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JOINT DECLARATION ON EMPLOYMENT ASPECTS OF ARTIFICIAL INTELLIGENCE

BY THE EUROPEAN SOCIAL PARTNERS IN THE BANKING SECTOR

PREAMBLE

Considering the European Social Partners for the banking sector's previous Joint Declarations from the past five years, notably:

- November 2017: Joint Declaration on Telework in the European Banking Sector,
- November 2018: Joint Declaration on the Impact of Digitalisation on Employment,
- December 2021: Joint Declaration on Remote Work and New Technologies,

And the two-year European Commission funded social partner project "Banking in 2030: How will the current global trends and especially Artificial Intelligence (AI), shape the future of the European banking industry and its employees?",

The European Social Partners have agreed on the following new Joint Declaration on Employment Aspects of Artificial Intelligence in the European Banking Sector.

The rise of AI has introduced new challenges and opportunities. The findings of the 'Banking in 2030' project have shown how certain global megatrends have not only affected but also changed the European banking sector. Some changes were already on their way but were accelerated by the Covid19 pandemic. The pandemic forced bank workers (and banks themselves) to interact with customers remotely, thus causing a sharp increase in the number of customers using mobile apps and internet banking. This move was relatively easy, as the vast majority of the workforce use digital devices in their daily work.

The project findings also highlight that advanced digital technologies are increasingly being used in all companies (of all sizes) in the EU. The European Social Partners acknowledge that AI is continually evolving and still developing. Employment aspects accompany this process. At the same time, traditional forms of banking including services offered at local branches remain important.

The use of AI in the banking sector has also increased and will continue to do so in the coming years. A good part of financial services firms are expected to have adopted AI technology in the next 5 years and it will be a big focus of new training programmes, including those funded and provided by bank employers.

Considering these and other findings, the European Social Partners of the Banking Industry encourage our respective members at the national / sectoral / (multinational) company level to continue to take into account the global developments in digitalisation, notably Artificial Intelligence.

Banks are increasingly introducing into the workplace different applications which use Artificial Intelligence. It is essential that the banking sector Social Partners at all relevant levels take advantage of the tools available through social dialogue, including collective bargaining, regarding the use, implementation, and continual monitoring of AI.

Social dialogue at all levels, including collective bargaining, represents an effective and positive tool for addressing the issue of the impact of new technologies and digitalisation in the workplace. The European Social Partners undertake to continue the monitoring and analysis of the related effects, also regarding the diversified evolution of work organisational models. The introduction of AI and other digitalised systems, platforms and processes are leading to major transformations of work and work organisation, including by automating routine tasks, augmenting human capabilities and creating new and more data-driven ways of working.

In this regard, and given that the organisation of work is the responsibility of the employer, the European Social Partners confirm the relevance of social dialogue (including information and consultation) and collective negotiation to steer the significant impacts on workers resulting from the introduction of AI. The European Social Partners will monitor such impacts according to national legislation and customs.

When it comes to AI and all other aspects of digital transformation, humans will be kept at the centre of work organisation, with full respect for the human-in-control principle.

The European Social Partners are aware that these findings and their own joint conclusions set forth in this Joint Declaration come on top of Global and European developments (for example the 2021 ILO tripartite conclusions on the Impact of Digitalisation in the Finance Sector, EU AI Act, DORA, GDPR, Digital Services Act, Digital Markets Act) but add value by particularly focussing on the needs and developments of the European banking industry, investigating the impact of AI on all dimensions of job quality.

On the basis of all of the above, the European Social Partners of the banking industry highlight the human-in-control principle and agree to the following principles and practices in order to provide a framework for successful transformation in the interest of banks, their employees at all levels, customers and other stakeholders involved.

I.   DEFINITION OF ARTIFICIAL INTELLIGENCE

The European Social Partners understand Artificial Intelligence (AI) to mean a machine-based system designed to operate with varying levels of autonomy, that may exhibit adaptiveness after deployment and that, for explicit or implicit objectives, infers, from the input it receives, how to generate outputs such as predictions, content, recommendations, or decisions that can influence physical or virtual environments (European Commission AI Act 2024).

AI systems can be recognised principally, though not exhaustively, by three main features:

- They are independent, thus able to perform tasks and make decisions without human direction.
- They are self-learning, able to teach themselves and continuously improve.
- They have access to large volumes of data, from which they can learn on their own.

II.   ARTIFICIAL INTELLIGENCE IN THE BANKING SECTOR – CURRENT STATUS

The European Sectoral Social Partners take note that AI use cases are on the rise. This calls for a timely and prompt involvement of the Social Partners at the appropriate level, through all available social dialogue tools, as described in the Preamble, on its use, implementation, and continual monitoring.

