PROTECTION OF DIGNITY AT WORK IN THE CONTEXT OF PERSONAL DATA PROCESSING THROUGH ARTIFICIAL INTELLIGENCE

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Abstract: *The protection of dignity at work represents a fundamental principle in both international and national labor regulations. The use of artificial intelligence to process personal data presents unique characteristics and risks in the context of labor relations, particularly from the perspective of dignity in the workplace. This article aims to explore some of these risks, referring to potential impacts on workers' personal lives, exposure to discrimination that affect dignity at work, and identify some mitigating measures. These practices could lead to illegal conduct that, while not intended by employers, might be overlooked, accepted, or even impossible to detect. In these cases, employer liability for the use of such technical means becomes significant.*

Keywords: workplace dignity, personal data, artificial intelligence

1. Dignity at work

The inherent dignity of all members of the human family is acknowledged by the Universal Declaration of Human Rights of 10 December 1948 in its Preamble and in Article 1. This principled, fundamental provision is the basis for reiterating human dignity as a fundamental value in many national and international laws whose resumption is no longer necessary.

The concept of dignity is complex and researchers continue to look for ways to build it as accurately as possible. It has been shown that dignity relates to several fundamental notions, namely: acceptance of identity, inclusion, acknowledgement, independence, autonomy and agency, humiliation, respect, seek of understanding, accountability, self esteem, empowerment, safety, transparency and communication, opportunity, self-reliance (Perrin, 2023, passim).Human dignity is a supreme value, which is the source and foundation of individual rights and freedoms (Stănescu-Sas, 2025, p.356).

Article 23 of the Universal Declaration of Human Rights also provides for elements of dignity at work. The Philadelphia Declaration adopted at the General Conference of the

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ILO, on 10 May 1944, also declares the importance of *dignity.* The preamble to the ILO Convention No 190 of 21 June 2019, reiterates the importance of dignity in preventing violence and harassment, noting that these acts affect the dignity of a person. Dignity at work is also enshrined as a principle in point 26 of Part I of the European Social Charter (revised) and Article 26 of Part II, lays down obligations on States regarding this value.

Article 31(1) of the Charter of Fundamental Rights of the European Union merely provides that every worker has the right to working conditions which respect his or her dignity, without providing elements establishing the content of this concept. However, the Explanations on the Charter of Fundamental Rights of the European Union (2007/C 303/02) state that this article *'is inspired [...] by Article 26 of the revised Social Charter'.*

In the Romanian Labour Code (RLC), dignity at work is laid down as a principle in Article 6(1) and Article 39(1)(e) while Article 5(5) identifies harassment as a form of discrimination, *defining it by its purpose or effect of violating the dignity of a person.*

Furthermore, Article 2(5[1]) of Government Order No 137/2000 provides that psychological harassment at the workplace is defined by the purpose or effect of the deterioration of working conditions, by violating the rights or dignity of the employee. Paragraph 5([2]) includes in the notion of psychological harassment at the workplace as 'any *behaviour which, by its systematic nature, may impair dignity, [...]'.*

Regulation (EU) 2016/679 (GDPR) includes provisions on the protection of human dignity when processing personal data in the employment context in Article 88. Moreover, Article 9 of the same law prohibits the processing of personal data revealing personal characteristics that could constitute a ground for discrimination.

Dignity is a fundamental value referred to in the Preamble to Regulation (EU) 2024/1689 (Artificial Intelligence Act) in recitals 27, 28, 31, 48, 58 and 80. Dignity at work is also a value to be protected in accordance with recitals 9, 44, 57, 58 and 92 of the preamble to the same regulation. Next, Article 5(1)(f) of the same Regulation prohibits the placing on the market, putting into service for that specific purpose or use of AI systems to infer the emotions of a natural person in the workplace, except in cases where the use of the AI system is intended to be established or placed on the market for medical or safety reasons.

