# Consultation on the White Paper on Artificial Intelligence - A European Approach

Fields marked with * are mandatory.

## Section 1 - An ecosystem of excellence

To build an ecosystem of excellence that can support the development and uptake of AI across the EU economy, the White Paper proposes a series of actions.

**In your opinion, how important are the six actions proposed in section 4 of the White Paper on AI (1-5: 1 is not important at all, 5 is very important)?**

| | 1 – Not important at all | 2 – Not important | 3 - Neutral | 4 - Important | 5 - Very important | No opinion |
|---|---|---|---|---|---|---|
| Working with Member states | | | | X | | |
| Focussing the efforts of the research and innovation community | | | | X | | |
| Skills | | | | | X | |
| Focus on SMEs | | | | X | | |
| Partnership with the private sector | | | | X | | |
| Promoting the adoption of AI by the public sector | | | | X | | |

**Are there other actions that should be considered?**

AI and robotics significantly impact the labour market and the way of working, not only because older jobs and tasks transform or disappear, and new ones emerge but also because of change on the nature of human work in relation to AI systems. We need a deeper involvement of employees at workplaces especially those who design, planify, develop, purchase and use AI systems. If workers are to accept AI systems these systems are to be conform to ethical and social guidelines and to respect the fundamental rights.
In order to understand the scope of all these changes, the timeframe within which they will occur and to raise awareness among European workers, social dialogue has to be encouraged on these issues. Three dimensions have to be taken into account when AI applications are developed or introduced at workplaces : how AI systems improve the quality of work, how they contribute to the common good and how they guarantee a good quality of service. Only the AI systems which respond to such ethical and social criteria should be developed.

Social dialogue must take place **before** the introduction of these technologies in the workplaces. The Commission should support the European social partners' capacity building activities. Trade unions must be involved in establishing the skills and training required to transition to a fair workplace of the future, as they can best identify training and workforce needs. Technological changes, new interactions of humans and machines, and evolving skill sets will not produce increased productivity or generate job satisfaction if only employers are

involved. European trade unions play an essential role in identifying the underlying dimensions and immediate job effects of digital change and in elaborating tailored solutions and standards that are to be respected to cushion the social impact of the transformation and to take the most of it for the benefit of both employers and workers.
In terms of management and employee performance evaluation, AI should be used so that the human in command approach always prevails.

**Revising the Coordinated Plan on AI (Action 1)**

The Commission, taking into account the results of the public consultation on the White Paper, will propose to Member States a revision of the Coordinated Plan to be adopted by end 2020.

**In your opinion, how important is it in each of these areas to align policies and strengthen coordination as described in section 4.A of the White Paper (1-5: 1 is not important at all, 5 is very important)?**

| | 1 – Not important at all | 2 – Not important | 3 - Neutral | 4 - Important | 5 - Very important | No opinion |
|---|---|---|---|---|---|---|
| Strengthen excellence in research | | | | | X | |
| Establish world-reference testing facilities for AI | | | | | X | |
| Promote the uptake of AI by business and the public sector | | | | X | | |
| Increase the financing for start-ups innovating in AI | | | | X | | |
| Develop skills for AI and adapt existing training programmes | | | | | X | |
| Build up the European data space | | | | | X | |

**Are there other areas that that should be considered?**

For data collection and management, we need clear rules and governance mechanisms. Fundamental rights, as said, must be respected by the development and use of AI systems and as such design and implementation should first of all respect the privacy rights of employees. Social partner negotiations regarding data collection are key for implementing AI at the workplace.
Trade unions and workers' representatives shall be enabled to engage in effective negotiations regarding the use of AI to produce good quality of work, better working conditions and good quality of service.
Concerning the use of any personal data European regulation should require informed consent and greater protections around data. Thereby, any personal data of workers should not be used by employers without coordination and cooperation occupational health service.

Cliquez ou appuyez ici pour entrer une date.**A united and strengthened research and innovation community striving for excellence**

Joining forces at all levels, from basic research to deployment, will be key to overcome fragmentation and create synergies between the existing networks of excellence.

