

# DELEGATING AN EMPLOYER'S MANAGERIAL PREROGATIVE TO ARTIFICIAL INTELLIGENCE: A CHALLENGE OF THE PRESENT OR A PROJECTION OF THE FUTURE?

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## ABSTRACT

The use of artificial intelligence (AI) in employment is now a fact. In this article, the author examines whether it is possible for AI to exercise managerial authority over employees. The discussion of the substantive elements of this issue is preceded by an analysis of whether managerial prerogative can only lawfully be exercised by natural persons or whether it can be lawfully exercised by artificial intelligence. If the findings of this analysis indicate that AI can exercise managerial prerogative, this provides the starting point for addressing the substantive issues concerned.

The analysis is conducted on multiple levels: on the one hand, it examines the requirements that interpersonal communication must satisfy; on the other hand, it analyses the current stage of AI's technological advancement. The author recognises that a workforce cannot be managed effectively without accounting for emotional elements as a determining factor in human activity, which may be of particular relevance to the effective implementation of instructions received by employees. Recognition of the importance of emotions means that the extent to which AI is capable, at the current stage of technological development, of using emotions to achieve its intended goals, must be considered, and whether one can at all speak of emotional intelligence with regard to AI. The author examines Emotional Artificial Intelligence technology, which is undergoing evolutionary development.

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These reflections determine to what extent EAI currently enables the managerial prerogative described in the title to be exercised over employees, while simultaneously considering the advantages and risks associated with the extensive use of artificial intelligence in the analysed aspect of employment relations.

Keywords: artificial intelligence, emotional intelligence, managerial prerogative, emotions, subordination

## INTRODUCTION

Due to the progressing digital evolution of the world, today it is a matter of course that artificial intelligence plays a role in recruitment processes, and this is demonstrated to the fullest extent by platform hires. Algorithm-based artificial intelligence assists employers with various aspects of projects such as the recruitment of employees. This raises the crucial question of the extent to which managerial powers within an employer's prerogative can be effectively wielded by AI. To address this question in full, two preliminary issues first need to be determined. First of all, it has to be determined how AI can be applied formally to the function of team leadership, and subsequently (if this is found to be the case) whether, given the importance of emotions in workforce management, the exercise of managerial powers by AI might be an effective instrument in the hands of the employer, bringing benefits to the organisation and contributing to the well-being of employees. It needs to be considered whether a digital 'manager', acting in an algorithmic manner without emotions and empathy, which are determinants of human relationships, can be an effective tool for the management of employees. This requires prior consideration of whether, in the light of the professionalisation of employment, it is still necessary to leave space for human impulses or whether, on the contrary, the emotional detachment of AI's actions could contribute to the objectivisation of an employer's managerial prerogative, translating into greater fairness and justice for employees.

The 'artificial intelligence – emotions and empathy – managerial prerogative' triad may be surprising considering the contrariness of the first two elements. However, this very contrariness prompts a series of questions and doubts that need to be resolved at the onset of the era of artificial intelligence, including in employment relations. These questions are whether the professionalisation of employment predetermines the elimination of emotions from the management of human resources, thus providing space for AI in management, or whether, in fact, effective management is impossible without the mutual exchange of emotions and empathy, thus narrowing the sphere of applicability of AI in the light of its capabilities.

## FORMAL CONSIDERATIONS WITH REGARD TO THE APPLICATION OF AI IN THE EXERCISE OF MANAGERIAL PREROGATIVE

Before addressing the substantive aspects of the possibilities for the application of AI in the exercise of an employer's managerial prerogative, it first needs to be determined whether AI is 'formally' (or 'technically') suited to this function. *A contrario*, from the employee's perspective, it is necessary to examine whether management can only be exercised by a superior who is a human being or whether managerial actions may also be taken by a technology capable of satisfying the employer's expectations. It should be noted that the question of the substantive scope of managerial activities is outside the scope of this analysis, as this aspect is irrelevant to the analysis presented below.

In normative terms, it should be stated that the provisions of Polish labour law do not regulate the manner in which managerial prerogatives are exercised.<sup>1</sup> 'Management must be defined in a contractual employment relationship taking into account all legal means of influencing the work performance process.'<sup>2</sup> Academic literature strongly highlights the employer's general prerogative to organise the work process and select the means and methods to achieve the designated objectives. According to T. Duraj, an employer, being responsible for the organisation of the work process and for how it proceeds, must be guaranteed managerial powers by law to stipulate – by issuing binding instructions – specific duties of employees, as by the nature of things these are stated rather vaguely in the employment contract and the law.<sup>3</sup> In the theory of labour law, the concept of subordination is defined as, and generally accepted to mean, a system in which an employer has control over employees, while the scope and degree of such control vary. Authors also highlight the concept of the employee's autonomy, to which theoreticians of labour law have thus far not paid attention, although this is becoming increasingly important in modern moral, political and legal philosophy.<sup>4</sup> As noted by G. Wolak, the essence of subordination is the right to issue instructions to an employee.<sup>5</sup> The ILO also

<sup>1</sup> It is noteworthy that Article 31(1) of the Polish Labour Code refers to a person performing actions in matters of labour law in the scope of activities (usually legal transactions) delegated directly by the employer, whereas activities performed as part of the exercise of managerial powers cover a broader substantive scope (factual actions being very important), which can be performed at different levels within the employment establishment. With regard to actions in matters of labour law see, among others: K. Rączka, 'Reprezentacja pracodawcy w sferze dokonywania czynności z zakresu prawa pracy', *Praca i Zabezpieczenie Społeczne*, 2020, No. 12, pp. 31–36; A. Piszczek, 'Podmiot realizujący uprawnienia kierownicze w stosunku pracy', *Monitor Prawa Pracy*, 2014, No. 9; S. Koczur, 'Ustalenie zakresu przedmiotowego wyznaczenia do dokonywania czynności w sprawach z zakresu prawa pracy w świetle art. 31 § 1 Kodeksu pracy', *Praca i Zabezpieczenie Społeczne*, 2023, Vol. 64, No. 3, pp. 50–62.

<sup>2</sup> P. Prusinowski, 'Kierownictwo pracodawcy i jego znaczenie prawne', *Studia Prawnoustrojowe*, 2008, No. 8.

<sup>3</sup> T. Duraj, 'Granice uprawnień kierowniczych pracodawcy w stosunku pracy', *Zeszyty Prawnicze*, 2013, Vol. 13, No. 2, p. 102.

