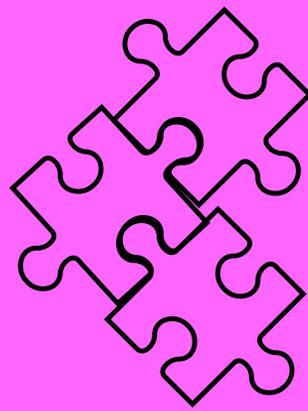


Labour rights & the digital transition

Panel: the EU digital transition: what place for workers rights?

October 28, 2021, ETUI



**The AI Act, entering a regulatory winter?
The need to expand perspectives**

Aida Ponce Del Castillo
European Trade Union Institute
Brussels, Belgium

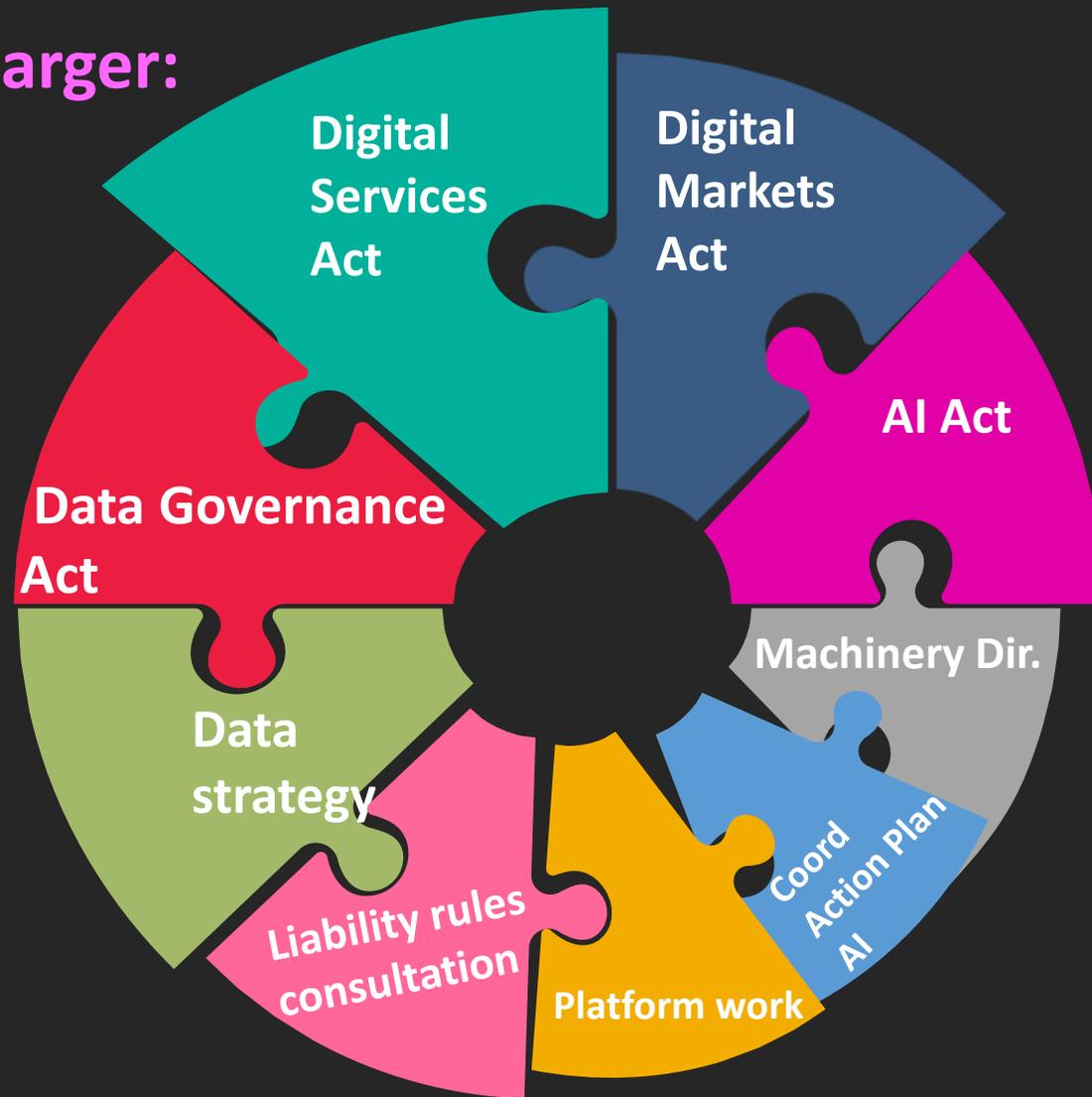
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Starting point, putting AI in the broader context:

