

Ius Laboris Webinar

The rise of AI and algorithms in performance management and recruitment

Thursday 20 May 2021

15:00 CEST

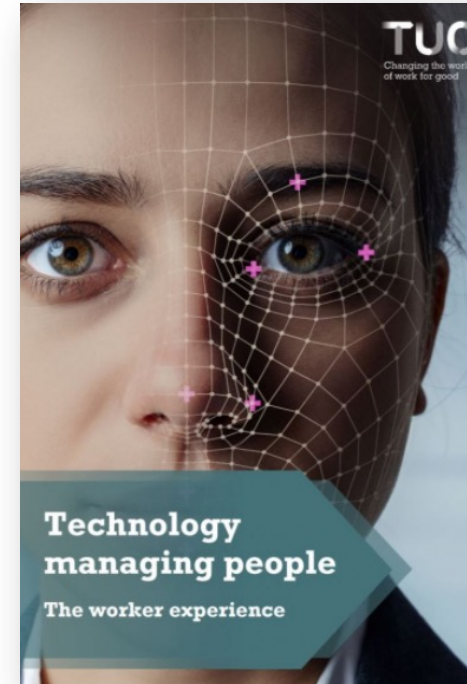


UK – TRADE UNION CONGRESS SURVEY AND REPORTS

- In 2020, the UK's Trade Union Congress (TUC) conducted surveys to better understand AI in the workplace:
 - “Artificial Intelligence (AI) is transforming the way we work and, alongside boosting productivity, offers an opportunity to improve working lives. But new technologies also pose risks: more inequality and discrimination, unsafe working conditions, and unhealthy blurring of the boundaries between home and work.” *TUC AI Manifesto, March 2021*
- Three reports published:
 - Technology Managing People - The worker experience
 - Technology Managing People - The legal implications
 - Dignity at work and the AI revolution
- The TUC believes we are “now at a crucial moment in the AI-driven technological workplace revolution.”

SOME STATISTICS FROM TUC RESEARCH

- Increase in aspects of employment relationship being managed by AI
- TUC survey respondents had experience of the following types of AI technology used to make or inform decisions about them at work:
 - 22% for absence management
 - 15% for ratings
 - 14% for work allocation
 - 14% for timetabling shifts
 - 14% in the assessment of training needs and allocation
 - Only 28% of workers responded that they are comfortable with technology being used to make decisions about people at work