<sup>4</sup> S. Stojkovic-Zlatanović, I. Ostojić, 'Labour Law Status of Platform Workers – Between Autonomy and Subordination', in: Reljanović M. (ed.), *Regional Law Review*, Belgrade, 2021, p. 277.

<sup>5</sup> G. Wolak, 'Podporządkowanie w stosunku pracy. Glosa do wyroku Sądu Najwyższego z 3 października 2018 r., II UK 275/17', *Kwartalnik Krajowej Szkoły Sądownictwa i Prokuratury*, 2019, Vol. 36, No. 4, p. 115.

emphasises the functional dimension of managerial prerogative, defining it as the power to command, that is, the authority to direct the employee so as to respond to the changing needs of the work process.<sup>6</sup> G. Davidov stresses the empirical and social dimension of managerial prerogative.<sup>7</sup>

For the sake of presenting the full picture, it should be noted that the Supreme Court of Poland stated in one judgment that an employer's managerial prerogative is essentially defined, on the one hand, by the scope and frequency of intervention in the manner in which employee tasks are performed. On the other hand, it is no less important to determine whether an entity exercising this prerogative exists and what authority it has to do so. According to the Court, this entity should typically be specifically identified, and Article 31(1) of the Labour Code is helpful in this respect.<sup>8</sup> Nonetheless, there is no convincing argument in the Court's statement of reasons supporting the view that the person exercising the managerial role must be identified specifically; moreover, the use of terminology is confusing due to the managerial prerogative being made subject to Article 31 of the Labour Code, which governs a different facet of the employment relationship.

The above analysis of the essence of an employer's managerial prerogative leads to the conclusion that managerial prerogative is not defined explicitly in labour law, leaving the employer free to select the means and methods. As noted by P. Prusinowski, the prerogative to issue instructions is an intrinsic attribute of the employer, typical exclusively of an employment relationship.

'Carrying out instructions is the foundation and key to the mutual relations between the parties to the employment relationship. This power may be exercised by the employer in a variety of forms, such as commands, prohibitions or guidelines communicated to an employee on an ongoing basis in the work process, as well as oral or written orders and instructions addressed to a greater or lesser number of employees.'<sup>9</sup>

Therefore, *de lege lata*, labour law does not predetermine that managerial responsibilities must be performed by specific persons.

Due to the above, the question of which instructions meet the employer's needs with regard to the exercise of managerial responsibilities is for the employer to decide. Equally, therefore, labour law permits the deployment of AI to exercise managerial powers. The above is also confirmed by forward-looking opinions in academic writing on labour law, which note the need for an innovative approach to entrenched institutions, especially in the light of evolutionary changes in society, the economy, or technology. As observed by A. Piszczek: 'The concept of subordination is evolving due to socio-economic changes, technological development, changes to work organisation,

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<sup>6</sup> International Labour Organization, *The Employment Relationship: An Annotated Guide to ILO Recommendation No. 198*, Geneva, 2007, p. 35.

<sup>7</sup> G. Davidov, 'Subordination vs Domination: Exploring the Differences', *International Journal of Comparative Labour Law and Industrial Relations*, 2017, Vol. 33, No. 3, p. 369.

<sup>8</sup> Judgment of the Supreme Court of 3 October 2018, II UK 275/17.

<sup>9</sup> P. Prusinowski, 'Kierownictwo...', *op. cit.*, p. 229.

[and] communication and information technologies.<sup>10</sup> In the sense of the power to direct work being performed, subordination has ceased to reflect reality. Given the evolution of the nature of employee subordination, resulting in the relaxation of hierarchical relations and an increased scope of employee operational autonomy, the reduction of an employee's work obligations solely to the factual performance of work at a time and place designated by the employer appears in a dubious light. The uncertainty associated with the functioning of enterprises in a market economy, new means of telecommunication, and, accordingly, new types of work for which the employee's physical location is of no consequence, are conducive to the expansion of the range of activities undertaken by employee in performing their employment obligations.<sup>11</sup> P. Digennaro is of the opinion that the measure of 'the power to direct someone else's work' ought to become 'the degree of integration in the organisation of the putative employer [...], who bears the business risk or, more broadly, economic dependence'.<sup>12</sup> As noted by A. Todoli, subordination and dependence are broader terms encompassing economic dependence (no options for risk diversification) and psychological dependence.<sup>13</sup> An innovative outlook on the essence of control can also be traced in the case-law of the Court of Justice of the European Union. In a case dealing with the Uber platform, the Advocate General's opinion encapsulates the essence of subordination in a manner reflective of the new reality. According to the Advocate General, so-called indirect control, such as that exercised by Uber, based on financial incentives and decentralised evaluation by passengers and leveraging economies of scale, enables equally, if not more, effective management compared with the traditional system of formal instructions issued by the employer to employees and direct supervision of the execution of such instructions.<sup>14</sup>

Last but not least, in the most recent studies, scholars of labour law have now begun to make direct references to artificial intelligence in the context of an employer's assumed managerial prerogative. As V. De Stefano observes:

'The possibility of platforms exerting control over workers, particularly through technological tools such as algorithms, rating systems and geo-localisation devices, is a crucial element in many judicial and administrative decisions – worldwide – on the employment status of platform workers.'<sup>15</sup>

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<sup>10</sup> A. Piszczek, *Odrębności podporządkowania pracownika w nietypowych umownych stosunkach pracy*, Łódź, 2016, p. 24.

<sup>11</sup> A. Zwolińska, *Obowiązek wykonywania pracy przez pracownika*, Warszawa, 2021, p. 15.

<sup>12</sup> P. Digennaro, 'Subordination or Subjection? A Study about the Dividing Line Between Subordinate Work and Self-Employment in Six European Legal Systems', *Labour & Law Issues*, 2020, Vol. 6, No. 1, p. 41.

<sup>13</sup> A. Todoli, 'The End of the Subordinate Worker? Collaborative Economy, On-Demand Economy, Gig Economy, and the Crowdworkers' Need for Protection', *International Journal of Comparative Labour Law and Industrial Relations*, 2017, Vol. 33, No. 2, p. 266.

<sup>14</sup> Advocate General M. Szpunar, Opinion delivered on 11 May 2017, Case C-434/15, *Asociación Profesional Elite Taxi v Uber Systems Spain SL*, ECLI:EU:C:2017:364, p. 52.

