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## AI AUDITING UNDER LABOUR LAW: INSIGHTS FROM THE AI ACT AND THE PLATFORM WORK DIRECTIVE

### Abstract

This article examines the emerging role of artificial intelligence (AI) auditing as a mechanism for promoting algorithmic accountability within the European Union's labour law framework. Focusing on two key legislative instruments—the Artificial Intelligence Act (AI Act) and the Platform Work Directive (PWD)—the study presents a comparative analysis of their respective audit models. While the AI Act introduces a general, risk-based approach to AI governance centred on ex ante conformity assessments, the PWD establishes a sector-specific, rights-based framework that emphasises transparency, human oversight, and worker participation in ex post evaluations of algorithmic management systems.

Drawing on legal analysis and interdisciplinary literature, the article explores how each instrument operationalises AI auditing, with particular attention to procedural safeguards, institutional design, and enforcement mechanisms. It argues that, although the AI Act offers a more formalised audit structure, its reliance on internal assessments raises concerns regarding independence and effectiveness. Conversely, while the PWD lacks a mandatory external audit requirement, it compensates through participatory governance tools, including data protection impact assessments, transparency obligations, and individual redress rights.

The article concludes that these complementary regulatory models collectively represent a significant normative development in embedding algorithmic accountability within EU labour law. However, their effectiveness will depend upon robust implementation, institutional capacity, and the evolution of audit practices that are not only technically rigorous but also legally enforceable and socially legitimate.

**Słowa kluczowe:** audyt sztucznej inteligencji, odpowiedzialność algorytmiczna, Rozporządzenie w sprawie sztucznej inteligencji, dyrektywa w sprawie poprawy warunków pracy za pośrednictwem platform, prawo pracy, zarządzanie algorytmiczne, ocena zgodności, nadzór człowieka, ocena skutków dla ochrony danych

**Keywords:** AI auditing, algorithmic accountability, Artificial Intelligence Act, Platform Work Directive, labour law, algorithmic management, conformity assessment, human oversight, data protection impact assessment.

**ASJC:** 3308, **JEL:** K31

## Introduction

Artificial intelligence (AI) auditing has emerged as a principal mechanism for ensuring accountability and transparency in the operation of automated decision-making systems, particularly in the context of algorithmic management within platform-based work environments (Costanza-Chock et al. 2022, p. 2; Birhane et al. 2024, p. 5; Dalal 2024, p. 36). As a process distinct from the design and deployment of such systems, auditing facilitates the identification of potential bias, discriminatory outcomes, and non-compliance with legal, ethical, and societal standards (Lee 2021, pp. 123–124; Mökander et al. 2022, p. 248). Accordingly, it assumes not merely a technical, but also a regulatory and institutional character, wherein both the methodological rigour of the evaluation and the enforceability of the auditor's recommendations are of central importance.

An AI audit may be defined as a systematic, recurring, and independent evaluation of an AI system encompassing its design, implementation, operation, and societal impact. Its objective is to verify compliance with applicable legal, ethical, and professional standards; to identify risks; and to ensure algorithmic accountability. The process typically includes the examination of system architecture, training data and decision outputs; performance evaluation; risk mapping; and the formulation of mitigation measures (“Auditing employment algorithms for discrimination” n.d.).<sup>1</sup> Effective auditing practices engage diverse stakeholders and incorporate mechanisms that guarantee both transparency and enforceability of corrective actions (Dalal 2024, p. 36).

Contemporary approaches emphasise the necessity of cyclical audits, capable of responding to the evolving nature of AI models (e.g. model drift) and changing legal and societal expectations (Mökander et al. 2022, p. 49). Within the sphere of employment, audits must assess not only technical performance but also the broader implications for power asymmetries, worker autonomy, and compliance with labour law provisions. A variety of audit models has emerged, distinguished by the nature of the auditing entity and the modalities of oversight and enforcement. These include self-assessment, third-party auditing, and regulatory or oversight auditing—each demonstrating varying degrees of institutional independence, technical rigour, and alignment with the public interest.

The self-assessment model, or internal audit, places the responsibility for the conformity assessment on the entity developing or deploying the AI system. This model involves the provider conducting an internal review of compliance with relevant legal obligations, including quality management, technical documentation, and risk mitigation. The European Union's Artificial Intelligence Act (hereinafter referred to as: “AI Act”) permits internal conformity assessments for numerous “stand-alone” high-risk AI systems.<sup>2</sup> While this model leverages internal expertise, it gives rise to concerns regarding conflicts of interest and inconsistency in the application of legal standards.

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<sup>1</sup> <https://www.brookings.edu/articles/auditing-employment-algorithms-for-discrimination/>

<sup>2</sup> <https://medium.com/@axel.schwanke/eu-ai-act-summary-and-key-issues-531fbed12c97>

The second model, third-party auditing, involves evaluation by an independent entity—typically a notified body or certified auditor with domain-specific expertise. This approach is mandated under EU law for certain high-risk AI systems, such as those integrated into medical devices or industrial machinery. Third-party audits ensure external scrutiny and enhance public trust. Nevertheless, questions remain regarding the independence of auditors, the risk of market capture, and the accessibility of such audits to small and medium-sized enterprises.

The third model, regulatory or oversight auditing, assigns the auditing function to public authorities or designated regulators. These bodies are empowered by statute to inspect AI systems for legal compliance. One notable example is the Digital Services Act, which requires independent audits of very large online platforms under regulatory supervision. While this model is conducive to public interest objectives, its effectiveness depends on the institutional capacity and technical expertise of the competent authorities.

These models reflect a continuum of regulatory approaches—from market-based self-regulation to state-centric oversight—each bearing distinct implications for enforceability, legitimacy, and effectiveness. Crucially, their success is contingent upon their integration within broader enforcement frameworks, including sanctions, transparency obligations, and remedial mechanisms.

AI audit models may also be categorised according to their temporal orientation. *Ex ante* audits are conducted prior to deployment and serve as a form of pre-release verification, as exemplified by the AI Act's conformity assessment procedures. *Ex post* audits occur following deployment and include periodic monitoring or investigations triggered by incidents or complaints. These audits often take the form of algorithmic impact assessments or regular performance evaluations.