In addition to the effects on employees of new banking service tools in forecasting (e.g., real-time financial market trading advice) and analytics (e.g., fraud detection, risk management and product personalisation), the European Social Partners' main focus is on current and future Human Resources related use cases, including personnel planning and development (e.g., personnel deployment, planning, matching of requirement and competence profiles), personnel selection and marketing (e.g., robo-recruiting, pre-selection of applicants, AI-based search for potential employees), and people analytics (e.g. performance, engagement, wellbeing), ensuring throughout a responsible, transparent and unbiased use of the AI systems.

III.   ARTIFICIAL INTELLIGENCE IN THE BANKING SECTOR – A RESPONSIBLE USE

With AI on the rise and the particular challenges of nearly black-box processes requiring a specific focus on AI results, the European Social Partners in the banking industry recall that it is essential to take advantage of social dialogue tools and processes at all appropriate levels (and as described in the Preamble) to manage any impact of AI on working conditions, management, decision-making and workers' data privacy.

The European Social Partners encourage social dialogue in order to develop and put in place joint actions to support job transition and ensure re/up-skilling opportunities when job profiles are affected by the growing use of AI and other digital technologies.

The European Social Partners also commit to actively monitoring the developments and mitigating the risks potentially posed by AI to data privacy, security and ethical concerns, such as bias in decision-making. Banks must ensure that the applications which use AI systems are transparent, fair and unbiased, and employees have to ensure that they are used accordingly.

Fair AI refers to the development and use of Artificial Intelligence that not only avoids bias but also actively prioritises and respects fundamental human rights, with AI systems that are designed, implemented, and operated in a way that aims to:

- Promote non-discrimination, especially as regards equal opportunities, diversity and inclusion issues;
- Promote fairness and decisions free from bias based on one or several factors such as race, gender, religion, or socioeconomic background;
- Protect privacy and security, with personal data used in AI systems collected, stored and used ethically and in accordance with data privacy regulations, also as regards surveillance, tracking and monitoring;
- Ensure transparency in and understanding of the decision-making processes and impacts of AI systems, allowing for human oversight, intervention when necessary, and the 'right to explanation' for decisions made with algorithms or machine learning models;
- Empower human agency and accountability, with humans retaining control over AI systems and responsibility for their actions and outcomes;
- Enable workers to become AI literate;
- Respect human dignity and autonomy, not violate human rights or freedoms, and enhance human capabilities rather than replace them;
- Preserve the security and safety of workers in human/machine interactions.

IV. SOCIAL DIALOGUE, COLLECTIVE BARGAINING & COLLECTIVE TRADE UNION RIGHTS

Artificial Intelligence should not lead to any changes in the terms and conditions of employment beyond those governing the human/machine interface, including the use of equipment. A bank's use of AI is a subject of continuous monitoring through social dialogue and collective bargaining as described in the Preamble and according to national law. Freedom of association and workers' collective rights, including to social dialogue and collective bargaining, are to be respected also in the context of Artificial Intelligence.

V. WORK ORGANISATION AND EMPLOYMENT ASPECTS OF ARTIFICIAL INTELLIGENCE

A. HEALTH AND SAFETY

The employer is responsible for the occupational health and safety of all employees and workplaces, in accordance with EU Directive 89/391EEC and the relevant daughter directives, national legislation and collective agreements.

Regarding the use of AI systems, the European Social Partners recommend regularly performing joint Occupational Safety and Health (OSH) risk assessments that include the effects of algorithmic management due to its embedded unpredictability, as these systems rely on complex data processing and have a tendency to reduce human involvement in decision-making.

These assessments involve the relevant employees' committees according to national laws and social dialogue practices and are linked to processes that will ensure any concerns of risks are promptly addressed by the employer.

EU OSHA, as well as national OSHA authorities, have published guidance on the impact of Artificial Intelligence on occupational safety and health. The European Social Partners call on all stakeholders

to regularly monitor these developments and to collectively adapt policies to new developments and insights.

B. TRAINING AND DIGITAL COMPETENCE DEVELOPMENT

Competence development is a valuable opportunity for employees to re/upskill and stay relevant, and to prevent shortages in skilled labour, especially in times of demographic challenges and exponential technological/AI development. The growing use of Artificial Intelligence and increasing digitalisation are driving the need for constant skill adaption and lifelong learning for all bank sector employees.

In terms of training, employers should provide necessary training to adapt to new technologies, during working hours. For upskilling/reskilling and career guidance, employers and employees are encouraged to carry out trainings during working hours, where possible. In both situations, employees benefit from the same rights and access and with sufficient notice given before the trainings. Given the importance of training and digital developments in this field, the European Social Partners strongly encourage the European Commission and national governments to fund such trainings.