<sup>15</sup> V. De Stefano, I. Durri, C. Stylogiannis, M. Wouters, *Platform Work and the Employment Relationship*, ILO Working Paper No. 27, Geneva, 2021, p. 35.

The possibilities of applying artificial intelligence in the sphere of employment have also become the subject of regulation by European Union law.<sup>16</sup> According to the Regulation:

‘The notion of an “emotion recognition system” referred to in this Regulation should be defined as an AI system for the purpose of identifying or inferring emotions or intentions of natural persons on the basis of their biometric data. The notion refers to emotions or intentions such as happiness, sadness, anger, surprise, disgust, embarrassment, excitement, shame, contempt, satisfaction and amusement. It does not include physical states, such as pain or fatigue, including, for example, systems used in detecting the state of fatigue of professional pilots or drivers for the purpose of preventing accidents. This does also not include the mere detection of readily apparent expressions, gestures or movements, unless they are used for identifying or inferring emotions. Those expressions can be basic facial expressions, such as a frown or a smile, or gestures such as the movement of hands, arms or head, or characteristics of a person’s voice, such as a raised voice or whispering.’<sup>17</sup>

The Regulation indicates that AI systems used in employment, worker management and access to self-employment, in particular for the recruitment and selection of persons, for making decisions affecting the terms of the work-related relationship, promotion and termination of work-related contractual relationships, for allocating tasks on the basis of individual behaviour, personal traits or characteristics, and for monitoring or evaluating persons in work-related contractual relationships, should also be classified as high-risk, since those systems may have an appreciable impact on the future career prospects and livelihoods of those persons, as well as on workers’ rights. Throughout the recruitment process and in the evaluation, promotion or retention of persons in work-related contractual relationships, such systems may perpetuate historical patterns of discrimination, for example against women, certain age groups, persons with disabilities, or persons of certain racial or ethnic origin or sexual orientation. AI systems used to monitor the performance and behaviour of such persons may also undermine their fundamental rights to data protection and privacy.<sup>18</sup> The Regulation also defines the limits of the use of artificial intelligence in the sphere of emotions, indicating in Article 5(1)(f) that the placing on the market, the putting into service for this specific purpose, or the use of AI systems to infer the emotions of a natural person in the workplace and in educational institutions is prohibited, except where the use of the AI system is intended for medical or safety reasons.

There can accordingly be no doubt that labour law gives an employer a defined spectrum of choices as to the mechanism for the management of the workforce, not excluding the options enabled by AI. The above, of course, is not tantamount to

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<sup>16</sup> Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on artificial intelligence and amending Regulations (EC) No 300/2008, (EU) No 167/2013, (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1139 and (EU) 2019/2144 and Directives 2014/90/EU, (EU) 2016/797 and (EU) 2020/1828 (Artificial Intelligence Act), OJ L, 12.7.2024 (hereinafter referred to as ‘the Regulation’). As indicated in recital 179, the Regulation is to apply from 2 August 2026. However, taking into account the unacceptable risk associated with certain uses of AI, the prohibitions and the general provisions of this Regulation are to apply from 2 February 2025.

<sup>17</sup> Recital 18.

<sup>18</sup> Recital 57.

predicting a mass move to AI-driven management schemes. As noted by the OECD, though the future may seem uncertain, mass unemployment caused by technology appears to be a prospect of very low probability. The OECD estimates that 14% of jobs will involve a high risk of automation, which is far lower than previously claimed by some researchers. Moreover, the fact that a job might become automated does not mean that it is bound to happen – automation may not always be profitable or desirable; it can give rise to legal and ethical doubts, and it may also be affected by human preferences and political decisions.<sup>19</sup>

## THE ROLE OF EMOTION IN THE EXERCISE OF MANAGERIAL POWERS

Having dealt with the formal conditions of the applicability of AI in the exercise of an employer's managerial prerogative, there are positive grounds for the continued exploration of the subject. However, this continued reflection needs to incorporate analysis of how the employer's prerogative ought to be exercised in order to constitute the optimal instrument of workforce management. The matter to be decided in this part of the study is whether, and to what extent, emotions play a role in managing the workforce. The most important aspect from the perspective of this study is the synergy between emotions and the motivation to act, which directly translates into the effectiveness of the exercise of managerial powers. In themselves, emotions constitute a *sui generis* basic orientation code,<sup>20</sup> which should be applied to all sorts of processes of value judgment and to attitudes towards reality.<sup>21</sup> Sociological disciplines draw attention to the fact that any given human community is linked by an emotional culture built on its foundation.<sup>22</sup> From the psychological point of view: 'Emotions play the liaison role in the processes of communication and transmission of psychic experience. Thus role is especially important in interpersonal communication, where mirroring the other party's emotions significantly helps to reach an understanding.'<sup>23</sup> Emotions determine causally, trigger, reinforce, eliminate, and alter various other psychic (and many physiological) processes.<sup>24</sup> Jean-Paul Sartre believed that the most important element in the very structure of emotion is its intentional nature of reference to

<sup>19</sup> OECD, *The Future of Work. OECD Employment Outlook 2019. Highlights*, Paris, 2019, p. 13.

<sup>20</sup> K. Obuchowski, *Kody orientacji i struktura procesów emocjonalnych*, Warszawa, 1970.

<sup>21</sup> M. Jarymowicz, K. Imbir, 'Próba taksonomii ludzkich emocji', *Przegląd Psychologiczny*, 2010, Vol. 53, No. 4, p. 456.

<sup>22</sup> M. Sawicka, 'Pojęcie kultury emocjonalnej jako narzędzie analizy socjologicznej', *Kultura i Społeczeństwo*, 2015, No. 1, p. 188.

<sup>23</sup> K. Witek-Mioduszczyńska, 'Emocje oraz ich wpływ na proces podejmowania decyzji. Badanie własne z zakresu prawa rodzinnego', in: Stanek J. (ed.), *Emocje i motywacja w prawie. Wybrane aspekty*, Kraków, 2022, p. 81.