Beyond these legal models, further typologies illuminate the multifaceted nature of AI auditing. One dimension concerns the degree of human involvement. Audits may range from formalistic oversight to robust, participatory processes that engage stakeholders and incorporate interpretive tools (Crespo 2022, pp. 35–36). Another dimension is scope: some audits concentrate narrowly on specific models or datasets, while others adopt a broader, ecosystemic perspective. Reflexive auditing, which evaluates the audit process itself, also constitutes an emerging category (Birhane et al. 2024, pp. 14–15). Moreover, audits may occur at various stages of the AI lifecycle, encompassing one-off conformity assessments, iterative monitoring, or voluntary ethical audits that complement binding legal obligations by addressing context-specific risks and value conflicts (Mókander et al. 2022, pp. 248–253).

As the foregoing analysis demonstrates, AI auditing has evolved into a complex and multidimensional mechanism for institutionalising accountability in the governance of automated systems. It encompasses not only legal compliance and technical evaluation but also stakeholder engagement and the assessment of systemic and societal impacts. While emerging paradigms increasingly favour cyclical, participatory, and interdisciplinary methods, the actual effectiveness of audit practices is dependent upon their incorporation into enforceable legal and institutional frameworks.

Despite a growing normative consensus on the value of AI audits, their implementation remains fragmented across jurisdictions and sectors. Against this background, the European

Union has enacted two legislative instruments that represent distinct but complementary approaches to embedding algorithmic audit mechanisms into legal governance: the Artificial Intelligence Act and the Directive on improving working conditions in platform work (hereinafter referred to as: “Platform Work Directive”, “PWD”). The former establishes a horizontal, risk-based framework grounded in *ex ante* conformity assessments and product safety logic. The latter adopts a sector-specific, rights-based approach to algorithmic management in the platform economy, relying on *ex post* oversight, transparency, and participatory mechanisms to safeguard workers’ rights.

Although both instruments aim to ensure accountability in the use of AI systems affecting working conditions, they diverge significantly in terms of regulatory architecture, institutional responsibilities, and modes of enforcement. Existing academic literature has predominantly treated them in isolation, leaving underexplored the interaction and normative tensions between their respective audit and compliance models. This article seeks to address that gap by undertaking a comparative analysis of the audit mechanisms embedded in the Artificial Intelligence Act and the Platform Work Directive. It investigates how each instrument conceptualises risk, distributes compliance duties, and embeds legal safeguards in the context of algorithmic management.

Through legal doctrinal analysis and engagement with interdisciplinary scholarship, the article argues that these two instruments embody distinct yet interdependent paradigms of AI governance. While the Artificial Intelligence Act prioritises standardisation and conformity assessment, the Platform Work Directive foregrounds institutional oversight and collective participation. Taken together, they offer a valuable framework for developing a layered, context-sensitive, and enforceable model of algorithmic accountability in the evolving digital labour market within the European Union.

## **1. Audit and Conformity Assessment under the Artificial Intelligence Act**

The Artificial Intelligence Act introduces a risk-based regulatory framework for AI systems, requiring enhanced oversight for those classified as high-risk in Annex III. Among these are workplace-related applications, including tools used in recruitment, task allocation, performance monitoring, and decision-making processes affecting workers’ rights.

The regulatory architecture mirrors a product safety model. Before deployment, providers must conduct a conformity assessment to ensure compliance with the Act’s requirements. Article 43 of the AI Act establishes two main pathways: either a self-assessment conducted by the provider or a third-party assessment carried out by a notified body, depending on the type of system. The prevailing rule is that stand-alone high-risk AI systems—those not integrated into products already regulated under EU sectoral safety legislation—are subject only to internal conformity assessments. In such cases, providers must establish a quality management system, maintain technical documentation, ensure adherence to obligations related to data governance, transparency, and human oversight, and issue an EU declaration of conformity with CE marking.

Third-party conformity assessments are primarily reserved for AI systems embedded in products regulated by sectoral legislation, such as medical devices, or where explicitly mandated by EU law. However, the initial framework does not require external audits for most high-risk harmonised standards (Francis 2024). Competent authorities are responsible for market surveillance and enforcement, while harmonised standards and guidelines are expected to provide a consistent audit methodology across the EU. This preventive, decentralised model is designed for scalability, but has been met with concern.

A central point of criticism is the lack of mandatory third-party review for high-risk systems. The European Economic and Social Committee, among others, has raised concerns about potential conflicts of interest in self-assessments, especially in competitive markets where providers may downplay compliance burdens („European Self- and Co-Regulation”, n.d., p. 21). This has led to comparisons with “the fox guarding the henhouse” (Francis 2024). Although the Artificial Intelligence Act provides for significant penalties—up to 7% of global turnover—their deterrent effect is weakened in the absence of independent pre-market scrutiny.<sup>3</sup> Post-market monitoring and audits by national authorities are foreseen, yet resource limitations may constrain enforcement. This framework places considerable reliance on providers’ internal compliance cultures, which can vary widely. While this compromise was adopted to ensure administrative feasibility, it may underestimate the challenges of effective oversight.<sup>4</sup>

The Artificial Intelligence Act attempts to mitigate these risks by embedding ethical and procedural safeguards. Internal audits must address structural risks such as data bias and lack of robustness. The obligation to conduct a fundamental rights impact assessment (FRIA) in certain cases adds an ethical dimension often missing from voluntary corporate processes.<sup>5</sup> If performed diligently, these controls could prevent harm before deployment. The division of responsibilities—between providers during development and deployers during implementation—offers a clear compliance structure. However, the assumption that deployers, particularly small enterprises or public bodies, possess the capacity for effective monitoring and FRIA implementation may be overly optimistic. Many may lack the technical expertise to detect subtle algorithmic harms (Iunes Monteiro 2025, p. 186). Critics have therefore proposed involving external actors, such as civil society organisations or affected individuals, in independent audits. Although the Artificial Intelligence Act includes a public EU database

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<sup>3</sup> According to Art. 99 (3) of the AI Act, infringements of the prohibited AI practices listed in Art. 5 may result in administrative fines of up to 35 million euro or, in the case of companies, up to 7% of their total worldwide annual turnover for the preceding financial year, whichever is higher.