**In your opinion how important are the three actions proposed in sections 4.B, 4.C and 4.E of the White Paper on AI (1-5: 1 is not important at all, 5 is very**

**important)?**

| | 1 – Not important at all | 2 – Not important | 3 - Neutral | 4 - Important | 5 - Very important | No opinion |
|---|---|---|---|---|---|---|
| Support the establishment of a lighthouse research centre that is world class and able to attract the best minds | | | | | X | |
| Network of existing AI research excellence centres | | | | | X | |
| Set up a public-private partnership for industrial research | | | | X | | |

**Comment [SD1]:** Research is key also to ensure the proper security of the apps or systems.

**Are there any other actions to strengthen the research and innovation community that should be given a priority?**

A key aspect to be included withing the R&I realm, is the involvement of European and national social partners and sectoral trade unions, as they bring expertise and experience of situations of real workplace exposure. They further contribute to shaping sustainable AI technologies with possible ways forward in the development of research and innovation. The lighthouse structure for innovation needs to have a space for trade unions, in their role as European and national social partners.

Social sciences are also an important actor to be involved in the research and innovation community to better take into account social issues and to contribute to mitigate potential social and cognitive risks. EU should promote and encourage interdisciplinary approaches, with a special focus on ethics.

The role of European Union is also important in encouraging the development of European science reviews which are mostly currently run by USA. Research is key also to ensure the proper security of the apps or systems.

Furthermore, the European Union could encourage or support the creation of an open source collaborative platform that would facilitate the digitalization of companies. For example, this platform could provide companies in Europe trustworthy AI certified software and facilitate the integration of AI that respects workers' rights in companies. This platform could also link companies, contractors, engineers and data scientists in the realization of collaborative projects such as the European projects during COVID 19 Pandemic.

**Focusing on Small and Medium Enterprises (SMEs)**

The Commission will work with Member States to ensure that at least one digital innovation hub per Member State has a high degree of specialisation on AI.

**In your opinion, how important are each of these tasks of the specialised Digital Innovation Hubs mentioned in section 4.D of the White Paper in relation to SMEs (1-5: 1 is not**

| | 1 – Not important at all | 2 – Not important | 3 - Neutral | 4 - Important | 5 - Very important | No opinion |
|---|---|---|---|---|---|---|

| | | | | | | |
|---|---|---|---|---|---|---|
| **important at all, 5 is very important** | | | | | | |
| Help to raise SME's awareness about potential benefits of AI | | | | X | | |
| Provide access to testing and reference facilities | | | | | X | |
| Promote knowledge transfer and support the development of AI expertise for SMEs | | | | | X | |
| Support partnerships between SMEs, larger enterprises and academia around AI projects | | | | X | | |
| Provide information about equity financing for AI startups | | | X | | | |

**Comment [SD2]:** Philippe ST aubain aussi

**Are there any other tasks that you consider important for specialised Digital Innovations Hubs?**

Digital Innovation Hubs need to be equipped to (a) give support to carry out risk assessment and managing data protection to the different SMEs across Europe. It is key to upgrade their capacity in these two issues that are impactful for work and employment; (b) to allocate trade unions equal access and participation to shape and monitor AI technologies at work and to take part to related employment discussions with the related national authorities.

## Section 2 - An ecosystem of trust

Chapter 5 of the White Paper sets out options for a regulatory framework for AI.

**In your opinion, how important are the following concerns about AI (1-5: 1 is not important at all, 5 is very important)?**

| | 1 – Not important at all | 2 – Not important | 3 - Neutral | 4 - Important | 5 - Very important | No opinion |
|---|---|---|---|---|---|---|
| AI may endanger safety | | | | | X | |
| AI may breach fundamental rights (such as human dignity, privacy, data protection, freedom of expression, workers' rights etc.) | | | | | X | |
| The use of AI may lead to discriminatory outcomes | | | | | X | |
| AI may take actions for which the rationale cannot be explained | | | | | X | |
| AI may make it more difficult for persons having suffered harm to obtain compensation | | | | | X | |
| AI is not always accurate | | | | | X | |

**Do you have any other concerns about AI that are not mentioned above?**

**Please specify**

1.1 **CFDT welcome** the option taken by European Commission in the white paper to consider that high risk AI applications or use should be regulated. Nevertheless, as the process of AI and apps is strongly dynamic, an open and evolving list of AI applications or use considered as intrinsic high-risk, should be drawn up.

This is a main way to create trust in AI systems.

When it comes at workplaces, the use of such applications could undermine the principles of non-discrimination, of equality and inclusion. In order to avoid these consequences such high risk applications at workplace should not generally be developed and their use should be submitted to a process of social dialogue with workers union representatives.

The design of interfaces between AI and workers is an important matter for workplace politics. AI design can induce narrow prescription and relegate humans to an observing position or on the contrary it can challenge humans at work to interpret its results. The technological choices and their embeddedness are surrounded by conflicting interests and workers need to have more voice on them.

