ETUCE position on the EU Regulation on Artificial Intelligence

(Adopted by the ETUCE Bureau on 7 June 2021)

Background:

On 21 April 2021, the European Commission published a proposal for a "Regulation on a European Approach for Artificial intelligence" (the AI Regulation). With this proposal, the European Commission follows up on its White Paper on Artificial Intelligence (February 2020), based on the results of a broad consultation process to which ETUCE contributed. The aim of the initiative is to establish the first EU legal framework regulating the entire lifecycle of the use of Artificial Intelligence (AI) in all sectors, including education.

The AI Regulation **classifies** the use of Artificial Intelligence in various sectors based on the **risk that the AI tools have on the health and safety and the fundamental rights** of individuals. Concerning education, the proposal considers the use of Artificial Intelligence tools in **education as high-risk** as potentially harmful to the right to education and training as well as the right not to be discriminated in education. For high-risk sectors, the AI Regulation establishes **stricter horizontal legal requirements** to which AI tools must comply before being authorised on the market. These include risk management system during the entire lifecycle of the AI system.

Following the publication of the proposal, on 26 April 2021, the European Commission issued a **public consultation** that will run until 20 July 2021, accompanied by an impact assessment report.

The following text is the ETUCE response to the public consultation bringing the perspective of teachers, academics and other education personnel on the sections of the AI Regulation that touch upon the education sector.

ETUCE reply:

ETUCE welcomes the publication of the AI Regulation as it sets the ground for the first comprehensive EU regulation on Artificial Intelligence to ensure a controlled development of AI tools in education and address the risks connected to their use by teachers, academic, other education personnel and students. While ETUCE recognises the potential of digital technologies and Artificial Intelligence tools to bring about improvements in education, it also underlines the **numerous ethical concerns** related to their trustworthiness, data privacy, accountability, transparency and their impact on equality and inclusion in education. ETUCE underlines that **further research** at national and European level is needed to assess and address the risks connected to the use of Artificial Intelligence in education with constant and meaningful consultation with education social partners.

AI in education as a high-risk:

ETUCE welcomes that the AI Regulation **classifies the use of AI tools in education and vocational training as high-risk** underlining that *"When improperly designed and used, such systems may violate the right to education and training as well as the right not to be discriminated against and perpetuate historical patterns of discrimination"*. ETUCE emphasises that the EU Commission initiative should ensure that the development of Artificial Intelligence in education does not infringe the **human right of all individuals to have equal access to quality education**. This is enshrined in the first and third principles of the European Pillar of Social Rights and the European Charter of Fundamental Rights.

ETUCE supports the European Commission's proposal to set **stricter horizontal legal requirements** for the AI tools used in the education sector. The AI Regulation proposal also foresees the establishment of a **risk management system** to analyse the risks associated with the use of the AI tools in education and monitor them during the entire lifecycle of the AI tools. In this regard, ETUCE believes that the European Commission should support the development **of clear and binding measures, including ethical guidelines,** to address the risks that AI tools pose concerning transparency, accountability, intellectual property rights, data privacy, cyber-safety, equality and environmental protection.

Governance:

The Proposal for Regulation seeks to establish a **governance system** leading to the establishment of a ***European Artificial Intelligence Board*** with the involvement of national authorities to monitor the implementation of the regulation. Nevertheless, ETUCE underlines that the effective implementation of the AI legislation in education requires the meaningful **involvement** of teachers, academics and education staff as co-creators of Artificial Intelligence tools in education. Education trade unions have a crucial role to play to addressing the risks of Artificial Intelligence in education and bring the perspective of AI users on the implementation of the regulation. It is therefore crucial that **education social partners are actively involved** in the activities of the European Artificial Intelligence Board through regular consultations and meaningful social dialogue, both at national and European level to monitor the implementation of the regulation and address the risks related to the use of Artificial Intelligence in education.

The role of teachers in education:

Teachers, academics and other education personnel play a crucial role in fostering the full human potential of students and their role in education must be preserved. ETUCE calls on the European Commission and the Member States to **interdict the Artificial Intelligence tools that are designed to replace education personnel or can damage the social value and the quality of education**. Besides, the AI Regulation should ensure that the development of AI in education does not reduce the role of teachers to mere providers of instructions but rather serves as a **supporting tool for the teaching profession** while

preserving the professional and pedagogical autonomy and academic freedom of teachers and academics.