<sup>4</sup> The Artificial Intelligence Act relies heavily on providers’ internal post-market monitoring systems (Art. 72) and mandates reporting of serious incidents (Art. 73), while assigning oversight tasks to national market surveillance authorities (Art. 74). However, concerns remain that limited administrative resources may hinder effective enforcement and oversight.

<sup>5</sup> The Artificial Intelligence Act embeds ethical and procedural safeguards through mandatory risk management (Art. 9) and data governance requirements (Art. 10), aiming to address structural risks such as bias and lack of robustness (Art. 15). Additionally, providers and certain deployers of high-risk AI systems must conduct internal assessments that account for fundamental rights impacts. Notably, Art. 27 introduces the obligation to carry out a fundamental rights impact assessment (FRIA), reinforcing an ethical layer often absent in voluntary corporate governance.

of high-risk systems and transparency obligations, it does not grant researchers access for audit purposes—representing a missed opportunity (Busuioc, Curtin, Almada 2023, p. 93; Iunes Monteiro 2025, pp. 210–211). Related instruments, like the AI Liability Directive, may offer post-hoc mechanisms for oversight, but do not replace the need for robust ex-ante assessment.<sup>6</sup>

General-purpose AI (GPAI) and foundation models pose a particular challenge. The Artificial Intelligence Act imposes baseline obligations on GPAI providers—including documentation, safety testing, and risk mitigation—but such models are not deemed high-risk unless used in high-risk applications. This means no formal conformity assessment is required prior to market release. Responsibility for evaluating downstream impacts is delegated to deployers. As a result, powerful models with latent risks, including embedded bias, could be released without ever undergoing external scrutiny. While the Commission may designate some GPAI systems as high-risk based on systemic risk (Art. 52 of the AI Act), this remains a discretionary and reactive tool. Notably, GPAI and foundation models are not automatically classified as high-risk AI systems under Art. 6 of the AI Act, which explains the absence of a general conformity assessment requirement. Instead, they are subject to a distinct regulatory regime set out in Chapter V (Arts. 52–55), imposing specific obligations on transparency, technical documentation, and risk mitigation.<sup>7</sup>

The success of the Artificial Intelligence Act ultimately depends on enforcement capacity. Each Member State must designate one or more Market Surveillance Authorities (MSAs). The final compromise between the European Parliament and the Council envisions a hybrid model: a lead national authority coordinating with sector-specific bodies, supported by the new European AI Office. Ensuring coherent implementation across 27 Member States will be a challenge. A centralised authority might lack domain-specific insight, while fragmented oversight could result in regulatory confusion. Early coordination protocols and investment in institutional infrastructure will be essential (Cancela-Outeda 2024, pp. 7–8; Busuioc, Curtin, Almada 2023, p. 23; Iunes Monteiro 2025, p. 198)<sup>8</sup>.

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<sup>6</sup> The AI Liability Directive, published as COM(2022) 496 final on 28 September 2022, establishes a post-hoc liability framework allowing individuals to claim compensation for harm caused by AI systems. However, such ex-post remedies do not substitute for robust ex-ante safeguards, such as fundamental rights impact assessments, which aim to prevent harm before deployment.

<sup>7</sup> The Artificial Intelligence Act addresses obligations for providers of General-Purpose AI (GPAI) models in Art. 53, which mandates the creation and maintenance of technical documentation, compliance with EU copyright law, and the provision of summaries of training data. Furthermore, Art. 6 specifies that while GPAI models are not inherently classified as high-risk, they may be designated as such when integrated into applications listed in Annex III, necessitating adherence to additional requirements applicable to high-risk AI systems.

<sup>8</sup> To address the challenges of centralized oversight lacking domain-specific expertise and the risks of fragmented implementation, the Artificial Intelligence Act establishes a governance framework that includes both EU-level and national authorities. The European AI Office, situated within the European Commission, is tasked with overseeing the Act's enforcement and ensuring consistent application across Member States. Concurrently, each Member State is required to designate national market surveillance authorities responsible for supervising and enforcing the rules for AI systems within their jurisdictions. This dual-layered structure aims to balance centralized coordination with local expertise, thereby promoting coherent and effective enforcement of the Artificial Intelligence Act.

In addition to institutional clarity, regulators must develop interdisciplinary expertise. Auditing complex AI systems—particularly those based on machine learning—requires teams of legal experts, engineers, data scientists, and ethicists. This represents a significant departure from traditional regulatory tasks (Li, Goel 2025, pp. 2–3; Cancela-Outeda 2024, p. 2; Mantelero 2024, p. 3). Although EU initiatives support training and regulatory sandboxes, the availability of qualified personnel remains limited. In the early implementation phase, oversight may focus on the most egregious or high-profile systems, while many others remain effectively self-regulated.

Finally, the limited development of notified bodies (NBs) in the AI domain constitutes a bottleneck. While NBs are well established in sectors such as medical devices, few organisations currently meet the qualification thresholds for AI. Some assessment bodies hesitate to enter the field amid legal and operational uncertainty.<sup>9</sup> If the EU or Member States later mandate third-party audits for specific systems—e.g., autonomous vehicles—insufficient NB capacity could lead to delays or superficial reviews. To prevent a “rubber-stamping” dynamic, national authorities must actively supervise NBs. In the initial years, notified bodies may adopt a cautious approach, requiring extensive documentation and delaying approvals until regulatory guidance stabilises. While this can enhance audit quality, it may also slow market access. Striking a balance between audit rigour and procedural efficiency will be one of the central enforcement challenges facing the Artificial Intelligence Act.

## 2. Platform Work Directive’s Algorithmic Management Audit Model

The Platform Work Directive adopts a more sector-specific and hands-on approach to the auditing of algorithmic systems that manage workers. It constitutes the first piece of European Union legislation to directly regulate algorithmic management within the workplace (Ponce del Castillo 2023). Algorithmic management refers to the deployment of automated systems—such as algorithms that allocate ride-hailing or delivery tasks, evaluate workers’ performance, or even initiate disciplinary measures or terminate contracts—to supervise and take decisions concerning workers (Ponce del Castillo 2023). The model introduced by the Platform Work Directive may be characterised as an integrated framework combining transparency obligations, impact assessment requirements, and human oversight safeguards, with the overarching aim of protecting platform workers. Several core components illustrate the Directive’s emphasis on auditing and supervising algorithmic decision-making.

