ Ministerstvo průmyslu a obchodu (2019): Národní strategie umělé inteligence v České republice

The paper also highlights that enforcement of already existing workplace regulations is already challenging in the Czech Republic. Provided that capacities of local labor inspectorates, DPA and also trade unions are not strengthened, this enforcement challenge will likely further deepen in Czechia as the highly technical new regulation on algorithmic management – AI Act and the directive on platform work – enter into force.

To avoid that AI deployment to the workplaces deteriorates working conditions in Czech Republic and beyond, following steps are recommended:

The EU institutions

- Make sure both existing and new rules on algorithmic management (stemming from GDPR, AI Act, directive on platform work) are well understandable to local labor inspectorates, DPAs, trade unions and workers and consequently enforceable;
- Ensure the new legislation is in line with already existing EU regulation and that it does not create a regulatory ceiling for further national rules on algorithmic management;
- Acknowledge that AI deployment to the workplaces is a risk, rather than opportunity to most workers and reflect this in relevant proposals, including in the Artificial Intelligence Act;
- Prompt Member States to properly fund and staff enforcement authorities, including labor inspectorates and DPAs.

Czech government

- In the upcoming review of the NAIS strategy, acknowledge that AI deployment to the workplace threatens to deteriorate working conditions, especially in low-qualified jobs. In line with the proclamations on “human-

centric AI”, consider this risk more thoroughly when enacting new EU and national laws and try to mitigate it;

- In the upcoming review of the NAIS strategy, set narrower goals when trying to manage labor and social shocks induced by automation and digitalization, but try to actually fulfill them;
- Make sure labor inspectorates, data protection office and other authorities have sufficient capacities to enforce existing and upcoming labor law legislation, including the one on algorithmic management.

Czech trade unions

- Launch a campaign to inform members and other employees on rights guaranteed to them by existing and upcoming EU legislation, prompting them to claim these rights in collective bargaining and in front of courts;
- Encourage Czech trade unionists to participate in EU wide initiatives challenging firms’ lack of compliance with GDPR requirements in front of courts;
- Take a more active part in discussions about the future of work, including within the legislative process.

About the author

Klára Votavová is a European Studies graduate from Masaryk University in Brno and Maastricht University in the Netherlands. After completing several internships in the EU institutions, she worked in the Czech public service for over four years. There, she took part in preparations for the Czech EU Council Presidency in 2022. She cooperates with several Czech media outlets as a reporter and commentator, among others, she wrote articles on working conditions in the Czech and Polish Amazon. In her research, Klára focuses mainly on the social implications of the EU policies, including digitalization and decarbonization, EU social policies, and inequalities between EU states and regions.

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