Human dignity is also protected by Article 7 of the Council of Europe Framework Convention on Artificial Intelligence and Human Rights, Democracy and the Rule of Law, Vilnius, 2024.

The notion of 'dignity at work' has a complex content and specialists in different fields (psychology, sociology, law) have tried to provide a definition or explain its content from different perspectives, with real difficulties.

From a legal point of view, taking into account the current national and international regulatory framework, it follows that, in essence and as a matter of priority, dignity at work presupposes respect for the employee by both the employer and the other employees (for whom the employer is responsible), in particular by avoiding harassment, being subjected to hostile, offensive treatment, sometimes systematic, without this constituting a *sine qua non* condition, which constitutes a form of discrimination and is determined by discriminatory criteria, accompanying other discriminatory behaviour.

In doctrine, there are numerous attempts to define dignity at work from several perspectives, while also attempting to achieve a common interdisciplinary framework.

Thus, it has been shown that individual disaffection and alienation, exclusionary norms and practices, usually based on social identities (such as race, gender, or sexual orientation) or societal disrespect and exclusion, organizational, interpersonal and individual disrespect and exclusion, societal, interpersonal and individual disposability and expendability detract dignity (Gibson, Cristina e.a, 2023, passim).

Workplace dignity (WPD) is defined also as an 'individual's perception about respect and trust, equal treatment, valuation of one's worth, fair-treatment, autonomy and freedom of expression and decision making enjoyed by an employee at the workplace' (Tiwari and Sharma, 2019, p.8).

It has also been shown that there is an ambiguity regarding definitional parameters of dignity at work which affects research possibilities (Blustein and Allan, 2025, p. 496) and, of course, regulation and protection.

Indeed, a distinction must be made between dignity at work and the notion of decent work promoted by the International Labor Organization, which does not include individual levels of dignity and self-respect, and also in relation to the notions of well-being, which is a broad concept that is often identified as an outcome of dignity at work, or meaningful work (Blustein and Allan, 2025, p.492).

2. Personal Data Collected by the Employer. Risks

Employers process many personal data on employees, including those with a restrictive regime. In addition to the data on the identity of the employee, which must be included in the individual employment contract, the employer collects personal data of the employee in various ways. A number of data are provided voluntarily by the employee to the employer in order to be able to benefit from certain rights.

For example, in order to benefit from an individualised work schedule under Article 118 of RLC, from working at home or teleworking under Article 118[1] of RLC, from carers' leave under Article 152[1] of RLC, from the right to be absent in a family emergency under Article 152[2] of RLC, from paternity leave under Article 152[3] of RLC or from parental leave for children under the age of two, employees provide the employer with information on their family situation and family responsibilities. In order to benefit from temporary incapacity leave, including maternity risk leave or maternity leave, employees must present their medical certificate to the employer; although a numeric code for the disease is indicated therein, their nomenclature is public and it is easy to identify the disease from which the employee suffers. In order to benefit from additional leave, employees undergoing an "in vitro" fertilization procedure must submit a medical letter. In order to benefit from the protection provided by Government Emergency Order No 96/2003, the pregnant employee must notify her employer in writing of her situation. In order not to be dismissed and to benefit from a job appropriate to the work capacity established by the occupational medicine doctor, according to art. 64 of the Labor Code, the employee will present the respective medical document to the employer.

Performing a medical examination and presenting its results to the employer is mandatory for employment (Article 27 of RLC), periodically for certain activities (Article 28 of RLC), for performing night work [Article 127(1) of RLC], and when providing occupational health services (Article 186 of RLC).

It follows that the employer will be aware of many details about the state of health of the employee and members of his family and will be able to deduce what his family responsibilities are.

Other data are collected by the employer during the course of the activity, some of which interfere with the employee's private life.

Thus, many examples show an increase in the surveillance of employees at work, both by using cameras or geolocation means and by using more complex methods, such as attention monitoring, inferred from working speed, facial expressions, monitoring of movements at work, frequency of interruptions, monitoring of online activity, electronic correspondence, etc.