The Platform Work Directive establishes a comprehensive EU-wide framework for governing the use of automated systems in platform work. Algorithmic management is

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<sup>9</sup> Notified bodies (NBs) are independent third-party organizations designated by EU Member States to assess the conformity of high-risk AI systems with the requirements of the AI Act before they are placed on the market. In the AI context, their limited development means there are few accredited bodies with the technical expertise to conduct these assessments, creating a regulatory bottleneck.

addressed primarily in Chapter III of the PWD, which applies to all individuals performing platform work—including those without an employment contract—in relation to personal data processing and automated decision-making. The Platform Work Directive defines “automated monitoring systems” and “automated decision-making systems” in broad terms, encompassing electronic systems that monitor workers’ performance or support decisions that significantly affect their working conditions (e.g. task allocation, pay, working time, access to work, suspension, or termination) (Art. 2 (1) (h)–(i) of the PWD). By establishing algorithmic management as a defining feature of “digital labour platforms”, the Platform Work Directive acknowledges that platform work is typically organised through AI-driven tools, and therefore necessitates dedicated regulatory intervention.

### 3. Data Processing Restrictions and Risk Assessment

To safeguard the fundamental rights and privacy of platform workers, Art. 7 of the PWD imposes strict limitations on the categories of personal data that digital labour platforms may process through automated monitoring or decision-making systems. Platforms are prohibited from processing sensitive personal data of persons performing platform work via automated monitoring or decision-making systems. This includes, in particular, data relating to emotional or psychological state, private communications, activities undertaken outside working time, or personal beliefs, such as political or religious views, trade union membership, health status, or sexual orientation.

Moreover, platforms may not employ automated tools to infer protected characteristics or to predict the exercise of fundamental rights, such as the right to organise or to engage in collective action. The use of biometric identification for worker identity verification—specifically one-to-many matching of biometric data against databases—is also prohibited. However, one-to-one biometric authentication (i.e. comparing a worker’s biometric data against their own previously provided data) is permitted, provided it complies with other applicable legal frameworks (Art. 7 (1) (d)–(f) of the PWD).

These prohibitions are intended to ensure that algorithmic management does not intrude into the most intimate spheres of workers’ lives or undermine their labour rights. Importantly, the recitals to the Directive clarify that, due to the inherent power imbalance in platform work, consent to the processing of personal data cannot be regarded as freely given (Recitals 38, 39, and 40 of the PWD). Consequently, platforms should not rely on consent as a lawful basis for such processing in this context.

Recognising that algorithmic management intrinsically poses heightened risks to workers’ rights and privacy, Art. 8 of the PWD stipulates that any personal data processing undertaken by a platform’s automated systems is “likely to result in a high risk” to the rights and freedoms of data subjects. Accordingly, a Data Protection Impact Assessment (DPIA) is mandated. Platforms are required to conduct DPIAs in accordance with Art. 35 of the General Data Protection Regulation (hereinafter referred to as: “GDPR”), assessing the implications of automated monitoring and decision-making for the data protection and rights of platform workers.

Significantly, the Platform Work Directive introduces a specific requirement that platform workers or their representatives must be consulted during the DPIA process. In effect, this affords workers a participatory role in evaluating the impact of AI systems deployed by the platform. The finalised impact assessment must also be made available to workers' representatives, thereby ensuring transparency regarding any identified risks. Recital 43 of the PWD underscores the point that, given the potentially significant effects of automated management on workers, platforms should consistently undertake DPIAs and involve workers in that process (Abraha 2023, p. 8).

Taken together, Art. 7 and 8 of the PWD function as preventive regulatory instruments. Article 7 establishes categorical prohibitions on the processing of particularly sensitive types of personal data, thereby eliminating high-risk practices before they can occur. Article 8 complements this by imposing *ex ante* transparency obligations, requiring digital labour platforms to inform workers and their representatives about the functioning and implications of automated systems that affect working conditions. In this way, the Platform Work Directive embeds risk anticipation and early accountability into the governance of algorithmic management systems, aiming to prevent harm rather than merely redress it.

#### 4. Transparency and Information Duties

The Platform Work Directive establishes robust transparency obligations to ensure that platform workers, their representatives, and regulatory authorities are adequately informed about the use of algorithmic systems in the management of work. Article 9 of the PWD obliges Member States to require digital labour platforms to inform workers whenever automated monitoring or decision-making systems are in operation. At a minimum, platforms must disclose the existence of such systems and provide meaningful information regarding their functioning.

In the case of automated monitoring tools, platforms must explain what data or behaviours are being monitored (e.g. GPS tracking, customer ratings) and for what purpose. For automated decision-making systems, workers must be informed of the types of decisions made by such systems, the principal parameters and data considered (including their relative weighting), and the extent to which the worker's behaviour or personal data influence outcomes. Critically, where an automated system has the capacity to restrict, suspend, or terminate a worker's account, refuse remuneration for completed work, or otherwise determine employment status or similarly significant matters, the platform is required to communicate the grounds for such decisions in advance. Furthermore, Art. 9 (1) (c) of the PWD captures "all categories of decision" taken by automated systems that affect workers in any manner, thereby ensuring comprehensive coverage of algorithmic decision-making within the scope of the information. The Platform Work Directive details not only what information must be disclosed, but also to whom and at what point. Pursuant to Art. 9 (2)–(5) of the PWD, platforms must provide the requisite information in written form that is clear and intelligible. Each worker must receive concise, plain-language information concerning the automated systems that directly

affect them, by no later than their first day of engagement on the platform. Workers must also be notified in advance of any significant changes to those systems that may alter working conditions or performance evaluation duty (De Petris 2024, p. 472; Aloisi, Potocka-Sionek 2025, pp. 7–8; Trojsi 2024, pp. 13–15).

Upon request, platform workers are entitled to receive a more detailed and comprehensive explanation of all relevant automated systems and their functioning (Art. 9 (5) of the PWD). In addition, workers' representatives must be granted access to complete information concerning any automated monitoring or decision-making systems used by the platform. This information must be provided prior to the deployment of any new system (Art. 10 (1) (c) of the PWD), before any substantial modification affecting the organisation of work (Art. 10 (1) (d) of the PWD), and upon request at any time (Art. 10 (1) (e) of the PWD). National authorities are likewise entitled to receive such detailed information on request (Art. 9 (5) of the PWD).