Likewise, AI systems could be abused to undermine the right to collective bargaining and the freedom of association, nor any other fundamental rights.

Finally, AI systems must protect and improve workers'health. In some work context the use of AI system may put health at risk by an intensification of work, too regular changes in the work organization, cognitive overloads, loss of autonomy at work, loss of meaning at work, cyber-harassment. Therefore, the social partners must be consulted regularly on these questions in the introducing of AI.

Specific guidelines or legislation at EU level should be considered.

The challenges regarding data collection have ethical, practical, and legal dimensions. The design and implementation of AI systems should respect the privacy rights of all concerned persons. To address the collection and management of worker data, data access and governance should be guided by principles and regulations and negotiated by the social partners. In this respect, article 88 of GDPR which promote negotiation on data governance should be recalled and its implementation encouraged at European level.

Furthermore, this data governance with social partners should be extended to IA used non-personal data (they are not supervised by the GDPR) which have an impact on the organization and working conditions. It would therefore also be necessary to establish a legal framework for non-personal data having significant consequences on the rights or situation of workers.

**Comment [gA3]:** Des algorithmes de machine learning de recrutement, de suggestion de formation, d'évaluation ou de contrôle sont déjà implémentés dans nombre d'entreprises en France (Goshaba, skilder, assess First, wiserskills, IA Watson… cf : https://www.lab-rh.com/cartographie ). Sauf erreur d'appréciation de ma part, l'ensemble de ces applications sont considérées à haut risques (au même titre d'ailleurs que les plateformes numériques de type Uber ou Deliveroo ou de micro-travail au sens du livre blanc de la Commission). Nous pourrions, il me semble, plutôt être fort de propositions sur les outils de régulation, les gardes fous à introduire.

**Do you think that the concerns expressed above can be addressed by applicable EU legislation? If not, do you think that there should be specific new rules for AI systems?**

- Current legislation is fully sufficient
- Current legislation may have some gaps
- **There is a need for a new legislation**
- Other
- No opinion

Other, please specify

…

**If you think that new rules are necessary for AI system, do you agree that the introduction of new compulsory requirements should be limited to high-risk applications (where the possible harm caused by the AI system is particularly high)?**

- Yes
- No
- Other
- No opinion

Other, please specify:

…

**Do you agree with the approach to determine "high-risk" AI applications proposed in Section 5.B of the White Paper?**

- Yes
- No
- Other
- No opinion

Other, please specify:

… An open and evolving list of AI applications or use considered as intrinsic high-risk, should be drawn up.

**If you wish, please indicate the AI application or use that is most concerning ("high-risk") from your perspective:**

No AI system should violate the human fundamental rights. The introduction of AI systems at the workplace impacts the health and safety of workers. These systems enable constant, data-driven surveillance and monitoring of workers, leading to psychological stress and job insecurity. Algorithm-driven decisions impact recruitment, wage cuts, redundancies, untransparent performance assessment. Examples of these harmful applications are HIRE VUE - used by some 600 multinational companies for recruiting on the basis of video interviews analyzing candidates' facial expressions, CallMiner – an AI application used for managing contact centres, applications like ISAAK used to monitor workers in real time and to dismiss automatically low productive workers as well as to rank staff members' attributes. These AI systems used to manage and monitor workers can create distrust, fear, stress and low productivity. If such surveillance systems are to being introduced it only should be after negotiation and agreement with the workforce union representatives. There should always

be a workplace agreement in place that clarifies where the line is drawn for legitimate use, and that protects the privacy of working people.

Furthermore, the AI of digital platforms organizing work distribution, wages and working conditions like UBER or DELIVEROO must be considered high risk.

**In your opinion, how important are the following mandatory requirements of a possible future regulatory framework for AI (as section 5.D of the White Paper) (1-6: 1 is not important at all, 6 is very important)?**

| | 1 – Not important at all | 2 – Not important | 3 - Neutral | 4 - Important | 5 - Very important | No opinion |
|---|---|---|---|---|---|---|
| The quality of training data sets | | | | | X | |
| The keeping of records and data | | | | | X | |
| Information on the purpose and the nature of AI systems | | | | | X | |
| Robustness and accuracy of AI systems | | | | | X | |
| Human oversight | | | | | X | |
| Clear liability and safety rules | | | | | X | |