The **AI act** is not the only legislative building block of the EC's Digital Agenda

The EC's Digital Agenda is much larger:

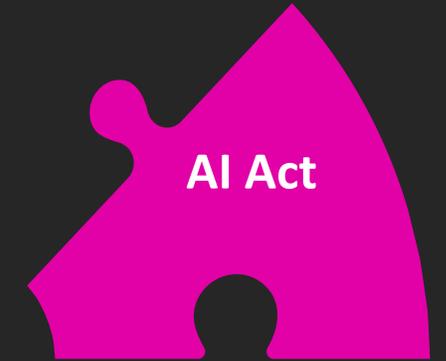
The digital debate is not about technology, it is a **political** debate that revolves around competitiveness, EU sovereignty, global leadership and creating a market.



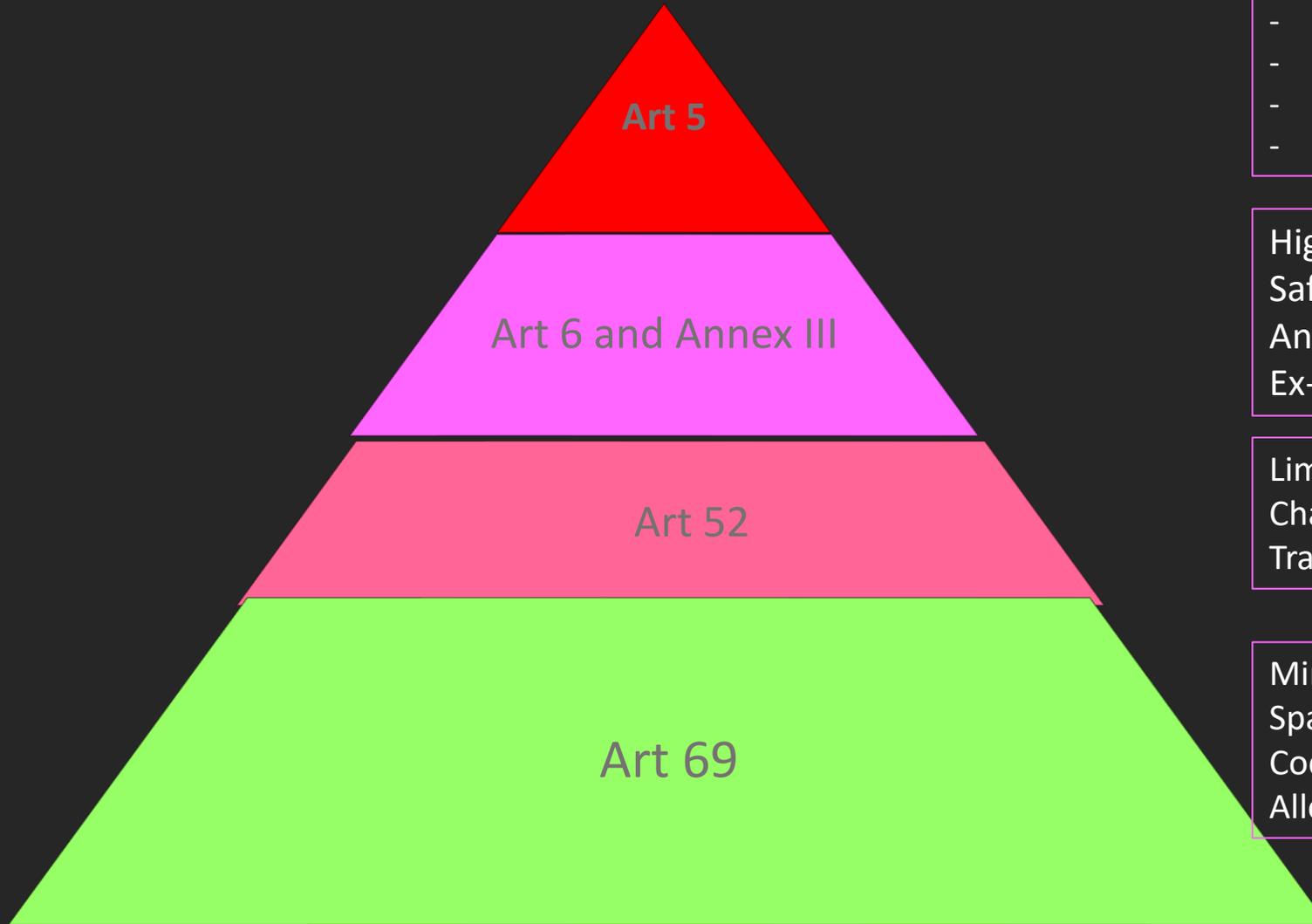
The AI Act

The AI Act:

- Horizontal regulatory framework based on “Ethics guidelines for Trustworthy AI”
- Legal basis: establishment and functioning of the internal market (Art 114 TFEU).
- Extraterritorial dimension: it applies to any provider or distributor of AI systems whose services/products are placed on the EU market.



The risk-based approach:



Unacceptable and prohibited in principle

- Social scoring
- Facial recognition
- Subliminal manipulation
- Exploitation of children

High-risk AI systems

Safety components of regulated products

Annex II and III

Ex-ante conformity assessment

Limited risks

Chat bots, deep fakes

Transparency obligations

Minimal risks

Spam filters, video games

Codes of conduct

Allowed

The AI Act:

The AI Act enables providers/users to put products/services on the EU market without excessive “regulatory constraints”.

For high-risk AI systems (Chapter II, Annex III), it establishes certain requirements:

- Risk management system; high quality data, technical documentation and traceability, transparency, human oversight, accuracy, robustness and cybersecurity.
- Conformity assessment (carried out internally, equivalent to self-assessment?).
- Harmonized standards.

Enforcement: powers of notifying authority and ‘market surveillance
Authority need clarification.

Governance: EC and EU AI Board [MS, EC, external experts], National CA.

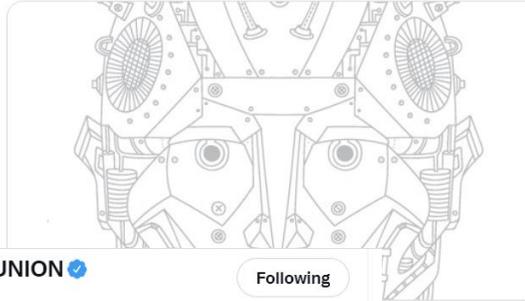
ETUC's reaction to the AI Act:

EUROPEAN TRADE UNION @etuc_ces · Sep 16
@UNHumanRights report on #AI shows @etuc_ces is right to demand stronger regulation of AI in employment 🗣️👉
🗣️ "The @EU_Commission AI Act , based on self-assessment, fails to address these workplace threats and puts workers privacy rights at risk!" says ETUC's @IsaSchoemann



13 retweets 14 likes

EUROPEAN TRADE UNION @etuc_ces · May 28
#AI @EU_Commission proposal for a regulation on #ArtificialIntelligence fails to address the workplace dimension
[@IsaSchoemann](#)
[etuc.org/en/document/co...](#)



EUROPEAN TRADE UNION 23.4K Tweets
[etuc.org/en/press/icas...](#)



1 comment 20 retweets 17 likes

Show this thread

EUROPEAN TRADE UNION @etuc_ces · Jun 23
The ETUC has written to MEPs calling on them to correct the imbalance between the interests of companies and workers in the @EU_Commission draft AI legislation

"The Commission has failed to address the workplace dimension"
[etuc.org/sites/default/...](#)

1 comment 2 retweets 3 likes

EUROPEAN TRADE UNION @etuc_ces · Jun 23
"Orwellian surveillance of workers, without their knowledge and consent, breaches EU privacy law and basic democratic EU values and principles."

EUROPEAN TRADE UNION Retweeted
Thomson Reuters Foundation News @TRF_Stories · Jun 23
Firms say surveillance tech protects them and boosts the bottom line, but unions warn it is too easy for employers to collect intimate, personal data and use it against their workers.



news.trust.org
AI is watching: What to know about workplace surveillance
Firms say surveillance tech protects them and boosts the bottom line, but unions warn it is too easy for employers to collect intimate, person...