<sup>24</sup> L. Petrażycki, 'O emocjach', *Studia Socjologiczne*, 2011, No. 2 (201) (excerpt reprinted from: Lande J. (ed.), *Leon Petrażycki, Wstęp do nauki prawa i moralności. Podstawy psychologii emocjonalnej*, Warszawa, 1959, p. 36).

what it denotes, and thus reference to all human relations and the world.<sup>25</sup> The emotional aspect makes our access to the world more complete and makes it easier to understand our environment.<sup>26</sup>

In consequence, information catalysed through the emotional layer acquires a positive or negative affective significance.<sup>27</sup> Emotions also affect readiness to act by assigning priority to the action associated with them.<sup>28</sup> The task of positive emotions is to elicit a tendency to sustain a given activity or specified contact (with situations or items) triggering such emotions.<sup>29</sup> Emotions can influence not only the intensity of motivation but also the direction it takes.<sup>30</sup> As noted by M. Sawicka:

‘The changeability and diversity of emotional cultures should be associated with the capacity of emotions for “bonding” with different classes of cultural objects, along with transformations in their placement within the system of rules on human conduct, i.e. the manner in which feelings experienced by humans translate into the actions they take.’<sup>31</sup>

Psychological literature distinguishes three main functions of emotions: adaptive (which involves preparing the body to act, enabling the individual to act effectively if needed), social (facilitating interaction with the environment and helping people to predict the conduct of those around them) and motivational, which is due to the existence of a feedback loop between motivation and emotions.<sup>32</sup>

When it comes to the area of workforce management, the psychological element is strongly emphasised. Workplace relations can be described, for example, in terms of the personnel structure and hierarchical dependence, or considered from a humanistic perspective as a factor that helps a human being to function in the workplace and that is related to that person’s responses, actions and the achievement of subjecthood.<sup>33</sup> At present, more and more companies are realising that encouraging workers to develop the skills that constitute emotional intelligence is an important component of management philosophy.<sup>34</sup> As M. Kaźmierczak observes:

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<sup>25</sup> R. Abramciów, *Emocja jako odpowiedź na wartość. Psychologiczne aspekty teorii emocji Jeana Paula Sartre’a*, Kraków, 2015, p. 62.

<sup>26</sup> A. Dąbrowski, ‘Wpływ emocji na poznawanie’, *Przegląd Filozoficzny – Nowa Seria*, 2012, Vol. 83, No. 3, p. 332.

<sup>27</sup> M. Jarymowicz, K. Imbir, ‘Próba taksonomii...’, op. cit., p. 451.

<sup>28</sup> A. Michalkiewicz, ‘Rola emocji i nastroju oceniającego w procesie oceniania pracowników’, in: Janowska Z. (ed.), *Dysfunkcje i patologie w sferze zarządzania zasobami ludzkimi*, Vol. 4, Łódź, 2011, p. 384.

<sup>29</sup> A. Gałuszka, ‘Emocje – ich znaczenie i zadania’, *Journal of Education, Health and Sport*, 2022, Vol. 12, No. 1, p. 149.

<sup>30</sup> P. Chłopek, ‘Motywowanie przez emocje – trendy XXI wieku’, *Prace Naukowe Uniwersytetu Ekonomicznego we Wrocławiu*, 2010, No. 137, p. 289.

<sup>31</sup> M. Sawicka, *Emocje w interakcjach współczesnego społeczeństwa polskiego*, Warszawa, 2018, p. 10.

<sup>32</sup> A. Gałuszka, ‘Emocje...’, op. cit., p. 157.

<sup>33</sup> B. Jakimiuk, ‘Środowisko pracy jako obszar budowania poczucia własnej wartości i relacji z innymi’, *Annales Universitatis Mariae Curie-Skłodowska. Sectio J – Paedagogia-Psychologia*, 2016, Vol. 29, No. 4 sectio J, p. 48.

<sup>34</sup> P. Chłopek, ‘Motywowanie...’, op. cit., p. 290.

'In the era of a developed market economy, wherein the primary determinant of a company's competitive position is its high effectiveness, the business world is beginning more and more frequently to demand workers intelligent not only in the traditional sense of the word but also emotionally skilled.'<sup>35</sup>

A leader relying on empathy is attentive to their own needs and those of others. Simultaneously, being conscious of how the human nervous system and brain operate, they adapt their actions so as to facilitate relationship building from a place of contact where both sides feel safe and included. They skilfully ensure that their mind remains responsive while also taking measures and intervening to assist their co-workers in activating the responsive state and deactivating the reactive state.<sup>36</sup> It is noteworthy here that one of the five key social competences in management is precisely emotional intelligence. In the integrated model of social skills with respect to emotional intelligence the following skills have been identified: perception and expression of emotion; emotionally assisted thinking; understanding and analysis of emotions; and emotional regulation.<sup>37</sup> *A contrario*, following A. Karczewska, it should be stressed that the sender's and the recipient's negative emotions, such as anger, indignation or frustration, as well as joy or enthusiasm, which condition the process of reception and interpretation of a message by the recipient, are among the essential elements impeding or preventing effective communication within an organisation.<sup>38</sup> In consequence, in an era in which the focus is on teamwork, it is worthwhile analysing the individual potential of each employee, including their psychological predispositions, for the benefit of the group as a whole.<sup>39</sup> As M. Geryk observes, an emotionally stable leader has a crucial role to play in warding off adverse external influence.<sup>40</sup>

The above conclusions lead us directly to emphasise the importance of emotional intelligence in situations of subordination and, consequently, the exercise of an employer's managerial prerogative in a manner determined by a high level of emotional intelligence. Emotional intelligence, also known as EI, is the ability to recognise one's own and others' behavioural characteristics and react

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<sup>35</sup> M. Kaźmierczak, 'Empatia w strukturach organizacyjnych', *Roczniki Psychologiczne*, 2004, Vol. 7, No. 2, p. 133.

<sup>36</sup> As long as the core need managed by a system remains satisfied, the system sustains the responsive mode by default; when the reverse is true, whenever the need is not satisfied, the reactive mode is activated (Hanson, 2016, p. 54). J. Berendt, M. Panas, V. Lorenc, 'Przywództwo oparte na empatii w systemowych zmianach w organizacji', *Coaching Review*, 2018, Vol. 10, No. 1, p. 80.

<sup>37</sup> M. Grzesiak, *Zintegrowany model kompetencji społecznych w procesie rozwoju osobistego i zawodowego*, Dąbrowa Górnicza, 2021, p. 122.

<sup>38</sup> A. Karczewska, 'Efektywna komunikacja w zarządzaniu pracownikami', in: Bazan-Bulanda A., Kwiatek A., Skiba M. (eds), *Psychospołeczne aspekty zarządzania zasobami ludzkimi*, Częstochowa, 2021, p. 96.