These means of surveillance are particularly problematic for workers who have a high degree of autonomy in organising work or working at home or teleworking, as well as platform workers.

For these workers, there is a blurring of the boundaries between working time and rest time, between working time and personal time. Continuous monitoring of these workers leads to the collection of personal data on their private life, the employer being able to know aspects of their private life that should not be known to them. For example, an employee who works in the field, with flexible hours and result-oriented work, and who uses a GPS-monitored car for travel, will be exposed to the collection of personal data on his private life, the employer being able to know if he has family responsibilities, a certain religious faith or other personal concerns that could influence his decisions regarding that employee (by observing frequent trips, for example to school units or certain places of worship).

The risks posed by the processing of such personal data are associated with discrimination in the workplace, in particular on the grounds of gender, family responsibility, religious beliefs.

3. Automated AI Processing of Employees' Personal Data. Risks

The development of AI technology has raised concerns among the public about the processing of personal data so that States must respond to these well-founded concerns through regulations and instruments that ensure the use of this technology in compliance with existing regulations in the field of personal data protection. (Franguloiu, 2023, p.39).

It should be noted that, according to point 4 of Annex III to the AI Regulation, high-risk AI systems are considered also tobe those systems intended to be used for the recruitment or selection of natural persons, in particular to place targeted job advertisements, to analyse and filter job applications and to evaluate candidates, as well as those intended to be used to make decisions affecting the terms of work-related relationships, the promotion and termination of work-related contractual relationships,

to allocate tasks based on individual behaviour or personal traits or characteristics, or to monitor and evaluate the performance and behaviour of persons in such relationships,

The existence of these rules, however, does not exclude the risk of impaired dignity at work (Moses, 2025, p.240).

3.1. Source of risks

The automated processing of personal data by AI systems, together with professional data, can take place both during the recruitment of staff and during the professional evaluation, the decision-making regarding the promotion of employees, the organization of the activity, the granting of wage rights, benefits and incentives and even with a view to dismissal.

The processing of personal data through AI systems presents a higher degree of risk determined by three elements that, taken together, may lead to undesirable results, in particular discriminatory conclusions, and to treatment that affects dignity at work.

(a) AI systems can collect additional data and correlate it with the data provided by the employee and the employer, and this operation, coupled with the risk of bias and the black box phenomenon, can lead to surprising results.

For example, AI can collect data on facial expression, tone of voice, fluency in expression in a particular language, focus, to determine data such as ethnic origin, nationality, gender, which should not be used in a discriminatory way. The same conclusions can be drawn by AIs from the collection of data on preferred sport, musical or literal preferences, data collected from social networks or data collected by internet search engines or various online platforms.

It can determine a person's age, generation, nationality also from the document metadata, such as the version of the software with which a curriculum vitae is written or the e-mail address.

(b) The existence of AI biases is a well-known and experimentally well-documented phenomenon.

AI knows what it is being taught and its sources of learning are often sources of bias, including in regard to labour relations. Artificial General Intelligence (AGI) models are apparently less susceptible to such biases, with wider sources of learning and procedures for removing biases, including human validation of responses. By contrast, AI models developed locally by an employer are more likely to be biased.

A well-known example is that of an AI system that was asked to select job candidates using an ideal model derived from the personal data of existing employees. In itself, this requirement makes sense, as the employer seeks to hire people with characteristics validated in the experience with existing employees. However, the AI model, learning from the CV of existing, predominantly male employees, linked gender to desirable occupational characteristics, placing female candidates at a disadvantage by default, in a discriminatory manner, even though it had been required to not discriminate against female candidates (Chen, 2023, passim).

Another example is where the dedicated AI system offered advertisements for well-paid

jobs to men rather than women, because this was found to be the trend in the labour market from the information held, taking over and perpetuating a prejudice and discriminatory behaviour (Datta, Tschantz, and Datta, 2014, passim).