**In addition to the existing EU legislation, in particular the data protection framework, including the General Data Protection Regulation and the Law Enforcement Directive, or, where relevant, the new possibly mandatory requirements foreseen above (see question above), do you think that the use of remote biometric identification systems (e.g. face recognition) and other technologies which may be used in public spaces need to be subject to further EU-level guidelines or regulation:**

- No further guidelines or regulations are needed
- Biometric identification systems should be allowed in publicly accessible
- Biometric identification systems should be allowed in publicly accessible spaces only in certain cases or if certain conditions are fulfilled (please specify)
- Other special requirements in addition to those mentioned in the question above should be imposed (please specify)
- Use of Biometric identification systems in publicly accessible spaces, including at workplaces, by way of exception to the current general prohibition, **should be banned** until a specific guideline or legislation at EU level is in place.
- Biometric identification systems should never be allowed in publicly accessible spaces
- No opinion

Please specify your answer:

The White Paper on AI should have had a reference to a ban on facial recognition in public spaces, at least "for up to five years until safeguards to mitigate the technology's risks are in place". The lack of such a ban is inacceptable in the face of the rash development of AI with little to no public control and no legally binding rules on ethics and references to human and fundamental rights instruments. Such ban should be also extended and applied to workplaces. The moratorium should be reconsidered, as facial recognition and other remote identification systems are intrusive technologies that can be used in multiple harmful and disruptive ways. The impacts of AI technology and its possible risks should be assessed. GDPR states that processing biometric data for the cause of identifying individuals is prohibited, except for specific circumstances. We should identify and limit these circumstances and the use of this technology must be pertinent and proportionate to the finality. Yet, there are still unsolved dilemmas about their implementation in policing and enforcement. One of the most probable risks for society is that facial recognition creates mass surveillance across the world, incompatible with human rights and democratic principles. It will raise inequalities and discriminations exponentially and exacerbate biases. Facial recognition should remain exceptional and reduced to clearly specific circumstances fixed in law. Any aspect of AI collection and processing of personal data should be based on sound, public and democratic rules, taken in cooperation with legitimate social partners and national democratic bodies.

**Do you believe that a voluntary labelling system (Section 5.G of the White Paper) would be useful for AI systems that are not considered high-risk in addition to existing legislation?**

- Very much
- Much
- Rather not
- Not at all
- No opinion

**Do you have any further suggestion on a voluntary labelling system?**

Voluntary labelling systems are problematic as they are granted by private organisations/companies with little to no public control, and becomes a profitable business that does not provide for independence, quality and trust. They also rely on voluntary will for implementation and compliance; are driven by marketing instead of by safety and quality; and such systems lack official and public evaluation and verification schemes.

**What is the best way to ensure that AI is trustworthy, secure and in respect of European values and rules?**

- Compliance of high-risk applications with the identified requirements should be self-assessed ex-ante (prior to putting the system on the market)
- Compliance of high-risk applications should be assessed ex-ante by means of an external conformity assessment procedure
- Ex-post market surveillance after the AI-enabled high-risk product or service has been put on the market and, where needed, enforcement by relevant competent authorities
- A combination of ex-ante compliance and ex-post enforcement mechanisms
- Other enforcement system

- No opinion

Please specify any other enforcement system:

**Do you have any further suggestion on the assessment of compliance?**

The ex-ante assessment should be done by an external authority prior to putting the system on the market. The agency or authority that assesses compliance of the AI system must be independent and external to the organization that wants to put the application on the market or wants to use it (companies or administrations). Having a mandatory AI framework can improve the level of compliance of business operating in the EU. Applying the legal precautionary principle set up by the TFEU ensures that Europe secures and reinforces AI via its fundamental rules and values. The EU should have the ambition to live up to the fundamental rights values anchored in the Treaty and to set up a legal system for AI. If GDPR is open for revision to further regulate personal data for AI applications, European and national trade unions need to be on the table of negotiations.

At the workplace the ex-ante assessment should be done through a well informed social dialogue by which full transparency concerning the use, the deployment and the impact on workers conditions of the AI system is assured.

Tech workers should have the right to know what they are building and to contest unethical or harmful uses of their work**.** Over the last two years, organized tech workers and whistleblowers have emerged as a powerful force for AI accountability, exposing secretive contracts and plans for harmful products, from autonomous weapons to tracking-and-surveillance infrastructure. Given the general-purpose nature of most AI technology, the engineers designing and developing a system are often unaware of how it will ultimately be used. Too often, decisions about how AI is used are left to sales departments and executives, hidden behind highly confidential contractual agreements that are inaccessible to workers and the public. Through continuous social dialogue, as machine learning algorithms evolve, companies should ensure that workers are able to track where their work is being applied, by whom, and to what end. Providing such information enables workers to make ethical choices and gives them power to collectively contest harmful applications.

