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# Algorithmic Management – Regulating Automation of Managerial Decision-making

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## Algorithmic Management?

- Automated decision-making (ADM)
- All stages of the employment cycle:
  - Recruitment
  - Task assignment
  - Performance monitoring and control
  - Discipline and termination



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## Contribution

- How are the rules governing algorithmic management impacting the employment relationship dynamic?



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## The Context of Algorithmic Management

- The employment contract - subordination of the employee
- The managerial prerogative
  - *who, what, how and when*
  - a material, procedural and personal competence



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# EU Law on Algorithmic Management

- General data protection regulation (GDPR)
- The AI Act (AIA)
- The Platform Directive (PFD)



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## Article 22 GDPR

- A data subject shall have the right not to be subject to a decision **based solely** on automated processing, which **produces legal effects** or has **similarly significantly effects** on the data subject
- Such decisions are allowed if: necessary for entering into or for the performance of a **contract**, if authorised by **law** or if based on **consent**



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## C-634/21 SCHUFA Holding (Scoring)

- Some clarification on the scope of the prohibition on ADM in Article 22 GDPR
  - a prohibition rather than a right that the individual must assert
  - human involvement in the decision-making process does not validate the decision if that involvement is not qualitative



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# Algorithmic Management – Safeguarding Workers’ Rights in Automated Decision-making

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## Concluding Reflections

- The prohibition of automated decision-making in Article 22 GDPR is far-reaching in the algorithmic management context
- The legal framework on algorithmic management potentially constitutes a novel form of limitations on the managerial prerogative
- The legal framework on algorithmic management provides a promising infrastructure for the demanding of workers' rights



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# EU Law on Algorithmic Management

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## Preliminary findings

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- The legal framework on algorithmic management potentially constitutes a novel form of limitations on the managerial prerogative
- The legal framework on algorithmic management provides a promising infrastructure for the demanding of workers' rights



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## Potential Concerns

- Privacy issues
- Lack of transparency in managerial decision-making
- Unfairness
- Decreased human autonomy
- Information asymmetries exacerbating existing asymmetries of bargaining power