WORK STREAM 3: ALGORITHMIC TRANSPARENCY ROUNDTABLE 2 | MINUTES

DATE & TIME: August 18, 2021 | 16.00 - 17.00 CET

PRESENT: *(alphabetically listed)*

Alok Alström, AppJobs
Branka Anđelković, Public Policy Research Center
David Espinosa, UNI Europa
Dimitris Theodorakis, UNI Europa
Ignacio Doreste, ETUC
Ionut-Aurelian Lacusta, Glovo

Jelena Šapić, Reshaping Work
Jovana Karanović, Reshaping Work
Rui Melo da Silvia Ferreira, Zurich Insurance
Sebastian Köhler, Delivery Hero
Tanja Jakobi, Public Policy Research Center
Zachary Kilhoffer, Researcher
Zeinah Anaïs Mugdadi, Uber

ABSENT:

Bertan Baytekin, AppJobs
Christian Poppe, Delivery Hero
Lizeth Tijssen, Zurich Insurance

Magali Gurman, Glovo
Olivia Blanchard, Digital Future Society
Silvia Rainone, ETUI

AGENDA:

➤ **PROJECT UPDATES:**
  o August edition of <u>tailor-made monthly policy briefing</u> sent on August 10
  o Expert Lecture by <u>Ivana Bartoletti</u>, Technical Director Privacy, Deloitte and Visiting Policy Fellow at the University of Oxford, will take place on September 22 (16:00 – 16:30 CET). The meeting will last 30 minutes longer than usual
  o Future of Work Conference (September 10, 2021): agenda and speakers list available on the <u>website</u>
  o To use conference tickets, it is necessary to register via <u>this link</u> by entering the code sent to you via email. The tickets can be shared internally within the organization or externally with your business acquaintances, policy makers (both local and national), and workers
  o Networking drinks will take place at Smart Coop (Rue Coenraets 72, 1060 Saint-Gilles, Brussels) on September 10 from 17:30 to 19:30 CET, unless there is some drastic change in regulations. Tickets are available <u>here</u>

▶ **DISCUSSION TOPIC 1: TRANSPARENT, EXPLAINABLE ALGORITHMS AND PROCESSES**

Transparency is still developing as a principle of algorithms; it is more than simply disclosing the technical details of how algorithms work. Some researchers have worked on architectures to be more explainable, fair, and trustworthy in the context of crowdwork, including, for example, a human manager in the loop. It is still needed to acquire knowledge on how people develop, deploy, and monitor algorithms. In this regard, the fairness of algorithms, and their impacts on workers, is contingent on responsible practices of companies. Some of the key questions include whether companies perceive greater transparency as a threat to their competitiveness in using algorithms; whether such transparency could be a barrier to protecting workers' rights.

▶ Due to a broad definition on AI, sometimes it is unclear whether transparency refers to data usage and processing or whether it is revealing the source code of algorithms. In this sense, stronger cooperation and **better understanding between data science, public affairs, and workers' representatives** is needed.

▶ In ETUC's point of view, information sharing about algorithmic transparency should be achieved through a **dialogue on working conditions** (for example, information and consultation mechanisms) between companies and workers' representatives. Some of the topics that could be subject of such a dialogue include how the tasks are allocated, how rankings are achieved, how the wages are calculated, and how the schedules are comprised. Furthermore, it is essential that workers have a chance to submit their feedback or complaints in regard to these decisions and engage in constructive dialogue with the company's management so that decisions are in the interest of both parties – companies and workers.

▶ The urge for algorithmic transparency is not only present in platforms but also **in traditional economy**. Although GDPR has provided framework to protect workers, unions say that it cannot fully ensure workers' rights due to the disbalance of bargaining power between companies and workers.

▶ **Gateway** – a new initiative by AppJobs - functions as a data portability agent for gig workers. Workers can connect their app accounts to Gateway, which then collects all their work-related data (for example: earnings, working time, ratings - in other words, history/summary of completed tasks). This data can be further shared with a third party, e.g., tax authorities, insurance companies, or companies/unions that process collected data and translate into an advice to workers on how to improve working conditions. Their experience shows that a fear of workers gaming the system if/when they understand how it works is rather unfounded. In their opinion, if companies use algorithms to make their own operations more efficient, then workers should be able to use their own data to make more informed decisions regarding the work and ways to optimize their entrepreneurial decision making. Data portability of workers irrespective of their status is welcome by union representatives.

▶ It appears that **EU-based companies** are more comfortable sharing data with policy makers, social partners, and workers than their US counterparts; thus, the practice indicates direct relationship between the place of origin of a company and its attitude towards data sharing (in this regard, company's size does not play crucial role).

- Following such readiness and openness of the European companies, European Purpose Project, initiated by few platform companies, has been created. The consultations are open until September 2021.
- European companies in the sector of delivery are considering a new standard in regards to algorithmic management that would not deter innovation or set the bars too high for smaller companies to afford it.

▷ In addition to sharing data, some platforms are more proactive when it comes to informing workers about algorithms' adjustment and providing some assistance with adapting to it, if needed. For example, Delivery Hero informs workers on data-related topics within its onboarding process.