## Section 3 – Safety and liability implications of AI, IoT and robotics

The overall objective of the safety and liability legal frameworks is to ensure that all products and services, including those integrating emerging digital technologies, operate safely, reliably and consistently and that damage having occurred is remedied efficiently.

**The current product safety legislation already supports an extended concept of safety protecting against all kind of risks arising from the product according to its use. However, which particular risks stemming from the use of artificial intelligence do you think should be further spelled out to provide more legal certainty?**

- Cyber risks
- Personal security risks
- Risks related to the loss of connectivity
- Mental health risks

**In your opinion, are there any further risks to be expanded on to provide more legal certainty?**

The AI related risks are still highly unknown and they can emerge in many circumstances and they can be completely new. More legal certainty is needed to address new risks like the "deepfakes", risks related to self-learning applications, bias and discrimination.
Also, there will be various factors to take into account to attribute "fair" liability. Priority should be given to defining clear rules attributing liability in the event of non-compliance, to legal persons. Natural or legal persons that uses a technology with a certain degree of autonomy, should remain fully liable for any harm that results from using this technology. Using a semi-autonomous technology should not be used as an excuse to reduce liability.

Thus, what is needed is a clear legal framework that specifies the responsibility of natural or legal person who developed and used AI (software publishers and developers, employer using AI and managers and workers using AI).

Furthermore, the development of labelling system or a certification tool for trustworthy AI should not lead companies removing from their responsibilities.

Moreover, algorithmic Impact Assessments must also account for AI's impact on climate, health, and geographical displacement and their use should be assessed in order to comply with the ODD of UN.

**Do you think that the safety legislative framework should consider new risk assessment procedures for products subject to important changes during their lifetime?**

- Yes
- No
- No opinion

**Do you have any further considerations regarding risk assessment procedures?**

If an AI system is likely to have a great impact on personal rights, working conditions, or other social consequences, a risk assessment is necessary. Assessments should include risks related to human decision-making, social discrimination, and impact on working conditions and any infringement and violation of human fundamental rights. In order to carry out a risk assessment, all parties—especially worker representatives—should be involved in defining which systems are to be introduced and used and which are not. AI systems should be evaluated in light of their social impact unless a prior risk assessment has shown that there is no relevant impact. Evaluations should be based on pre-defined success criteria, but also allow for the analysis of new and unexpected outcomes and experiences. An evaluation should be carried out in the pilot phase so that faults and problems can be discovered early and with the participation of employees. As already mentioned, the process of AI and its use are a dynamic one, continous evaluation should take place. This evaluation would make it possible to verify that the new data from the workers and the modification of prediction algorithm does not lead to discriminatory or unfair biases for the workers.

This will help employee trade union representatives play a role in safeguarding human design of AI systems.

**Do you think that the current EU legislative framework for liability (Product Liability Directive) should be amended to better cover the risks engendered by certain AI applications?**

- Yes
- No
- No opinion

**Do you have any further considerations regarding the question above?**

Priority must be given to defining clear rules attributing liability to natural or legal persons, in the event of failure to comply with these rules. A business/employer that uses a technology with a certain degree of autonomy, should remain fully liable for any harm that results from using the technology. Using a semi-autonomous technology should not be used as an excuse to reduce liability. Manufacturers should make sure that the AI application works safely before it is applied, using AI should not be an excuse to breach the duty of care. In amending the EU liability framework, trade unions need to be properly consulted and involved.

**Do you think that the current national liability rules should be adapted for the operation of AI to better ensure proper compensation for damage and a fair allocation of liability?**

- Yes, for all AI applications
- Yes, for specific AI applications
- No
- No opinion

Please specify the AI applications:

…

**Do you have any further considerations regarding the question above?**

National legal regimes might require adaptation as they provide different liability considerations to the supply of services and to the supply of products. It is necessary to establish clear European rules attributing liability to natural or legal persons, in the event of failure to comply with EU ethical rules and guidelines. The scope of potential liability of designers, hardware manufacturers, operators, network service providers should be established. Further discussion in relation to the probe of harm or psychosocial issues at the workplace is also required.

**Thank you for your contribution to this questionnaire. In case you want to share further ideas on**

**these topics, you can upload a document below.**