This multi-level transparency framework—targeted at individual platform workers, their representatives, and competent national authorities—is designed to counteract the opacity often inherent in algorithmic decision-making (Recital 44). According to the Platform Work Directive, disclosures must cover the extent to which automated systems influence essential working conditions, including access to assignments, earnings, working time, training opportunities, and contractual status. While individual workers must receive this information in a concise, simple, and intelligible form, workers' representatives and authorities are entitled to comprehensive and technically detailed information, sufficient to enable the exercise of their respective representative or supervisory functions (Recital 44; see also Art. 9 (5) of the PWD) (Carpentier 2024).

In addition, Art. 9 (6) of the PWD establishes a specific data portability right for platform workers in respect of personal data generated through their activities on the platform. Workers must be enabled to obtain—free of charge and in a commonly used, machine-readable format—all personal data generated in the course of their work, including, for example, customer ratings or reviews that relate to their performance. Platforms are required to provide appropriate technical tools to facilitate this transfer. As clarified in Recital 45, this provision not only promotes transparency but also allows workers to reuse their reputational or work history data—often referred to as digital labour data—when transitioning to another platform or employer, thereby strengthening both their mobility and bargaining power in the labour market.

Taken together, the transparency and data portability provisions impose significant disclosure obligations on digital labour platforms. They serve to render otherwise opaque algorithmic management systems intelligible, accountable, and subject to oversight. These obligations apply uniformly across the European Union and to all individuals performing platform work, thus establishing a common EU standard of algorithmic transparency within the platform economy.

## 5. Human Oversight and Impact Evaluation

Recognising that transparency alone is insufficient, the Platform Work Directive establishes mandatory human oversight and periodic evaluation mechanisms to monitor and mitigate

the impact of algorithmic systems. Pursuant to Art. 10 (1) (a) of the PWD, digital labour platforms are required to conduct regular assessments—at least every two years—of the impact that individual automated decisions have on working conditions. In addition, Art. 10 (1) (b) of the PWD mandates ongoing human supervision of automated monitoring and decision-making systems, with the aim of identifying, investigating, and correcting potential errors, and ensuring that such systems do not produce discriminatory outcomes. These evaluations must help guarantee that workers are treated equally and fairly by algorithmic processes. In keeping with a participatory model of algorithmic governance, workers' representatives are entitled to be involved in this evaluative process. The Platform Work Directive further mandates that platforms allocate sufficient human resources to ensure meaningful oversight of AI systems, rather than engaging in symbolic or merely procedural compliance. Individuals responsible for such oversight must possess appropriate expertise, training, and authority—including the capacity to override or reverse automated decisions where necessary.

To guarantee the independence of internal oversight functions—essentially forming an internal algorithmic audit or compliance mechanism—Art. 10 (2) of the PWD protects designated personnel against dismissal or any adverse treatment resulting from the performance of their duties.

When a regular review or specific evaluation identifies “a high risk of discrimination at work” or reveals that automated decisions have infringed a worker's rights, Art. 10 (3) of the PWD obliges platforms to adopt appropriate corrective measures. These may include modifying the algorithm, limiting its application, or suspending its use entirely. In other words, where a system is found to produce biased, unequal, or unlawful outcomes, the platform is under a positive and enforceable duty to intervene.

Furthermore, Art. 10 (4) of the PWD requires that the outcomes of periodic evaluations be communicated to workers' representatives and made available to individual workers and competent authorities upon request (Agosti et al. 2023, pp. 43–44). This reinforces accountability and ensures that risks are neither ignored nor concealed. Notably, Art. 10 (5) of the PWD introduces an absolute prohibition on fully automated decisions where such decisions result in the restriction, suspension, or termination of a worker's account or contractual relationship (Ponce del Castillo 2023, pp. 174–175; Agosti et al. 2023, pp. 23–25). In line with Art. 10 (6) of the PWD, any such decision must be taken or confirmed by a human being, thus embedding a meaningful human oversight mechanism for so-called “significant decisions” (Lazcoz, De Hert 2023, pp. 7–8) Recital 48 of the PWD underscores this safeguard by explicitly referencing the requirement of human intervention under Art. 22 of the GDPR, confirming that decisions with effects equivalent to dismissal must never be fully automated (Abraha 2023, pp. 180–182).

Taken together, these provisions establish a framework of continuous algorithmic audit and enforceable compliance obligations. Platforms are not only required to monitor the functioning of their AI systems, but must also take prompt and effective action where those systems undermine equality, fairness, or fundamental labour rights (Johnston, Silberman 2020, pp. 16–23; Ponce del Castillo 2023, pp. 6–7).

## 6. Explanation, Review and Redress Mechanisms

Beyond systemic oversight, the Platform Work Directive empowers individual workers with rights to explanation and human review of algorithmic decisions, thereby introducing a mechanism of case-specific accountability. Internal human oversight mechanisms must continuously monitor algorithmic decision-making, while individual workers are equipped with enforceable rights to seek explanation, review, and redress. These provisions ensure that algorithmically driven decisions are neither final nor immune from challenge. As noted by commentators, they represent a significant development in embedding procedural safeguards and empowering worker agency in AI-managed workplaces (Carpentier 2024).

Pursuant to Art. 11 (1) of the PWD, any person performing platform work is entitled to obtain an explanation from the platform for any decision taken or supported by an automated system, and to do so “without undue delay”. The explanation must be presented in a clear and comprehensible manner, using plain language, to enable the worker to understand how and why a particular decision—or the absence of a decision—occurred. Additionally, platforms must provide access to a human contact person with whom workers may discuss and clarify such decisions. This ensures that workers are not left to engage with opaque, impersonal systems but are offered meaningful human interaction in addressing concerns.