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EUROPEAN TRADE UNION @etuc_ces · Jun 23
AI is watching: What to know about workplace surveillance
Thomson Reuters Foundation reports on @ETUI_org & ETUC concerns about

AI in the workplace
Weak EU draft regulation
[news.trust.org/item/202106231...](#)

See ETUI report launched today
[etui.org/publications/a...](#)

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What is missing in the AI Act:

- 1) Clear ban of the use of 'real-time' remote biometric identification systems in publicly accessible spaces for the purpose of law enforcement.
- 2) Redress mechanisms for citizens and the right to file a complaint.
- 3) Human rights impact assessment and precautionary approach.
- 4) Employment dimension, including employees' data protection.
- 5) Role of social partners.
- 6) Enforcement and role of the EDPB.

Next steps in the legislative process:

- What committee will take the lead at the EP?
- Will the Slovenian Presidency conclude with a one full reading of the text?
- Amendments will be tabled; will they turn the AI Act into a “more social” piece of legislation?
- Will the possible provisions on employment **-and algorithmic management-** make the EC’s digital agenda more protective of people?

Proposal: we need an ad hoc instrument on AI in employment

The proposal does not provide adequate protection to workers. We need *an ad hoc legislative instrument* that addresses the specific situation of the workplace environment, the employment relationship, and that establishes enforceable provisions and thresholds of risk categories. (example: ban on the use of certain algorithms that collect intimate personal data of workers).

Ad hoc instrument on AI on employment: 7 essential dimensions

1. Total ban of algorithmic worker surveillance.
2. Employers' responsibility in the deployment/use of AI systems that interact with the workforce.
3. Risk prevention.
4. Exercising GDPR rights.
5. Algorithmic explainability.
6. Exercise of the 'human-in-command' principle.
7. Address algorithmic management.

Also, we need to move away from self-assessments, good intentions, transparency measures and overreliance on trust.

Microsoft AI principles

We put our responsible AI principles into practice through the Office of Responsible AI (ORA), the AI, Ethics, and Effects in Engineering and Research (Aether) Committee, and Responsible AI Strategy in Engineering (RAISE). The Aether Committee advises our leadership on the challenges and opportunities presented by AI innovations. ORA sets our rules and governance processes, working closely with teams across the company to enable the effort. RAISE is a team that enables the implementation of Microsoft responsible AI rules across engineering groups.

[Learn more about our approach >](#)

RESPONSIBILITIES >

Artificial Intelligence at Google: Our Principles

Google aspires to create technologies that solve important problems and help people in their daily lives. We are optimistic about the incredible potential for AI and other advanced technologies to empower people, widely benefit current and future generations, and work for the common good.

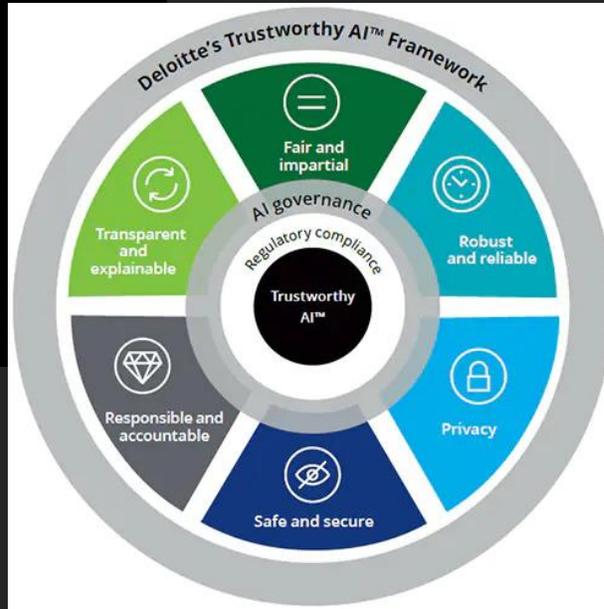


ETHICS GUIDELINES FOR TRUSTWORTHY AI

Q Agenda Events Reports Platforms



AI Ethics Framework



IBM Cloud Products Solutions Pricing Docs

IBM Cloud Learn Hub / AI Ethics

AI Ethics

By: IBM Cloud Education

18 March 2021

Artificial intelligence

What are AI ethics?

Establishing principles for AI

AI Ethics

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AI is more than data and algorithms. It's a *megamachine* that depends on material resources and human labour. A registry of power.

Key is to have regulations that guarantee rights and freedoms to people driving this complex and ever changing non-pure technical system. Hence my proposal.