<sup>39</sup> K. Stankiewicz, K. Birr, 'Doskonalenie procesu zarządzania zespołem w oparciu o zróżnicowanie typów MBTI', *Przedsiębiorstwo we współczesnej gospodarce – teoria i praktyka*, 2014, No. 4, p. 41.

<sup>40</sup> M. Geryk, 'Rola przywódcy a skuteczne zarządzanie organizacją w zmiennym otoczeniu', in: Geryk M., Pławaska A. (eds), *Współczesna problematyka wybranych zagadnień prawnych i ekonomicznych*, Gdańsk, 2016, p. 95.

accordingly. The primary goal is to identify, understand and manage one's own emotions, and the next goal is to identify, understand and influence the emotions of others. Emotional intelligence is a more suitable tool than IQ because it concerns behavioural characteristics. These are the characteristics involved in decision-making and problem-solving, and they affect ways of thinking (positive and negative).<sup>41</sup> According to K. Janik, persons with a high level of emotional intelligence are good communicators, share their intentions, ideals and goals, and are more positive, all of which has a major impact on workplace performance.<sup>42</sup> Janik emphasises that:

'Emotional intelligence encompasses emotional capabilities relating to the emotional functioning both of the individual and of others, and has a positive correlation with the emergence of leadership, effective leadership behaviour and general effectiveness of leadership.'<sup>43</sup>

The ability to manage emotions means that a leader is able to manage effectively not only their own emotional condition but also that of the team, which enables effective conflict management. The understanding of emotions means that both the causes and effects of emotions can be recognised, as they are certainly unavoidable in conflict. Knowledge of emotions makes it easier to understand the other side's arguments and reach a compromise.<sup>44</sup> D. Goleman defines emotional competence as a measurable skill derived from emotional intelligence, leading to outstanding performance. Besides self-awareness, self-regulation and motivation, social skills and empathy are equally important, as specific skills relevant to the workplace are built upon these as a superstructure. In his opinion: 'Empathy is a fundamental skill for all the social competencies important for work'.<sup>45</sup> The above theoretical reflection is confirmed by empirical studies. According to surveys conducted at the turn of 2021 and 2022, Polish managers believe empathy shown in relations with subordinates to be of fundamental importance – interpersonal sensitivity, understanding the circumstances of others, and understanding their emotions and motives, as well as the sources of their decisions and attitudes. At present, this involves demonstrating on a daily basis that leaders understand the challenges faced by workers when returning to the office, paying attention and showing concern, and helping whenever subordinates experience anxiety or burnout or try to cope with difficult emotions.<sup>46</sup>

This illustrates that 'technical' management of a workforce is not possible if it does not incorporate the behavioural characteristics attributed to people, such as emotions and empathy. As has been demonstrated, only a suitable level of emotional

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<sup>41</sup> S.S. Magapu, S. Vaddiparty, 'The Study of Emotional Intelligence in Artificial Intelligence', *International Journal of Innovative Science and Research Technology*, 2019, Vol. 4, No. 1, p. 595.

<sup>42</sup> K. Janik, 'Znaczenie inteligencji emocjonalnej w życiu zawodowym', in: Mazur M. (ed.), *Współczesne trendy w zarządzaniu*, 2nd ed., Warszawa, 2021, p. 31.

<sup>43</sup> *Ibidem*, p. 27.

<sup>44</sup> *Ibidem*.

<sup>45</sup> D. Goleman, *Inteligencja emocjonalna w praktyce*, transl. Jankowski, A., Poznań, 1999, p. 196.

<sup>46</sup> House of Skills, *Polski menedżer, praktyki, wyzwania, rozwój. Raport z badania House of Skills 2021/2022*, Warszawa, 2022, p. 16.

intelligence enables the effective exercise of an employer's managerial prerogative. Hence, it remains to be determined whether, given the current stage of development of AI, it is at all possible to delegate managerial powers to AI and to what extent the current stage of development permits the emotional management of the workforce.

## THE CONCEPT OF EMOTIONAL ARTIFICIAL INTELLIGENCE AS A RESPONSE TO THE EMPLOYER'S EMOTIONAL LEADERSHIP

The above leads to two conclusions: artificial intelligence is formally compatible with the exercise of managerial powers on the employer's behalf, and effective leadership requires the inclusion of emotional intelligence because emotions are an intrinsic element in the achievement of the employer's goals. These conclusions prompt the fundamental question of whether there exists an effective AI technology relying on the inclusion of emotion in the pursuit of the goals set for AI. Artificial intelligence is defined as a 'discipline within information technologies studying the principles governing human mental behaviour and creating computer programmes or systems to simulate human thinking'.<sup>47</sup> It is a vast discipline dealing with a variety of problems, such as understanding, planning, learning and the representation of knowledge.<sup>48</sup> M. Warszycki also provides a useful concept of artificial intelligence, defining it as an area of science combining disciplines, methods, tools and techniques aimed at the creation and development of a complete computer programme capable of the precise reflection of a model of the functioning of a human being and the human mind. The main processes and functions required of such a programme are the drawing of conclusions and identification of patterns, comprehension, learning from experience, use of information, non-coincidental and non-random planning of activities, creativity, problem-solving, and autonomy in decision-making. All of the aforementioned processes and their outcomes should be retained as acquired knowledge and applied with reference to adaptive behaviours both in the environment in which the programme is functioning and in the relevant situation.<sup>49</sup> Artificial intelligence can also be defined as a set of mathematical algorithms and computer programmes executed by a machine.<sup>50</sup> The above-quoted concepts of artificial intelligence leave no room for the inclusion of emotion in the operation of AI. One should, however, take into account the fact that these definitions are, *sui generis*, a starting point for more complex considerations. AI itself is also categorised further into artificial narrow intelligence (ANI, identical in meaning to weak AI), artificial general intelligence (AGI), equivalent to human intelligence, and artificial

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<sup>47</sup> *Słownik języka polskiego PWN*; <https://sjp.pwn.pl/slowniki/sztuczna%20inteligencja.html> (accessed: 17 February 2026).

<sup>48</sup> A. Johansson, *Affective Decision Making in Artificial Intelligence. Making Virtual Characters with High Believability*, Ph.D. thesis, Norrköping, 2012, p. 2.