Transparency and AI literacy and CPD of teachers on AI:

ETUCE welcomes that the proposal of AI Regulation requires that **users of AI tools** (who include students, teachers, academic and education staff for the education sector) must be **adequately informed** about the intended purpose, level of accuracy, residual risks of AI tools. Nevertheless, ETUCE highlights that providing **information is not sufficient** to ensure the transparency of the AI tools when users miss the adequate digital skills and data and AI **literacy** to interpret it. Therefore, it is of utmost importance to improve the importance of **digital skills, AI literacy and data literacy** in educational curricula and raise awareness on the **risks** related to the use of AI tools in education. It is also essential to ensure that **infrastructures** of education institutions are adequately equipped for digital education as well as to provide **equal access to digital technologies and ICT tools** to all teachers and students, with particular attention to the most disadvantaged groups. To these purposes, sustainable public investment should be provided by national governments and the European Commission should provide financial support through European funding such as Horizon Europe, Digital Europe and in the framework of National Recovery and Resilience Facility.

While the AI Regulation blandly mention to the possibility of providing users with **training on Artificial Intelligence**, ETUCE emphasises that it is crucial that sustainable public funding are provided at national and European level to ensure that teachers, trainers, academics and other education personnel receive **up-to-date and free of charge continuous training and professional development on the use of AI tools** in accordance with their professional needs.

EdTech expansion and issues of intellectual property rights, data privacy of teachers**:**

ETUCE points out that the development of the use of Artificial Intelligence in education has been accompanied by **the expansion of Ed-tech companies** that are progressively increasing their influence in the education sector, especially under the pressure of emergency online teaching and learning during the COVID-19 pandemic. ETUCE reminds that education is a human right and public good whose value needs to be protected. ETUCE calls for further public responsibility from national governments that should not limit their scope to regulating the EdTech sector and should develop and implement public platforms for online teaching and learning to protect the public value of education. In addition, public platforms should be implemented in full respect of professional autonomy of teachers and education personnel as well as academic freedom and autonomy of education institutions, without creating pressure on teachers and education personnel regarding the education material and pedagogical methods they use. It is also essential to **protect the accountability and transparency** in the governance of public education systems from the influence of private and commercial interests and actors.

AI tools storing a vast amount of data cause inevitable risks **on data protection, privacy** and **intellectual property rights** of teachers and academics and other education personnel. ETUCE highlights that ensuring data protection and privacy of teachers and students should be a priority of the AI Regulation and calls on the EU Commission and the Member States to develop appropriate **data-retention policies** applicable to Artificial Intelligence in education, in the respect of national competencies in education.

Equality and inclusion in the design and use of AI in education:

As enshrined in the EU Pillar of Social Rights and the EU Charter of Fundamental Rights, non-discrimination in education is a fundamental principle of our society. In this regard, the EU Commission's proposal states that the AI regulation "*will minimise the risks of erroneous or biased AI-assisted decision on education and training*". In this context, ETUCE recognizes that the use of Artificial Intelligence has the potential to advance the quality of life and inclusion of teachers and students in education. Nonetheless, the persistent **lack of diversity** and underrepresentation of women, ethnic minorities, Black People and disadvantaged groups in the population of professionals responsible for designing, testing and training the algorithms and data of AI tools translate in the presence of biases in AI tools, leading to a **detrimental impact on inclusion and equality in education**. Therefore, ETUCE calls on the European Commission and Member States to provide adequate public investment to **encourage more diversity in the STEAM sector** and ensure that **AI tools are designed and used with the full representation of the wide society.**

Besides, research shows that **cyber-violence, cyber-bullying and cyber-harassment** have increased with the development of digitalisation in education. ETUCE underlines that it is important to further explore how Artificial Intelligence systems can act as supporting tools to detect and counter cyber-violence, cyber-bullying and cyber-harassment.

*The European Trade Union Committee for Education (ETUCE) represents 127 Education Trade Unions and 11 million teachers in 51 countries of Europe. ETUCE is a Social Partner in education at the EU level and a European Trade Union Federation within ETUC, the European Trade Union Confederation. ETUCE is the European Region of Education International, the global federation of education trade unions.