Mumord L. "The Myth of the Machine"
Crawford K "Atlas of AI"

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The AI Act is not the only legislative proposal addressing AI. There are provisions on AI across the EC's Digital Agenda legislative package.

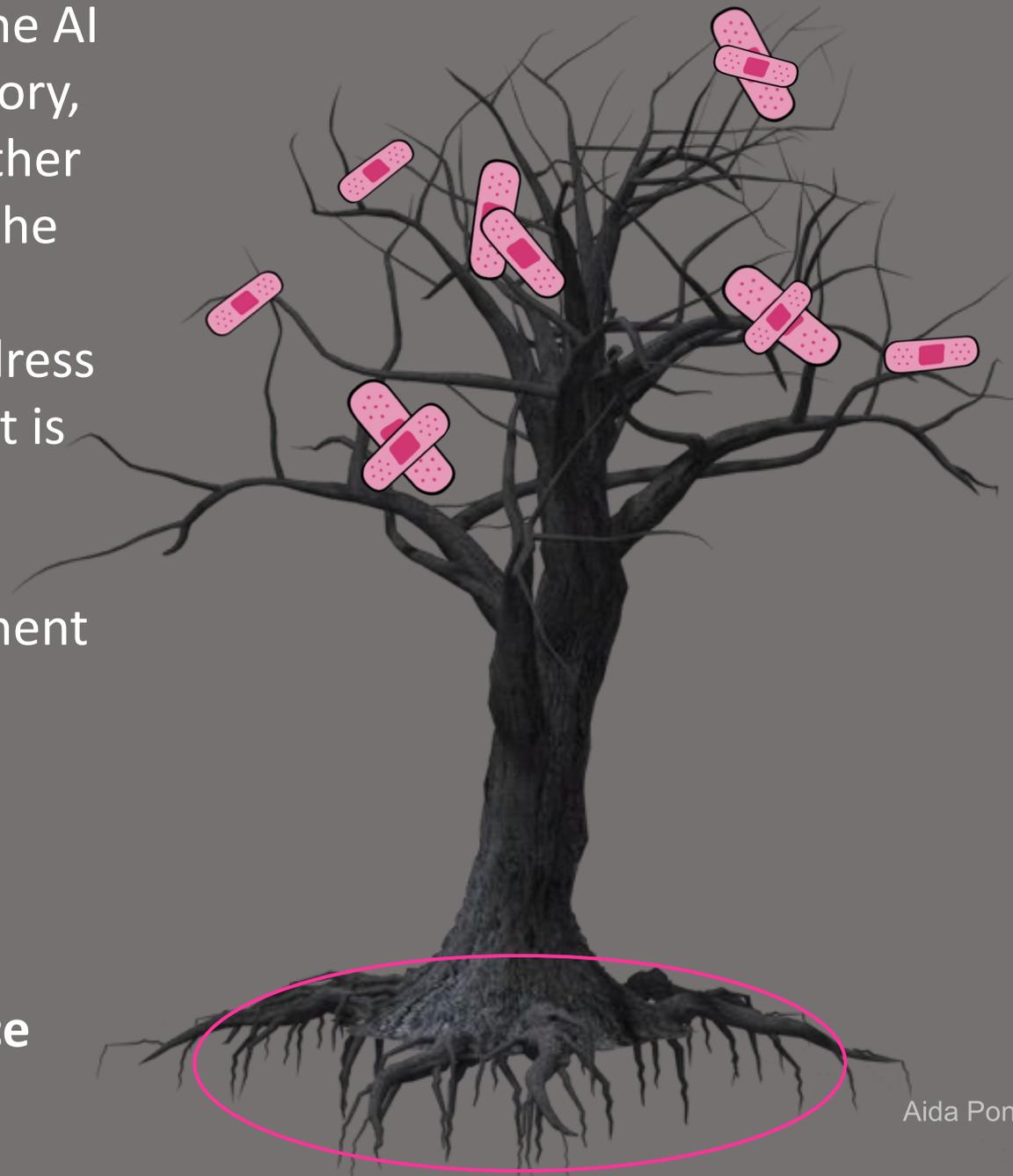


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If amendments to the AI Act are not satisfactory, and knowing that other AI provision across the different legislative proposal do not address people's rights, what is plan B?

The digital environment is disruptive, highly volatile and “evolutionary”. It is **urgent to build an anticipatory and inclusive governance framework.**





Thank you
Aida Ponce Del Castillo