<sup>49</sup> M. Warszycki, 'Wykorzystanie sztucznej inteligencji do predykcji emocji konsumentów', *Studia i Prace Kolegium Zarządzania i Finansów / Szkoła Główna Handlowa*, 2019, Vol. 173, p. 115.

<sup>50</sup> *Ibidem*, p. 114.

superintelligence (ASI), exceeding human intelligence in all or almost all aspects.<sup>51</sup> Importantly, many researchers studying artificial intelligence and human–computer interactions did not begin to take emotions truly seriously until the end of the 1990s. The application of emotional intelligence to real disciplines resulted in the emergence of an important area of study known as multi-agent systems (MAS),<sup>52</sup> tasked with leveraging logical methods to ensure the rigorous specification of the way in which emotions should be implemented in an artificial agent.<sup>53</sup>

At present, a variety of attempts are being made to include emotions in the operation of AI. Applications as such focus on human–AI interactions. From the user’s perspective, an AI capable of emotional association could significantly exceed existing solutions. However, automated emotional simulation can be difficult to achieve where studies focus solely on the user’s perception of AI’s behaviour.<sup>54</sup> Cveta Martinovska Bande undertakes a classification attempt to incorporate emotional intelligence into research on artificial intelligence, with the following observations:

- MIT MediaLab projects describe methodologies for recognising strong emotions by way of physiological and non-verbal channels such as facial movements, galvanic skin response (GSR), or a pressure-sensitive mouse detecting the user’s frustration;
- Healy and Picard measure skin conductance, breathing, muscular and cardiac activity to detect a driver’s stress;
- Kapoor, Mota and Picard describe student engagement in interactions with an animated instructor observing eyelid movements and body posture;
- Vyzas and Picard demonstrate that the activity of jaw muscles, blood pressure, skin conductance and breathing can be relied upon to identify eight emotions.<sup>55</sup>

Motivational theories of emotions appear to be especially suitable for adaptation to AI systems. These systems are based on the assumption that humans have regular, universal and traceable emotional expressions and responses, which are legible across a broad scope of surrogate data; these constitute the lion’s share of currently available ‘Emotional AI’ technologies.<sup>56</sup>

Attempts are being made at so-called affective modelling, concerned with the detection and expression of emotions, personality traits and moods. This model draws attention to the fact that emotions are usually accompanied by visually observable behaviours such as facial movements and voice characteristics. However, although facial expressions showing the basic emotions within a given culture are

<sup>51</sup> At present, all known solutions must be regarded as being weak intelligence. There are views that strong AI might take many years to achieve or never be achievable (B. Kaczmarek-Templin, ‘Sztuczna inteligencja (AI) i perspektywy jej wykorzystania w postępowaniu przed sądem cywilnym’, *Studia Prawnicze. Rozprawy i Materiały*, 2022, Vol. 31, No. 2, p. 63).

<sup>52</sup> Multi-agent system.

<sup>53</sup> A. Kumar, R. Singh, R. Chandra, ‘Emotional Intelligence for Artificial Intelligence: A Review’, *International Journal of Science and Research (IJSR)*, 2018, Vol. 7, No. 8, p. 1.

<sup>54</sup> Y. Gu, ‘The Application of Artificial Emotions in Artificial Intelligence’, *Advances in Social Science, Education and Humanities Research*, 2021, Vol. 631, p. 482.

<sup>55</sup> C. Martinovska Bande, ‘Emotions in the Models of Artificial Intelligence’, *International Journal of Scientific and Research Publications*, 2021, Vol. 11, No. 12, p. 386.

<sup>56</sup> L. Starke, J. Hoey, ‘The Ethics of Emotion in Artificial Intelligence Systems’, in: *Proceedings of the 2021 ACM Conference on Fairness, Accountability, and Transparency (FAcT ’21)*, 2021, p. 4.1.

consistent, there may be significant individual variations. Individual characteristics such as personality traits, goals and expectations, as well as social conventions, may affect emotional expression.<sup>57</sup> Nonetheless, humans have approximately 34 muscles responsible for facial movements, which contract and relax to express different emotions, demonstrating the complexity of correctly capturing such feelings, as well as anatomical variations. In spite of all the technological progress, it continues to be difficult to identify emotions on people's faces, because facial movements associated with the same emotion vary significantly between individuals, and algorithms have not yet succeeded in learning to recognise them.<sup>58</sup>

Another method for including emotion in artificial intelligence is voice analysis. Voice characteristics such as pitch, rhythm, amplitude and the duration of changes provide data concerning emotional arousal and valence. A sad or bored person speaks slowly, with a lower pitch and less energy in high frequencies. Emotions such as fear, anger and happiness are characterised by louder and faster speech, as well as strong high-frequency energy.<sup>59</sup> Surrogate data on emotional expression from other sources, such as recordings of the human voice or measurements of skin conductance, are also often analysed in reliance on assumptions based on the motivational paradigm.<sup>60</sup>

Attempts have been made in academic studies to construct computers based on neural networks modelled on human neural architecture. It is emphasised that neural networks have the architectural advantage of being more similar to the principle of the biological neural networks observed in animal brains.<sup>61</sup> According to L. Starke and J. Hoey, in the last five years the scope of analyses regarding various kinds of behavioural and social data has expanded, including data on emotions, classified as 'digital phenotyping' or 'measurement of behaviour on the basis of sensors in smartphones, keyboard interactions and different characteristics of voice and speech'.<sup>62</sup>

In the above-mentioned Regulation, it is indicated that:

'High-risk AI systems should be designed and developed in such a way that natural persons can oversee their functioning, ensure that they are used as intended and that their impacts are addressed over the system's lifecycle. To that end, appropriate human oversight measures should be identified by the provider of the system before its placing on the market or putting into service. In particular, where appropriate, such measures should guarantee that the system is subject to in-built operational constraints that cannot be overridden by the system itself, is responsive to the human operator, and that the natural persons to whom human oversight has been assigned have the necessary competence, training and authority to carry out that role.'<sup>63</sup>

<sup>57</sup> C. Martinovska Bande, 'Emotions...', op. cit., p. 386.

<sup>58</sup> T.G. dos S. Martins, R. Silva, L.G.A. Mendes, P. Schor, 'Use of Artificial Intelligence to Assess Human Emotion', *The Open Psychology Journal*, 2020, Vol. 13, p. 15.