EI European Region

RESOLUTION

Artificial Intelligence in the Education Sector

Adopted by the ETUCE Conference, the Regional Conference of
Education International, on 5-6 July 2021

Further to and consistent with the Resolutions adopted by the 8th EI Congress in Bangkok in 2019 and the Resolutions adopted by the ETUCE Conference in 2020, this ETUCE Conference,

Acknowledges that:

1. The digital transformation is set to change the world of work and wider societal landscape. Technologies such as Artificial Intelligence are increasingly woven into the professional, social and personal lives of individuals. As such, the impact of Artificial Intelligence is a matter of growing importance for the education sector and its professionals. Along with the spread of Artificial Intelligence technologies in everyday lives, arises the pressing need for individuals to be trained to understand the basics of these technologies, as well as their potential risks;

2. The growing reliance on Artificial Intelligence for a multitude of purposes, further exacerbated due to the COVID-19 pandemic and the multiplication of activities previously undertaken physically being transitioned online, therefore undoubtedly invites to a wider reflection on the role of these powerful technologies in the daily lives of citizens across Europe and its impact on democratic, sustainable societies;

3. Artificial Intelligence, whilst being increasingly hailed by decision-makers and tech giants as an innovative technology leading to the vast improvement of the life of people, presents opportunities but also real threats to individuals. From an ethics perspective, in particular, the ability of machines to influence the choices of human beings risks hindering humankind's independence, free will and creativity;

4. Crucially, Artificial Intelligence technologies present ethical concerns when it comes to transparency, accountability, data protection, privacy of users, cyber-safety, democracy, freedom of action and choice and discriminatory practices. A common understanding of their optimal use is therefore essential for all, in order to engage with them in a critical, safe, inclusive, participative and confident approach as early as possible. In such a context, social partners in education have a key role in providing their members with the basic skills needed to understand the functioning and safest use of Artificial Intelligence. Therefore, in all respects, the use and impact of Artificial Intelligence in the education sector is a matter of interest for social partners in education and a legitimate subject of a meaningful and effective social dialogue. Therefore education trade unions must be closely involved in the design, development, and monitoring of AI technologies introduced in the education sector;

5. The preconditioning of online research by algorithms and the collection, storing and analysing of personal information by users of digital devices are applications of Artificial Intelligence that have far-ranging implications for the education sector and its personnel. These uses of Artificial Intelligence in the education sector, at all levels, involve a wide range of areas including employment, pedagogy, assessment, research and administration. Significantly, the potential risks from the use of Artificial Intelligence should be addressed;

6. Artificial Intelligence in the education sector must be handled sensibly and carefully, as a high-risk factor giving rise to a need for robust and binding ethical guidelines and legislative frameworks, with teachers, trainers, academics and other education personnel at the centre of establishing these. This equally supports calls for deeper discussions on the role of digital technologies in education.

Notes that:

7. Recently, Artificial Intelligence has been the subject of several European and International policy positions and studies, including the European Commission [Communication](#) on 'Building Trust in Human-Centric Artificial Intelligence' (April 2019), the [White Paper on Artificial Intelligence](#) 'A European approach to excellence and trust' (February 2020), the OECD [Recommendation](#) on Artificial Intelligence (May 2019) and [Working paper](#) 'Trustworthy Artificial intelligence (AI) in education: Promises and challenges' (April 2020), the UNESCO [Preliminary report](#) on the first draft of the Recommendation on the Ethics of Artificial Intelligence (December 2020), the Council of Europe [Recommendation](#) on developing and promoting digital citizenship education (November 2019) and the draft of the UNICEF report: Policy Guidance on AI for Children (September 2020). In addition to this, data protection mechanisms and principles common to all European Union Member States have been laid out in the [2016 General Data Protection Regulation](#) (GDPR);

8. Artificial Intelligence, as a technology built by human beings with their preconceptions, is fundamentally set to replicate conscious or unconscious human bias. While the STEM and IT community remains widely unrepresentative of many categories of society, such as women, ethnic minorities, people from a migrant background and people with disabilities, there is a pressing need for transparency in algorithmic decision-making, with a view to identifying, addressing and tackling discriminatory practices in Artificial Intelligence-powered technologies;

9. Building Artificial Intelligence for educational purposes, should be done by a multi-disciplinary team that also consists of academics and researchers from the human sciences to assure that philosophical and ethical concerns can be tackled from the beginning;

10. Artificial Intelligence used for educational purposes can never replicate nor replace the social and emotional engagement of the teaching professional. The role of teachers, trainers, academics and other education personnel goes far beyond merely providing instruction. Their ability to engage with students according to their specific needs and individuality is a core aspect of inclusive quality education, that must be protected. The act of learning is inherently a collective process which is difficult to provide in distance education;

11.   Teachers, trainers, academics and other education personnel must be trained from the onset and throughout their professional career in Artificial Intelligence, its underlying risks, including from their perspective as workers, and its possible applications in the educational context. Such training should be available free of charge and developed in accordance with education professionals' needs;