For decisions with especially significant consequences, the Directive imposes more stringent requirements. Where an automated system determines to suspend or terminate a worker’s account, withhold remuneration, alter contractual status, or otherwise affect the “essential aspects” of the employment relationship, the platform must provide a written statement of reasons by the time the decision takes effect. Article 11 (1) of the PWD thus enshrines a right to a written justification for the most impactful algorithmic determinations, reflecting due process guarantees. Recital 49 of the PWD further emphasises that such written reasoning should be supplied at the latest upon implementation of the decision, and ideally “at the earliest opportunity”, in view of the substantial adverse effects such decisions may have on a worker’s livelihood.

Article 11 (2) of the PWD confers upon workers the right to request a review of any automated decision that they consider to be erroneous or unjust. Upon receipt of such a request, the platform is required to initiate a human review and deliver a “sufficiently precise and adequately substantiated” written reply, detailing the findings of the review. This response must be issued without undue delay, and in any case within two weeks. The Platform Work Directive thus establishes a fast-track internal appeals procedure, enabling workers to contest algorithmic outcomes and to obtain human reconsideration of their individual situation.

Should the review process reveal that a worker’s rights—whether labour rights, data protection rights, or protections against discrimination—have been violated, Art. 11 (3) of the PWD mandates the platform to rectify the decision immediately and no later than two weeks following the review. For instance, if an automated system has wrongfully deactivated a worker, the platform must reinstate that worker without delay. Where reversal of the decision is not feasible—e.g. in cases involving lost income or missed opportunities—the platform must provide “adequate compensation” to the affected worker. Moreover, the

platform must adopt measures to prevent similar harms in the future, which may include modification or cessation of the AI system in question. This creates a feedback mechanism through which individual redress contributes to systemic correction, linking one worker's dispute to potential improvements in algorithm design, governance, or organisational policy.

Importantly, where self-employed platform workers qualify as “business users” within the meaning of Regulation (EU) 2019/1150 on Platform-to-Business Relations, the Platform Work Directive clarifies that those individuals may rely on the overlapping rights afforded under that instrument for the purpose of contesting decisions. Specifically, concerning human review of significant decisions, the provisions of Regulation (EU) 2019/1150 take precedence for business users.

## 7. Involvement of Workers' Representatives and Collective Rights

The Platform Work Directive reinforces collective labour rights in the context of algorithmic management by requiring information and consultation procedures when platforms introduce or significantly modify automated systems. Pursuant to Art. 13 of the PWD, the deployment of new automated monitoring or decision-making systems—or substantial changes to existing ones—must be preceded by information and consultation with workers' representatives. This obligation extends the general EU framework on employee consultation (Directive 2002/14/EC) to include decisions regarding the implementation of algorithmic systems used to organise and manage work.

In practice, before a platform introduces an algorithm that alters, for example, task allocation or performance evaluation, it must inform the relevant workers' representatives and consult them regarding the expected impact. Such consultation must comply with national rules transposing the general information and consultation framework. Importantly, workers' representatives are entitled to be assisted by an expert of their choice in reviewing the technical functioning of such systems. Where the platform employs more than 250 persons, it must bear the cost of this expert assistance. This provision recognises the technical complexity of algorithmic management and aims to promote meaningful engagement of workers' representatives.

Recital 52 of the PWD emphasises the importance of providing timely and comprehensible information to workers' representatives—alongside expert support where necessary—to ensure meaningful participation in consultations on complex technological systems. Although the Platform Work Directive does not prevent stricter national consultation requirements, it establishes a minimum procedural safeguard for changes to algorithmic systems that affect work organisation.

In the frequent case where no formal workers' representation exists in platform work, Art. 14 of the PWD requires platforms to directly inform affected workers of any decision to introduce or substantially alter automated systems. This information must be provided in writing and in clear, plain language. Thus, even in the absence of trade unions or works

councils, individual platform workers retain the right to be informed in advance of significant technological changes that may affect their working conditions.

Crucially, these rights are extended to self-employed individuals. Recital 54 of the PWD recognises that persons working via platforms outside of formal employment relationships face similar risks from algorithmic management as employees. Therefore, the transparency, explanation, and consultation rights under Chapter III apply equally to all “persons performing platform work”, including genuinely self-employed individuals. While employment-specific rights—such as occupational health and safety duties or formal consultation under labour law—apply only to employees, the data-related rights and algorithmic management safeguards extend to all platform workers, regardless of legal status.

Article 15 of the PWD confirms that representatives of self-employed platform workers—such as trade unions representing freelancers or associations of gig workers—must be granted the same rights of access to information and consultation as representatives of employees. Subject to national law, this includes participation in consultations on data protection impact assessments (Art. 8 (2)), algorithmic transparency (Art. 9), biannual impact evaluations (Art. 10 (4)), and changes to automated systems (Art. 13). This broadens the scope of algorithmic accountability to cover the entire platform workforce.

Trade unions, works councils, and other representative bodies are thus afforded extensive participatory rights. These include access to detailed information on algorithmic systems (Art. 9 (4)), involvement in DPIAs (Art. 8 (1)), participation in regular evaluations of AI impact (Art. 10 (1)), and a formal role in consultations prior to significant changes to algorithmic systems (Art. 13). In technically complex matters, representatives may engage independent experts at the platform’s expense, where the platform employs more than 250 individuals. The Platform Work Directive also acknowledges the vulnerabilities of self-employed platform workers who may lack access to formal representation, allowing informal associations or networks to exercise similar rights under national law (Art. 15).

Beyond the enterprise level, the Platform Work Directive promotes broader engagement with social partners. Article 25 encourages Member States to support collective bargaining in platform work, particularly on matters of algorithmic management and employment classification. Article 28 allows collective agreements to derogate from certain provisions of the Directive, provided that the overall level of protection is not diminished. Finally, Art. 29 (3) requires the involvement of social partners in the transposition and implementation of the Platform Work Directive at national level. Thus, worker organisations are recognised not merely as recipients of information, but as active co-creators of ethical and lawful frameworks governing algorithmic systems in platform work.

## **8. The Absence of a Formal Audit Requirement and Its Functional Substitutes Under the Platform Work Directive**

The Platform Work Directive introduces a novel and ambitious regulatory framework for algorithmic management in platform work. It brings considerable legal clarity by expressly

defining the responsibilities of digital labour platforms and the rights of individuals performing platform work in the context of AI-driven decision-making. Many of the central concepts—such as “automated decision-making system” or “significant decision”—are defined with precision, and the text provides a high degree of specificity concerning mandatory information disclosures and procedural requirements, including timelines for reviews and responses. This detailed drafting promotes legal certainty and is likely to facilitate a more uniform transposition across Member States.