<sup>59</sup> C. Martinovska Bande, 'Emotions...', op. cit., p. 386.

<sup>60</sup> L. Starke, J. Hoey, 'The Ethics of Emotion...', op. cit., p. 4.1

<sup>61</sup> Y. Gu, 'The Application...', op. cit., p. 480.

<sup>62</sup> L. Starke, J. Hoey, 'The Ethics of Emotion...', op. cit., p. 4.1.

<sup>63</sup> Recital 73.

Considering the types of technologies available, it needs to be determined what capacity they have for emotional management of the workforce and to what extent they are still technologies in *statu nascendi*, the inclusion of which at the current stage of technological development would at the very least be premature. If these technologies are determined to be at an early stage of development, the next issue to be addressed is the ability of these technologies to serve as a kind of bridge between the parties to the employment relationship.

## EFFECTIVE OPPORTUNITIES FOR THE USE OF EMOTIONAL ARTIFICIAL INTELLIGENCE (EAI)

The progress made in the development of emotional artificial intelligence prompts the natural question of the extent to which EAI could effectively take over an employer's managerial prerogative over the workforce in a manner accounting for the prerequisites of proper interpersonal communication. Unquestionably, at present, studies on artificial intelligence consider different roles and interpretations of emotions, such as their role in the agent's autonomy, control with regard to the achievement of goals, the achievement of credible behaviours, evaluation of the environment, and the agent's tendencies to act.<sup>64</sup> While more and more variants of EAI engineering continue to appear, this remains limited to reading human emotions. The challenge in management, by contrast, comes down to bidirectional emotional interaction and the triggering of emotions in employees. The condition of AI being able to read its interlocutor's emotions does not yet mean that the AI will react emotionally or that the course of the interaction between the human being and technology will reflect the capabilities of emotional intelligence. Despite the impression that these technologies provide objective measures of internal feelings, it must be clarified that they register only the visible symptoms of such states. Accordingly, critics assert that such technologies could mislead users as to the platforms' capacity for precision, suggesting a degree of authority and certainty not supported by psychological literature.<sup>65</sup>

Literature notes that:

'With the help of Emotional Intelligence in Artificial Intelligence, we can allow it to widen its fields of knowledge and to provide further and more advanced solutions to complicated problems. If we can have Emotional Artificial Intelligence, this can cause the barriers between a human and a machine to close.'<sup>66</sup>

This happens because emotions play a key role in intelligent conduct and provide vast potential for designing artificial agents and more natural and expressive interactive technologies.<sup>67</sup> Multiple corporations and companies, such as Google,

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<sup>64</sup> C. Martinovska Bande, 'Emotions...', op. cit., p. 386.

<sup>65</sup> D. White, H. Katsuno, 'Artificial Emotional Intelligence Beyond East and West', *Internet Policy Review*, 2022, Vol. 11, No. 1, p. 7.

<sup>66</sup> S.S. Magapu, S. Vaddiparty, 'The Study...', op. cit., p. 594.

<sup>67</sup> C. Martinovska Bande, 'Emotions...', op. cit., p. 384.

Amazon and Microsoft, invest in emotional artificial intelligence in order to embed personality into their technologies.<sup>68</sup> Artificial minds understand emotions because humans communicate by expressing and assessing emotions. Thus, to understand the user's goals, the machine should be capable of processing information about the user's emotions. To achieve this, it is crucial to build computational models of emotions.<sup>69</sup>

The recipient's awareness is also important when evaluating the effectiveness of EAI operation. As noted in the literature, there is a significant difference in the comprehensiveness, accuracy, timeliness, reliability, accessibility and flexibility of the AI scale depending on the participants' level of education. Holders of university-awarded master's and doctoral degrees are aware of the speed, comprehensiveness and certainty of AI and of its low error margin. The higher the level of education, the greater the trust in technology. The greater the trust in technology, the more it is used. Thus, awareness of its complexity, accuracy and speed increases.<sup>70</sup> The above leads to one conclusion that is of fundamental importance for the assessment of the maturity of the solutions discussed. Since the effectiveness of emotional artificial intelligence is influenced by the recipient's intellectual level, at present it is not universal and thus has not been developed sufficiently for the meaningful exercise of managerial prerogative. As observed by D. White and H. Katsuno, the diversity of cultural perspectives on emotional artificial intelligence undermines its viability as an instrument for building universal systems to automate emotion recognition and action.<sup>71</sup>

Given the current stage of technological development, it is impossible for AI to exercise managerial powers incorporating emotional intelligence and thus to manage the workforce in a manner that involves emotion, thereby realising the behavioural assumptions discussed above. As noted by C. Creed and R. Beale, it is currently difficult to provide a persuasive rationale for computers to take on important roles requiring social interaction, since computers lack the requisite social and emotional intelligence. They encounter difficulties in building relationships with users and cannot inspire or motivate people beyond a narrow scope of social dialogue. Expected technological progress in the coming years may change that, and more socially astute agents may emerge, but the question remains whether that could ever justify replacing their human counterpart.<sup>72</sup> The implementation of emotional intelligence in AI itself also entails certain challenges. Firstly, recognising and interpreting emotions is a task more subjective than purely logical analysis, and therefore suitable algorithms and models capable of precise recognition and interpretation of emotions need to be developed.<sup>73</sup>

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<sup>68</sup> S.S. Magapu, S. Vaddiparty, 'The Study...', op. cit., p. 598.

<sup>69</sup> A. Kumar, R. Singh, R. Chandra, 'Emotional...', op. cit., p. 4.

<sup>70</sup> E. Kambur, 'Emotional Intelligence or Artificial Intelligence? Emotional Artificial Intelligence', *Florya Chronicles of Political Economy*, 2021, Vol. 7, No. 2, p. 162.

<sup>71</sup> D. White, H. Katsuno, 'Artificial...', op. cit., p. 13.

<sup>72</sup> C. Creed, R. Beale, 'Emotional Intelligence: Giving Computers Effective Emotional Skills to Aid Interaction', in: Fulcher J., Jain L.C. (eds), *Computational Intelligence: A Compendium*, Heidelberg, 2008, p. 205.

<sup>73</sup> J. Cichocki, 'Inteligencja emocjonalna w sztucznej inteligencji – nowe możliwości rozwoju', *cogitech.pl*, 27 July 2023; <https://cogitech.pl/blog/inteligencja-emocjonalna-w-sztucznej-inteligencji-nowe-mozliwosci-rozwoju> (accessed: 5 March 2026).