12.   Artificial Intelligence in the educational context is a matter of concern for education personnel, in terms of teaching and as workers. Indeed, Artificial Intelligence in the workplace gives rise to a set of issues regarding the working conditions of education personnel, for instance when it comes to privacy issues and the right to disconnect. It is of utmost importance that the use of Artificial Intelligence in education institutions does in no way hinder or lessen the protection of teaching professional's rights and equal opportunities, and their professional autonomy. Equally importantly, the conditions of Artificial Intelligence tools used in the workplace must be designed in consultation with education trade unions;

13.   The bias inherent in Artificial Intelligence's analysis and sorting of data presents concerning implications on the working conditions of education personnel, and in particular, the recruitment, assessment, and career progression of teachers, trainers, academics and other education personnel. This risk calls for absolute transparency in data collection and usage, clear accountability processes, as well as for robust protection of workers' rights. Crucially, at a time when many education systems are at least partially resorting to digital education due to the COVID-19 pandemic, but also looking beyond, the implications of using Artificial Intelligence on education personnel's' working conditions must be included in collective bargaining agreements;

14.   Artificial Intelligence, when introduced into the educational context, must remain a means to support the work of teachers, trainers, academics and other education personnel, in full respect for their professional agency and academic freedom. Artificial Intelligence designed to reproduce or replace education personnel jeopardises the social and emotional teaching context and damages quality education;

15.   Calls for the application of Artificial Intelligence in education often allow ed-tech companies to expand their influence in the education sector; Protecting the capacity, accountability and transparency in the governance of public education systems from the influence and reach of for-profit private commercial interests and actors is therefore of utmost importance. This includes public procurement that ensures that funds are used for the public good of education based on clear rules and legislation that affirm and require that the services contracted by the public authorities allow for social partner engagement and collective bargaining. While the race towards uncovering the potentials of Artificial Intelligence is an explicit objective for many decision-makers, Artificial Intelligence and its use in the education sector is a matter of public interest and debates around it should, as such, be fully independent of the influence of profit as a motive.

16.   Supporting its member organisations and representatives in making active use of co-determination, data protection and personal rights;

17.   Making sure that their members can acquire the basic skills needed to understand the functioning and use of Artificial Intelligence and can assess the risks. This professionalisation policy should be oriented towards the education institution's staff team so that the entire team is involved with respect for the different levels of AI-knowledge in the staff.

To mitigate the adverse risks of Artificial Intelligence for education personnel and students alike, ETUCE and its Member Organisations commit to:

18. Continuously expanding the knowledge of education trade unions on Artificial Intelligence applied to the education sector, and in particular when it comes to its impact on the quality and inclusiveness of education, on the safety and well-being of students and education personnel, on the personal pedagogical relationships, on democracy and participation in educational institutions and learning processes, and on the working conditions of teachers, trainers, academics and other education personnel, including in their recruitment, assessment, and career progression;

19. Pursuing research - including the transfer for teachers and students - on the impact of Artificial Intelligence technologies in education, not at least as regards inclusion and diversity in education;

20. Advocating for and seeking to contribute to the elaboration of robust legal frameworks and ethical guidelines as regards Artificial Intelligence in the education sector, as well as for strict compliance with existing regulations, such as general data protection regulations;

21. Lobbying national governments and decision-making bodies for the inclusion of education trade unions in the development of policies regarding Artificial Intelligence in the education sector, at all levels of education;

22. Raising awareness and fight against on the threat of privatisation and commercialisation in and of education from the influence and reach of private ed-tech companies providing Artificial Intelligence tools for educational purposes through outsourcing, public-private partnerships, or even through the promotion of reforms embedded in public education systems; Pursuing more public responsibility in the development of datafied and algorithmised teaching, learning and research processes, for example through stronger regulation of the influence of EdTech companies on education and research and through the promotion of publicly, democratically, pedagogically and scientifically accountable governance and activities;

23. The development of software should be done in a more open way to prevent lock-ins like vendor lock-ins. In Europe the focus should be more on open source development driven by communities where public actors like research institutes can participate alongside software developers and the private sector;

24. Continuing to advocate for respect for the professional autonomy of adequately trained teachers, trainers, academics and other education personnel regarding the impact of Artificial Intelligence tools;

25. Developing a common policy strategy at European level to address and overcome the concerns of education trade unions on Artificial Intelligence in education, both in terms of professional issues and working conditions.