Further support for a consistent interpretation is found in the Platform Work Directive’s extensive use of recitals, which explain the underlying rationale for key provisions. For example, the recitals clarify why worker consent is not considered a valid legal basis for data processing in power-imbalanced platform environments, and why human intervention is required in cases of account deactivation. Importantly, the Platform Work Directive closes a potential loophole in its personal scope by applying the rules on algorithmic transparency and oversight to all individuals performing platform work, including those formally categorised as self-employed. This approach prevents circumvention of the Platform Work Directive through the strategic classification of workers as independent contractors.

In terms of regulatory coherence, the Platform Work Directive is well-integrated with the broader EU legal framework. It aligns with the General Data Protection Regulation (GDPR) by incorporating concepts such as data protection impact assessments (DPIAs) and safeguards for automated decision-making, while also referencing the Platform-to-Business Regulation (EU) 2019/1150, where appropriate. This legal alignment helps reduce potential inconsistencies and supports a harmonised interpretation across regulatory domains.

The substance of the Platform Work Directive largely addresses the primary concerns associated with algorithmic management—namely, opacity, arbitrariness, data exploitation, and the lack of redress. Its transparency provisions are among the most detailed to appear in EU labour legislation to date, empowering workers and their representatives to scrutinise automated systems. The rights to human-readable explanations and access to a human contact point (Art. 9 and 11) directly address the challenges posed by “black box” algorithms. In parallel, the obligation to establish ongoing human oversight and to conduct regular impact assessments promotes a proactive internal compliance culture. Rather than relying solely on reactive enforcement, the Platform Work Directive imposes forward-looking governance mechanisms that compel platforms to identify and mitigate systemic harms—such as discrimination or psychosocial risks—on an ongoing basis.

Taken together, these provisions establish an accountability cycle encompassing design-time assessments (DPIAs), operational monitoring (human oversight), procedural transparency (information sharing), and responsive correction (explanation, review, and redress mechanisms). If fully implemented and enforced, this framework could serve as a model for AI governance in other high-risk domains beyond platform work.

Nonetheless, the Platform Work Directive is not without potential weaknesses. Ambiguities persist regarding the interpretation of what constitutes a decision that “significantly affects” workers, thereby triggering the full range of procedural safeguards. While the Platform Work Directive provides a non-exhaustive list of such decisions—including those relating to remuneration, task allocation, working time, and account status—there remains scope

for contention in borderline cases. For example, algorithmic ranking systems that influence a worker's visibility to clients, or dynamic pricing mechanisms, may materially affect earnings, yet platforms may seek to argue otherwise (Ponce del Castillo, Naranjo 2022, pp. 1–2). It will therefore be essential for regulators and courts to adopt a purposive interpretation of these provisions, consistent with the Directive's protective objectives.

A related interpretative challenge concerns the distinction between decisions that are “automated” and those merely “supported” by automation. The Platform Work Directive appropriately encompasses both categories, thereby precluding platforms from circumventing their obligations through hybrid human–machine processes. Nevertheless, enforcement bodies must ensure that such hybrid workflows do not result in *de facto* automation being mischaracterised as human decision-making. This is particularly significant in light of the Directive's stipulation that critical decisions—such as the termination of contractual relationships—must be made by a human. There is a risk that this safeguard could become a mere formality, with human actors functioning as “rubber stamps” rather than exercising genuine discretion (Enarsson, Enqvist, Naarttijärvi 2022, p. 5). Assessing whether these decisions are substantively independent or merely automated outcomes in disguise will be a complex and resource-intensive endeavour (Ponce del Castillo, Naranjo 2022, p. 1).

One of the principal structural limitations of the Platform Work Directive lies in the absence of a mandatory framework for independent or external audits of algorithmic systems employed by digital labour platforms (Adams-Prassl et al. 2023, p. 126; Veale, Silberman, Binns 2023, p. 310). In contrast to the Artificial Intelligence Act, which mandates third-party conformity assessments for certain high-risk AI systems, the Platform Work Directive largely relies on internal platform mechanisms and regulatory oversight through procedural obligations and disclosure requirements (Adams-Prassl et al. 2023, p. 311; Veale, Silberman, Binns 2023, p. 311).

The Platform Work Directive does, however, introduce a number of institutional and participatory mechanisms that may function as *de facto* audit structures, albeit with variable degrees of effectiveness (Adams-Prassl et al. 2023, p. 128; Agosti et al. 2023, p. 6). Notably, it empowers external actors—such as labour inspectorates, data protection authorities, and workers' representatives—to participate in the oversight of algorithmic management systems. These actors are entitled to access relevant documentation and may challenge decisions supported by algorithmic processes that affect working conditions, remuneration, or contractual status (Agosti et al. 2023, pp. 5–7; Veale, Silberman, Binns 2023, p. 313). Labour inspectorates and competent authorities are expressly expected to play a proactive role in enforcing the Platform Work Directive's provisions. Recital 36 underscores the importance of equipping these bodies with adequate human resources and technical expertise, particularly in relation to algorithmic systems (Adams-Prassl et al. 2023, p. 146; Veale, Silberman, Binns 2023, p. 325; De Petris 2024, p. 467). In parallel, Art. 6 (d) requires Member States to provide appropriate technical training and to ensure the availability of expertise to support inspections and the application of the legal presumption of employment status. Nevertheless, the actual capacity of national authorities to fulfil these functions is

likely to vary considerably across Member States, depending on institutional resources and the broader legal infrastructure.

The Directive also assigns a significant, albeit indirect, role to workers' representatives in the governance of algorithmic systems (Aloisi, Potocka-Sionek 2025, p. 34). Article 15 (2) mandates that such representatives be informed and consulted prior to the introduction or substantial modification of automated monitoring or decision-making systems. Where provided for under national law, these representatives are further entitled to the assistance of technical experts at the platform's expense. This provision mirrors certain audit-like functions, as it facilitates an independent evaluation of algorithmic tools, particularly where their design and implementation affect working conditions.

