

Discriminatory algorithmic

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In the European context, the principle of non-discrimination can be found in the Nice Charter of 2000, the Charter of Fundamental Rights of the EU, as well as in some articles of the Treaty on the Functioning of the European Union (TFEU) of 2008. More precisely, some Directives have been issued in the implementation of art.19 Tfeue, such as the 2000/78/EC namely the Framework Directive on the scope of protection against discrimination in labour law. In Italy, the first recognition of equality and the prohibition of discrimination dates to the entry into force of the Constitution in 1948, in art. 2 and 3 of the Constitution. Based on constitutional requirements, the prohibition of discrimination is then referred to, specified, and extended in several other rules. Recently, is relevant the amendment of Law 162/2021 on direct and indirect discriminations.

This research aims to investigate how to protect workers from discriminations dictated by the algorithm both in the access to the job market and in the conditions in constant employment relationship. Article 15 of the Italian Workers' Statute, in point b, declares invalid any agreement or act aimed at: dismissing a worker, discriminating him in the assignment of qualifications or tasks, transfers, disciplinary measures, or otherwise prejudice him because of his affiliation or union activity, or his participation in a strike. These provisions shall also apply to pacts or acts for the purposes of political, religious, racial, language, sex, disability, age, sexual orientation, or belief. Our main research question intends to answer to the following question: how are such protections preserved when decisions are made by the algorithm? Given the examination of the new realities, as specified above, the research will be conducted with a multidisciplinary methodology. We will first analyse both national and international literature and jurisprudence. Then, by means of empirical analysis on the database of the INAPP PLUS 2021 survey (an Italian recurrent survey addressed to the Italian working population with a specific session on platform workers) we will analyse the contract characteristics, in particular the written form of the contract and the hourly minimum wage, and the formulation of ranking, with the aim of detect the possible presence of discriminations according to gender and age of workers. Finally, we will formulate policy recommendations.