▷ **Data literacy** of all the parties (workers, policy makers, companies' representatives) is needed.
- Lighthouse project by the Prospect Union in the UK is intended to prepare trade unions for good data governance and in this way increase their data maturity.
- WeClockIt app was built to empower workers to use their work-related data in collective bargaining and revise current power disbalance in the digital age.

▷ **DISCUSSION TOPIC 2: POLICY SOLUTIONS FOR THE EU**

The European Commission advocates an approach to automated decision-making based on transparency, human oversight and accountability, and full respect for data protection rules. At present, one of the most important tools is Article 20 of GDPR. This prevents a data subject from being subject to a decision solely based on automated processing, when such a decision produces legal effects. In the UK and Netherlands, for example, courts have required Uber to reinstate drivers suspended due to automated processes. Comparable cases concerning transparency of surveillance systems have taken place for drivers in Portugal, and with other platforms including Ola. However, previous experience has shown that platforms change quickly, and court cases proceed slowly. In some cases, the burden of proof is on platform workers to demonstrate they have been subject to automated decision making before they can demand transparency of such decision making. The discussion focused on the role of GDPR and social dialogue in advancing workers rights, when it comes to algorithmic management.

▷ When it comes to automated processes, one of the main concerns is related to **embedded biases**. It is unclear at the moment what possibilities workers have to respond to automated decisions such as ratings or automated decisions that negatively influence workers' economic substance. Companies re-assure that human-in-the-loop is integrated in many decision-making processes; yet more information about **human oversight** is required. For example, how human component is built in algorithmic management, what are internal procedures in companies that control bias towards workers, and how workers submit and overrule decisions made by algorithmic management.
- Website workerinfoexchange.org is valuable source of reviewing various data requests from all around the world. One of the discussed cases refers to the failure of human review in preventing frauds on the Uber platform (for more about this case, see here).

▷ Separating the topics of data collection/usage/storage from algorithmic usage of such data is important.

▷ Workers who are self-employed do not seek union representations whereas platforms are not

classified as employers, which makes it difficult to envision **social dialogue** as a solution under such circumstances, argues UNI Europa. For example, transport collective agreements that are achieved through social dialogue are not binding for platforms at the moment.

- o As a bridge to the current state of social dialogue in this matter and as a complementary piece to the social dialogue in the future, AppJobs points out that an app designed based on workers' needs would help them take data-informed decisions. Unions and/or companies would directly consult with workers, map their needs, and create algorithms that would be beneficial in advancing working conditions.
- o Nonetheless, ETUC considers that it is not up to workers to create their own app or platform company. Their position is that trade unions/workers/their representatives should have access to workers' data and algorithms related to the working conditions management in order to re-establish relationship through collective bargaining.

- ►► Although Art. 22 of **GDPR** is often used to protect privacy of workers, it is important to mention that Art. 88 refers to data processing in the context of employment.
  - o GDPR has been useful piece of legislation in protecting workers' privacy, but it is not exclusively envisioned for employment and labour rights protection. Drawing a parallel with situation before and after adoption of Payment Service Directive 2 (PSD2) in banking sector, a new legislation that would clearly state that workers have a right to own their own data would be helpful in discussions about algorithmic management, suggests AppJobs.

- ►► **EU proposal on AI** presented AI-related risks classification which assigns high risks to employment, workers' management, and self-employment (all these apply to platform workers regardless of their status). For ETUC, such classification is not acceptable. They request that any actual usage and application of AI technologies at workplace, being of low or of high risk, are negotiated within collective bargaining frameworks.

- ►► Glovo considers **collective bargaining agreements** independent of worker status as the best way to approach discussed points. These agreements can address workers' requests about algorithms and data usage, and map workers concerns much better than any regulation.
  - o Glovo believes that a platform should engage in social consultations irrespective of worker status. Glovo, together with some other EU-based platforms, supports the European Commission's initiative to provide independent workers with possibility of collective bargaining.
  - o It internally supports data transferability and portability – workers can work in another jurisdiction for 30 days by obtaining Glovo global passport.

- ►► While collective bargaining agreements are important, UNI Europa stresses out different collective bargaining traditions (Scandinavian vs. Southern models) and scope of regulation (e.g., weekly working hours of self-employed) in Europe, which further opens questions of responsibility and liability.

- ►► **POSSIBLE SOLUTIONS**
  - o Onboarding processes of companies should also include 'algorithmic training', whereby workers would be familiarized with the ways the algorithm functions
  - o Companies could set up a feedback process so that workers can submit complaints or suggestions in regard to algorithmic decision making
  - o Companies could set up a portal explaining in understandable terms data usage and algorithmic processes at workplace

- o Internal company policy that informs workers about any changes in data usage and algorithmic management three weeks ahead of new implementation
- o Data literacy campaign targeting companies, workers, and policy makers

NEXT STEPS & ROUNDTABLE:

- o The third roundtable on algorithmic transparency is on September 22 and will start with an expert lecture (20 mins lecture and 10 mins Q&A session). The agenda and related information about the lecture will be shared by September 17 the latest.
- o Conference *Future of Work: Synergy of Deliberation and Action* takes place on September 10.
- o The next monthly policy briefing will be sent in the week 13-17 September.

ADJOURNMENT:

- ▶ Minutes submitted by: Jelena Šapić

- ▶ Minutes approved on: TBA