(c) The essence of the black box phenomenon is that the human mind cannot understand certain automated decision-making processes of AI systems because of their complexity. In some models, based on the deep neural network, the existence of multi-layered networks of interconnected artificial neurons generates an incomprehensible complexity of decision-making which is extremely difficult to replicate. Other models, based on support vector machine ("SVM"), are opaque to human beings because they arrive at decisions by looking at many variables at once and finding geometric patterns among those variables that humans cannot visualize (Bathaee, 2017, p.901-903).

3.2. Risks in employment relationships

The risk posed by these three interrelated phenomena is that employees or potential employees are subjected to discriminatory treatment, including moral harassment in the workplace. Certain data and algorithms can generate patterns that are undesirable in employees and they can systematically disadvantage certain categories of people, based on age, gender, religion, nationality, etc.; the activation of these biases and stereotypes is sometimes done in relation to intermediate, secondary elements, not necessarily directly, especially when AI is trained to make decisions based on imputations related to sensitive information (Alessandro et al., 2025, p.5,6)

For example, the professional assessment of an employee may be negative as a result of taking into account his or her family responsibilities, which could lead the AI to conclude that the employee is less willing to travel long or is less involved in work, which obviously constitutes discriminatory treatment and, at the same time, a minimisation of the activity of that employee who can be very performing in reality.

In the same way, a prejudiced AI could conclude that an employee who has undergone an in vitro fertilisation process is rather concerned about her personal life and makes significant efforts in this direction, which decreases involvement in the workplace and, moreover, is likely in the coming years to acquire family responsibilities and to suspend her activity during pregnancy and to raise the child, and therefore she is not an employee with future prospects, which certainly constitutes discriminatory treatment.

These automated decisions that are based on the processing of personal data may lead to decisions by the employer that affect dignity at work. Such decisions may also concern involvement in certain activities, projects, assignment of work tasks, promotion. For example, an employee may be excluded from certain projects, isolated, minimised, disregarded and denied opportunities for promotion, career development, as a result of reports issued by the AI which show the prejudice that an employee with special family responsibilities or who has experienced some medical problems in the past, or has a disability, is less involved in work, is less efficient, less willing to work, to do extra work or work on days off, to travel for a long time, so that it would not be suitable for certain activities or for a management function, or that a female employee is less involved or

efficient only because of her gender, with the same discriminatory consequences. An AI system that makes an assessment of communication skills, based on voice analysis, can treat a person who does not speak the native language of the employer's country unfavorably, resulting in discrimination on the basis of nationality.

This type of occupational isolation, disregard in the workplace, refusal to recognize professional merits, caused by discriminatory treatment, affects the dignity at work itself.

4. Means to Mitigate the Consequences of Risk Factors

First, avoiding the risk of impaired dignity at work through the use of AI in the processing of employees' personal data is achieved through the training of AI, through the establishment of algorithms, generally through specific technical means. However, at least at this point in time, it appears that these do not provide absolute guarantees. Research shows that AI systems often exhibit the same biases as humans, generated by criteria provided by humans, especially programmers, along with their own inherent and unconscious biases, so that in many cases the outcome of AI decisions leads to discriminatory consequences (Katsabian, 2025, p.14).

In order to reduce as much as possible the consequences of risk factors, some measures applicable in the course of the employment relationship are essential.

These elements must be taken into account both from a legislative point of view and, in practice, by the employer's measuresin accordance with the principle of good faith.

(a) *Predictability* is closely linked to transparency and presupposes the existence of clear requirements that the employer establishes objectively, corresponding to a job, both for employment and for assessing the performance of the employee. It is necessary that the assessment criteria are not ambiguous, vague, do not cover elements that cannot be assessed objectively, leading to arbitrary results (Anghel, 2025, pp. 44-45).

This allows the employee to adapt his/her professional behaviour and to know what is the desirable professional behaviour corresponding to the job. In this way, the employee also has control over the correctness of his professional evaluation both during recruitment and during the employment relationship.