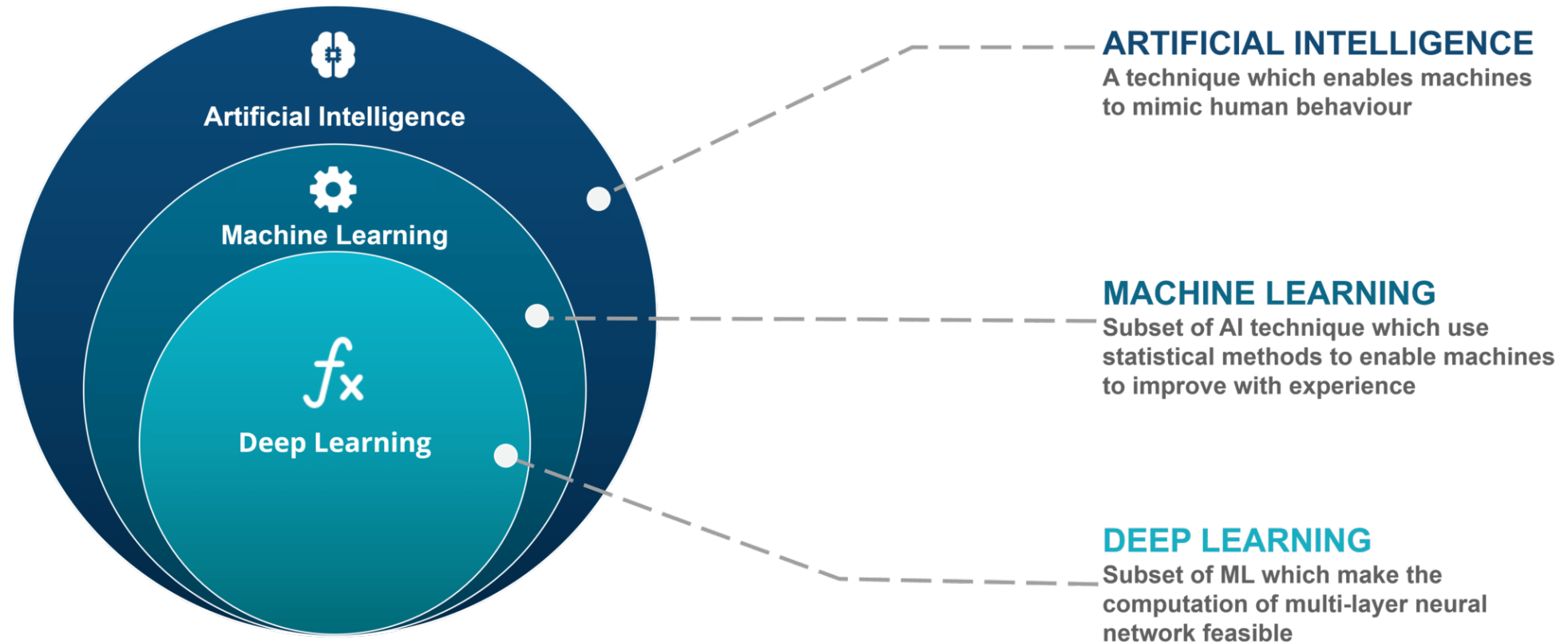


WHAT IS AI?

- Professor John McCarthy, credited with coining the phrase “artificial intelligence” in 1950s
 - “It [AI] is the science and engineering of making intelligent machines, especially intelligent computer programs. It is related to the similar task of using computers to understand human intelligence, but AI does not have to confine itself to methods that are biologically observable” *Professor John McCarthy, November 2007*
 - Only UK definition found in section 23A(4) of the Enterprise Act 2002
 - s.23A(4)
 - ““artificial intelligence” means technology enabling the programming or training of a device or software to use or process external data (independent of any further input or programming) to carry out or undertake (with a view to achieving complex, specific tasks) –
 - A. automated data analysis or automated decision making; or
 - B. analogous processing and use of data or information”
- EU Commission Proposal for AI Regulation 2021
 - Article 3(1)
“‘artificial intelligence system’ (AI system) means software that is developed with one or more of the techniques and approaches listed in Annex I and can, for a given set of human-defined objectives, generate outputs such as content, predictions, recommendations, or decisions influencing the environments they interact with”
 - Annex I
 - A. Machine learning approaches, including supervised, unsupervised and reinforcement learning, using a wide variety of methods including deep learning;
 - B. Logic- and knowledge-based approaches, including knowledge representation, inductive (logic) programming, knowledge bases, inference and deductive engines, (symbolic) reasoning and expert systems;
 - C. Statistical approaches, Bayesian estimation, search and optimization methods”

TODAY WE MEAN...

- AI = “The science of making machines smart” *Professor Frederik Zuiderveen Borgesius, 2018*





SPEED DATING SESSION 1: WHAT'S HAPPENING AROUND THE WORLD?

LAW IN THE EU AND UK

ARTICLE 9 GDPR – PROCESSING OF SPECIAL CATEGORIES OF PERSONAL DATA

- Article 9(1) Processing of personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, and the processing of genetic data, biometric data for the purpose of uniquely identifying a natural person, data concerning health or data concerning a natural person's sex life or sexual orientation shall be prohibited.
- Article 9(4) Member States may maintain or introduce further conditions, including limitations, with regard to the processing of genetic data, biometric data or data concerning health.