Moreover, Art. 12 and 13 of the PWD establish individual rights to human oversight and the contestation of decisions supported by algorithmic systems (Adams-Prassl et al. 2023, pp. 144–145; Aloisi, Potocka-Sionek 2025, p. 33). Workers are entitled to receive explanations for decisions that significantly affect them—such as account suspension, denial of payment, or termination of the contractual relationship—and to obtain a human review of such decisions within a specified timeframe. These procedural safeguards enhance transparency and accountability, although they remain reactive rather than preventive in nature.

Despite these measures, the Platform Work Directive refrains from mandating systematic and independent evaluations of algorithmic systems, akin to the *ex ante* conformity assessments required under the Artificial Intelligence Act (Mökander et al. 2022, p. 243; Veale, Silberman, Binns 2023, p. 310; Malgieri, Pasquale 2024, p. 1). Its reliance on transparency provisions, information rights, and national enforcement presupposes a level of institutional and technical capacity that may not be uniformly present across jurisdictions (De Petris 2024, p. 2; Aloisi, Potocka-Sionek 2022, p. 1). The absence of a harmonised and binding requirement for external algorithmic audits constitutes a notable lacuna in the regulatory framework, particularly given the opacity and complexity of the systems that underpin platform work (Kelly-Lyth, Thomas, 2023, p. 1; Malgieri, Pasquale 2024, p. 2).

Consequently, although the Platform Work Directive represents a significant step towards embedding algorithmic accountability within the domain of labour law, its model of governance is predominantly based on decentralised enforcement and stakeholder engagement. The effectiveness of this model will ultimately depend on the capacity of Member States to operationalise the Directive's provisions through robust institutional frameworks and sustained investment in regulatory expertise (Veale, Silberman, Binns 2023, p. 308; De Petris 2024, p. 1; Malgieri, Pasquale 2024, p. 2).

## Conclusion

Artificial intelligence auditing has emerged as a key mechanism for advancing algorithmic accountability within the European Union's evolving digital governance framework. In the context of labour markets, this development has been operationalised through two distinct but complementary legislative instruments: the Artificial Intelligence Act and the Platform

Work Directive. While the Artificial Intelligence Act introduces a general, risk-based model inspired by product safety regulation, the Platform Work Directive offers a sector-specific, rights-based approach designed to address the distinctive challenges posed by algorithmic management in platform work.

Taken together, these instruments mark a significant normative development. The Artificial Intelligence Act emphasises *ex ante* conformity assessments and formal compliance procedures, whereas the Platform Work Directive institutionalises *ex post* oversight through participatory mechanisms, including data protection impact assessments (DPIAs), transparency obligations, human oversight of automated decisions, and individual rights to explanation, review, and redress. This dual-track regulatory architecture reflects a growing recognition that accountability must be embedded throughout the AI system lifecycle—both prior to deployment and during its operation.

The Platform Work Directive, in particular, constitutes a substantial and considered advancement in the regulation of AI-driven management within the labour market. By establishing precise legal standards, robust procedural safeguards, and a multidimensional enforcement framework, it directly addresses the vulnerabilities of individuals engaged in platform work, who frequently operate within asymmetrical and opaque employment relationships. Its provisions concerning worker participation, collective rights, and institutional oversight constitute a pioneering model of rights-based algorithmic governance. However, the Directive's effectiveness will ultimately depend on the quality of its transposition into national legal systems, the operational capacity of enforcement authorities, and the willingness of regulators and courts to interpret its safeguards purposively so as to protect platform workers.

Nevertheless, despite its strengths, the Platform Work Directive does not establish a formal requirement for independent external audits of high-risk algorithmic systems (Abraha 2023, p. 17; Aloisi, De Stefano 2023, p. 23). Instead, it relies on internal platform mechanisms, transparency obligations, and procedural guarantees as functional proxies for formal auditing. While these elements approximate certain functions of robust audit regimes, they give rise to critical questions regarding institutional independence, methodological rigour, and the enforceability of audit outcomes. In the absence of a binding external audit framework, the Directive risks leaving structural harms unaddressed—particularly in contexts where platform governance cultures are weak, fragmented, or adversarial.

This critique underscores broader challenges within the field of AI auditing. As noted by regulators and scholars, the current audit landscape remains fragmented, lacking shared methodological standards, quality benchmarks, and reliable enforcement mechanisms. In the absence of such standardisation, audits risk becoming tokenistic or reputational—what some commentators have termed “audit-washing”—where procedural compliance conceals, rather than rectifies, underlying rights violations. Moreover, effective algorithmic audits must extend beyond technical validation to incorporate interdisciplinary, human-centred methodologies capable of identifying cumulative, systemic, and context-specific harms. Auditable AI systems must be designed to support external scrutiny not merely in principle, but in practice—throughout their lifecycle.

Crucially, algorithmic auditing must not be conceived as a purely technocratic or depoliticised exercise. Audits cannot substitute for substantive legal protections, independent oversight, or the collective power afforded by worker representation. Rather, auditing should be situated within a broader ecosystem of algorithmic governance—an instrument that complements, but does not supplant, enforceable rights, procedural fairness, and democratic participation in the design and deployment of workplace AI systems (Ponce del Castillo, Taes 2025, p. 345; Aloisi, De Stefano 2023, p. 25).

Viewed in this light, the Artificial Intelligence Act and the Platform Work Directive collectively constitute a promising foundation for algorithmic accountability in EU labour law. The former establishes a preventive regulatory framework, while the latter integrates auditing principles into everyday governance practices through information rights, human oversight, and participatory impact assessments. Together, they signal a normative shift towards embedding legal, ethical, and social safeguards at the core of AI deployment.

Nonetheless, the success of this emerging regulatory framework will ultimately depend on its practical implementation. Realising effective algorithmic accountability will require not only binding legal mandates, but also sustained investment in institutional expertise, coordination among enforcement bodies, and critical reflection on the social power dynamics that shape digital labour. For auditing to fulfil its intended function, it must be embedded within a coherent, rights-based legal framework—one that conceives of algorithmic accountability not as a technocratic formality, but as a democratic imperative (Abraha 2023, p. 18; Aloisi, De Stefano 2023, p. 25).

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