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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.

<u>AI in education as a high-risk:</u>

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.

<u>Governance:</u>

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.

<u>The role of teachers in education:</u>

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.