LAW IN THE EU AND UK

ARTICLE 22 GDPR – AUTOMATED INDIVIDUAL DECISION-MAKING, INCLUDING PROFILING

- Article 22(1) The data subject shall have the right not to be subject to a decision based solely on automated processing, including profiling, which produces legal effects concerning him or her or similarly significantly affects him or her.
- Article 22(2) Paragraph 1 shall not apply if the decision:
 - A. is necessary for entering into, or performance of, a contract between the data subject and a data controller;
 - B. is authorised by Union or Member State law to which the controller is subject and which also lays down suitable measures to safeguard the data subject's rights and freedoms and legitimate interests; or
 - C. is based on the data subject's explicit consent.
- Article 22(3) In the cases referred to in points (a) and (c) of paragraph 2, the data controller shall implement suitable measures to safeguard the data subject's rights and freedoms and legitimate interests, at least the right to obtain human intervention on the part of the controller, to express his or her point of view and to contest the decision.
- Article 22(4) Decisions referred to in paragraph 2 shall not be based on special categories of personal data referred to in Article 9(1), unless point (a) or (g) of Article 9(2) applies and suitable measures to safeguard the data subject's rights and freedoms and legitimate interests are in place.

THE LAW IN RUSSIA






SPEED DATING SESSION 2: WORKS COUNCILS AND DEVELOPMENTS IN SPAIN

WHAT DOES THE FUTURE HOLD?



MORE ON DATA PRIVACY

Insights: <https://iuslaboris.com/topic/data-privacy/>



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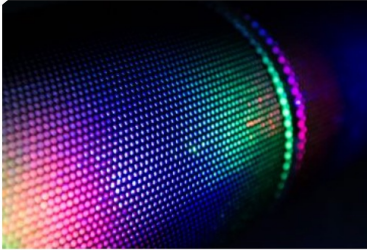
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AllData PrivacyDiscriminationEmployment RightsImmigration & MobilityHealth & SafetyPay & BenefitsPensionsRestructuring & Labour Relations


Data Privacy

We look at data privacy from an employment perspective and consider how to navigate this increasingly complex area of law.




Video surveillance of employees in Germany: get ready for compliance checks!

GERMANY | 11.03.21 5'



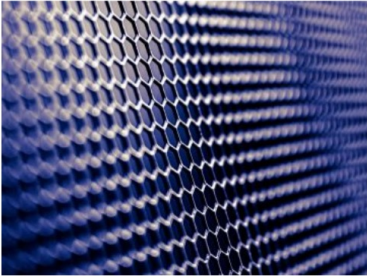
Data and diversity - what kind of data can employers collect? A guide from Belgium

BELGIUM | 16.02.21 4'



The Brexit Agreement and data flows: a view from Finland

FINLAND | 20.01.21 4'