Employers and trade unions will both communicate the importance of training and competence development to their members. Appropriate retraining, with an emphasis on acquiring new skills needed for the digital era and adapting to new working realities, should be one of the priorities to be jointly addressed by both the employers and the trade unions. Collective training plans should also include actions to help bridge the digital divide and enhance bank sector employees' employability and employment prospects.

VI. DIGITAL RIGHTS IN THE CONTEXT OF ARTIFICIAL INTELLIGENCE

The European Social Partners consider that the increasing use of AI makes it necessary to maintain a series of individual and collective digital rights in accordance with applicable law and collective bargaining agreements. This also includes collective rights as described in the Preamble.

The European Social Partners endeavour to achieve a responsible, ethical, and transparent use of all forms of AI (including generative AI) and algorithmic management, free from unfair bias and discrimination (including intersectional), and of workers' participation, as stated in the Preamble.

A. RESTRICTING THE USE OF SURVEILLANCE TOOLS

While Artificial Intelligence, together with information and communication technologies, can facilitate work processes and limit repetitive and tedious tasks, constantly evolving technologies for monitoring and surveillance (including geo-localisation) may also create excessive controls, invade privacy (including data rights), increase pressure on individual performance, and affect working relations.

The use of AI in surveillance to monitor employees should be limited, transparent, proportional and in compliance with existing collective agreements and national or local law, as also stated in the Preamble.

In all cases, decisions relating to the use and analysis of these tools have to be made by a human being, thus respecting the human-in-control principle, and have to follow a pre-determined process with continual social dialogue and collective bargaining.

B. ALGORITHMIC DECISION-MAKING

Employees should have the right not to be subject to decisions that affect them legally and significantly based solely and exclusively on automated variables. For example, profiling, personnel selection, internal promotion, changes of function and professional grade level, the system of sanctions, and performance evaluations are always subject to the human-in-control principle. Each

employee has the right to express their point of view and to challenge and appeal the decision according to the existing legislation and social dialogue practices.

Collective measures shall be agreed by the Social Partners and continuous social dialogue ensured on relevant aspects of the consequences of algorithmic decision-making by companies, as stated in the Preamble.

C. DATA PROTECTION & CYBERSECURITY

It is the employer's responsibility to take measures to ensure data protection and employee privacy, and that the employee's software and hardware are updated and secure. The employee is bound to strictly follow all applicable data protection and cybersecurity rules related to both the software and hardware.

The employer, together with all relevant employees, must abide by and respect the applicable legal provisions outlined e.g., by the EU level GDPR (General Data Protection Regulation), AI Act, DORA as well as national legislation, ethics policy / banking regulation, the confidentiality and security clauses issued by the employer, and any other similar clauses as stated in collective and/or individual agreements. The employment parties are responsible for taking appropriate measures to ensure the protection of data used and processed for professional purposes.

The employer ensures that appropriate security levels are in place, taking into account the privacy of the employee, and that any monitoring system is in accordance with applicable European and national legislation or collective agreement at national/sectoral/company level.

Any collection of data regarding employees must take place in compliance with relevant legislation at the European and national levels, including the principles of relevance, non-excessiveness, transparency and proportionality.

Sensitive data, such as the content of personal emails, conversations and location tracking, physical health or psychological or emotional well-being or trade union membership, should not be collected, unless prescribed otherwise under national law or collective agreements.

Workers' data should not be sold. There may be exceptions to the rule about selling data with consent from all parties. However, individual consent is not sufficient.

VII. INTRODUCTION, MONITORING AND EVALUATION OF THIS JOINT DECLARATION

As stated in the Preamble, social dialogue at all levels, including collective bargaining, represents an effective and positive tool for introducing this Joint Declaration.

Monitoring and evaluating its implementation will be carried out by the European Social Partners, including continuous dialogue within the Sectoral Social Dialogue meetings. This includes the evaluation of best practices.

VIII. MOVING FORWARD / NEXT STEPS

Continuous social dialogue and collective bargaining is a very effective and positive tool to deal with the employment aspects of AI.

The European Social Partners, with their members, commit to promoting this Joint Declaration in the best feasible way at the European, national, sectoral and (multinational) company levels.

To this end, the European Social Partners request the European Commission to translate the Joint Declaration into all EU languages to facilitate its dissemination, visibility, and take-up at these various levels.

The European Social Partners of the banking industry strongly encourage sectoral social partners at the national level to make use of the joint positions agreed in this Joint Declaration. Where applicable, this invitation extends to collective actors at company level, including social partners and (European) Works Councils.

The European Social Partners will monitor, with their members, the implementation process of the Joint Declaration and remain open to discussing new issues and trends, and how opportunities and challenges can best be addressed by the Social Partners at the appropriate level. The European Social Partners will undertake a full evaluation of this Joint Declaration towards the end of their 2025-2026 Work Programme.

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Signed in Brussels on 14 May 2024

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