(b) *Transparency* *involves* informing employees about the use of AI systems and communicating professional requirements to them before the assessment period begins. At the same time, it implies the obligation of the employer to communicate and explain to the employees the results of the assessment, the reasons for which a certain result is established. Even if AI presents the phenomenon of blackboxing, the employer should, as far as possible, explain the results of professional assessments and demand such explanations from the AI system itself.

(c) *The involvement of the human factor* presents two aspects:
- supervision of AI by a human operator; it is true that AI systems are used precisely to streamline processes and eliminate the human factor, and the human operator cannot verify every AI decision, especially when there is a huge number of

employees; however, the human factor can supervise the work of the AI in order to be able to observe systemic errors, possible biases, undesirable results that have occurred systematically;

- the possibility for the employee to challenge the results generated by the AI before a human decision-maker, who can analyse the employee's objections, especially when the existence of discriminatory treatment is invoked.

The involvement of the human factor is essential given the fact that transparency is limited for technical reasons.

(d) *Employer responsibility* means that the employer is responsible for determining the negative consequences that the use of AI may have.

AI systems are merely tools, not independent decision-makers, and therefore cannot bear personal responsibility. However, the employer is financially liable for the damage suffered by an employee when that damage is caused by another employee, in the course of his activity, or by an asset of the employer, of course unless there is an exoneration of liability.

Finally, the deed or legal act belongs to the employer, even if it is based on an outcome provided by the AI. Discriminatory treatment, generally the treatment that affects dignity at work and causes non-material or even material harm, is attributable to the employer, not to the AI system used as a tool.

All the more so, when AI is trained and developed locally by the employer, the employer must be held accountable for its decisions if they affect dignity at work. Even if the employer uses an AI model provided by a third party, the question of liability arises in the same way. The employer may subsequently have their own claims against the AI supplier if it is ordered by the court to pay compensation to an employee.

Without employers' accountability, the risk of employees being subjected to treatment that affects their dignity at work would increase exponentially, as employers would claim in defence the responsibility of something that would never be able to respond. AI is not a natural, unpredictable, invincible phenomenon that exonerates employers from liability, it is a tool used consciously by the employer that must have full responsibility for the results of its use, answering patrimonially for the simplest fault, such as using a system that presents known risks that the employer, which it does not sufficiently supervise and does not correct.

The current legislation confirms this argument. Thus, Article 26(7) of the AI Regulation obliges employers to inform workers' representatives and affected workers that they will be subject to the use of a high-risk AI system; paragraph 11 requires deployers of such systems to inform the subjects to the AI decisions of the use of the high-risk AI system, and paragraph 9 requires deployers of high-risk AI systems to use the information provided by AI developers to comply with their obligation to carry out a data protection impact assessment under Article 35 of Regulation (EU) 2016/679 or Article 27 of Directive (EU) 2016/680.Thus, the employer having the obligation to carry out a risk assessment of the use of AI systems for the processing of employees' personal data, the failure to carry out this assessment or the wrong assessment, is an additional argument for attracting the

employer's pecuniary liability in case of discriminatory decisions affecting the dignity at work based on the use of AI systems.

Employers must act as guardians of professional dignity (Moarcăş, 2025) and prevent the negative effects of using AI in labor relations.

5. Conclusions

To avoid these risks, it is necessary for the employee to be aware, as far as possible, of the elements that were taken into account in the automated decision-making process and to have the opportunity to challenge this outcome and to have the challenge examined by the human factor.

It is also necessary to make the requirements for AI clear, to prevent discriminatory treatment and to ensure human oversight.

Risks to dignity at work arising from the processing of employees' personal data with AI cannot be totally excluded and the employer's responsibility for decisions taken on the basis of assessments and reports made by these systems, as well as for automated decisions adopted, endorsed and applied by the employer, must be applicable.

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