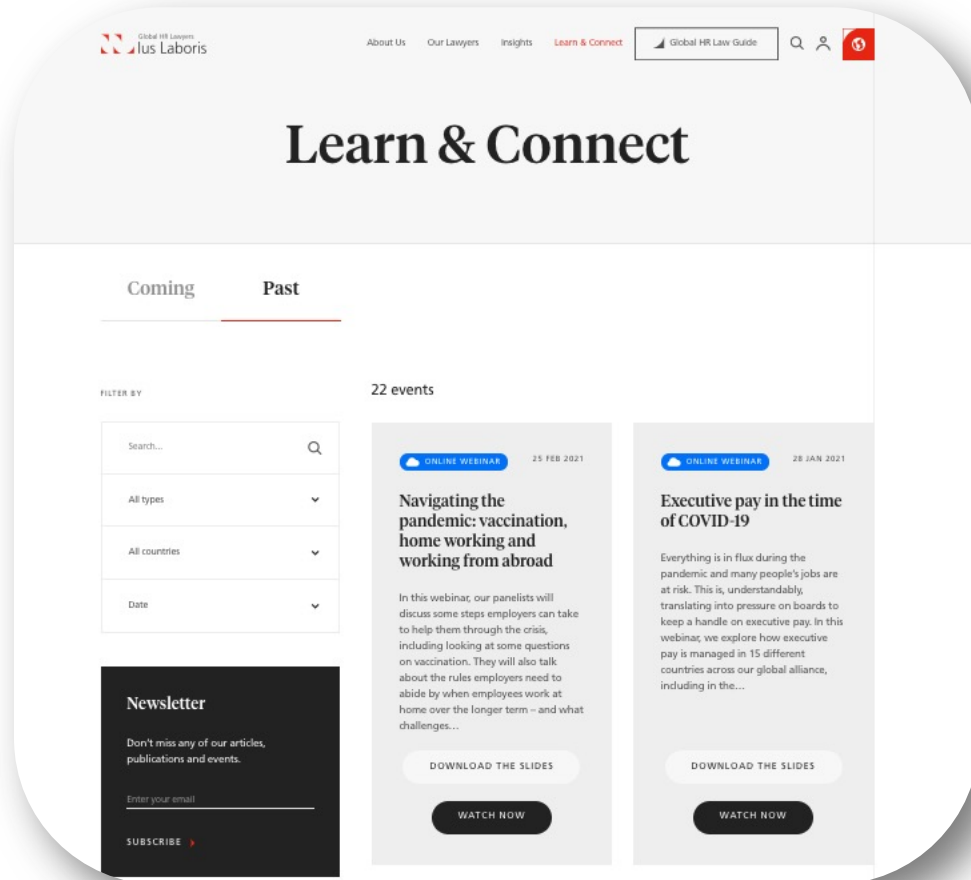


Brexit: what's the deal with data?

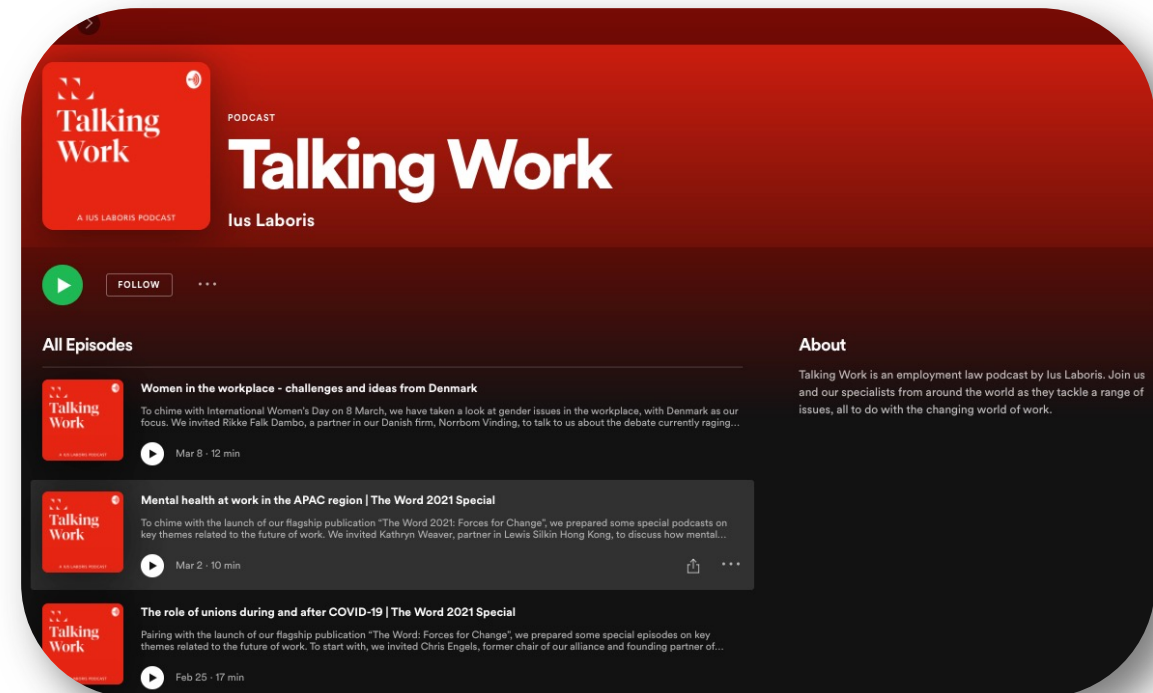
UNITED KINGDOM | 11.01.21 4'

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