Unquestionably, by contrast, AI can provide a kind of bridge between actions undertaken by the employer and employees. Due to the lack of full reciprocity (bidirectionality) of relationships involving emotions, AI can presently become a useful tool for the evaluation of, at various stages, employees' professional activity and the effects of their work. Currently, it may be more practical and useful to deploy computers to supplement the roles discharged by humans.<sup>74</sup> As noted by M. Ciesielski:

'Artificial intelligence can add significant value to organisational strategy, whether by predicting the demand for talent that follows from the company's development strategy or by gathering and analysing data on vacancies and new requirements in teams and specific positions. It can also assist in the recruitment of employees by matching applicants to vacancies and expediting onboarding.'<sup>75</sup>

Artificial intelligence also significantly accelerates the transition from an applicant to an effective worker, enabling new employees to gain institutional knowledge far more quickly.<sup>76</sup> Last but not least, AI can play a role in the assessment of employee performance, primarily from the perspective of set goals.<sup>77</sup> Clearly, technological progress has supported workplaces in the digital transformation of processes by leveraging AI to streamline and automate organisational decision-making and to monitor and manage the workforce.<sup>78</sup> Additionally, the literature notes computers' potential for mitigating feelings of frustration.<sup>79</sup>

Thus, it follows from the above that, in anticipation of emotional artificial intelligence reaching its full potential, there already exists a limited but nonetheless broad spectrum of possible applications of AI in workforce management for the benefit of both employers and employees, provided that they have a positive outlook towards the replacement of an increasing number of areas by technology.

## CONCLUSIONS

*Prima facie*, artificial intelligence could appear to be perfectly positioned to take over the exercise of the employer's managerial powers. By defining goals, the employer permits AI to select the individual activities, means and methods to achieve them. This might even be the model for algorithmic action whereby AI, on the basis of the dataset received, duly processes the data and then implements them with regard

<sup>74</sup> C. Creed, R. Beale, 'Emotional...', op. cit., p. 205.

<sup>75</sup> M. Ciesielski, 'Nowy dyrektor personalny w twojej firmie będzie chatbotem? AI zmieni cały proces zarządzania zasobami ludzkimi', *forsal.pl*, 24 August 2023; <https://forsal.pl/praca/aktualnosc/artykuly/9282735,nowy-dyrektor-personalny-w-twojej-firmie-bedzie-chatbotem-ai-zmieni-c.html> (accessed: 5 March 2026).

<sup>76</sup> *Ibidem*.

<sup>77</sup> *Ibidem*.

<sup>78</sup> S. Corvite, K. Roemmich, T.I. Rosenberg, N. Andalibi, 'Data Subjects' Perspectives on Emotion Artificial Intelligence Use in the Workplace: A Relational Ethics Lens', *Proceedings of the ACM on Human-Computer Interaction*, 2023, Vol. 7, No. CSCW1, article number 124.

<sup>79</sup> C. Creed, R. Beale, 'Emotional...', op. cit., p. 202.

to specific employees on whom it has adequate information. However, workforce management has proven not to be so simple, since the process of communication itself, which forms the basis of management, cannot be reduced to an algorithm. If we were to define communication as the transmission of information, the constituent parts of the process would be elements such as who the sender is, the intentions behind the communicated contents, the code by which they are transmitted (verbal and non-verbal), who the recipient is, and the method of interpreting the information received.<sup>80</sup> According to that definition, AI's activity in its current form could be sufficient for workforce management. This definition, however, oversimplifies the essence of communication, one aspect of which is the emotional–energetic element. The essence of this element is the sender's emotional attitude towards the message and towards the recipient.<sup>81</sup> It is vital to balance emotions and energy in order for the emotional–energetic element to be able to fulfil the above-specified functions in the interpersonal communication process. Such balancing means adjusting the level of emotions and energy to the gravity of the subject, the sender's and recipient's mental states, and the purpose to be achieved. A difficult conversation with an interlocutor requires both a suitable energy level (engagement) and the optimal level of emotions. This enables the maintenance of cognitive control over what is said and how it is said, without inducing excessive emotions in the recipient, especially negative ones.<sup>82</sup> Dariusz Krok<sup>83</sup> identifies three main characteristics of interpersonal communication: (1) communication assumes the existence of interaction between human beings; (2) it requires mutual understanding between them as to the various meanings of sounds, words, signs and gestures; and (3) it constitutes the means by which humans influence one another. A different characterisation of interpersonal communication as a complex multidimensional phenomenon is given by O. Hargie and D. Dickson, in whose opinion communication is transactional, and its nature is dynamic and variable. In sending the message, the sender influences the recipient, who in turn influences the sender with their response by way of a feedback loop.<sup>84</sup> Undoubtedly, in professional relations, in which the roles in communication processes are clearly defined and asymmetrical (e.g. superior and subordinate),<sup>85</sup> emotions play an important role. The ability to master emotions and express them properly through verbal and non-verbal messages constitutes an important element of professional life. The difficulty of achieving this arises from the systems that compose emotions: the subjective (how the individual interprets situations or the stimulus triggering them), behavioural (relating to an individual's verbal or non-

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<sup>80</sup> M. Weryszko, 'Komunikacja interpersonalna jako esencja interakcji społecznych', *Kwartalnik Naukowy Fides et Ratio*, 2020, Vol. 42, No. 2, p. 254.

<sup>81</sup> S. Frydrychowicz, 'Komunikacja interpersonalna w interakcjach społecznych', *Człowiek i Społeczeństwo*, 2020, Vol. 50, p. 22.

<sup>82</sup> *Ibidem*.

<sup>83</sup> D. Krok, 'Znaczenie komunikacji interpersonalnej w funkcjonowaniu rodziny', in: Soiński B. (ed.), *Rodzina w świetle psychologii pastoralnej*, Łódź, 2007, pp. 41–54.

<sup>84</sup> O. Hargie, D. Dickson, D. Tourish, *Communication Skills for Effective Management*, London, 2004, p. 13.

<sup>85</sup> A. Frączek, 'Komunikacja interpersonalna', *Studia Gdańskie. Wizje i rzeczywistość*, 2012, Vol. 9, p. 119.

verbal behaviour), and physiological (relating to the operation of the nervous system and the physiological reactions of the body).<sup>86</sup>

Given the present stage of technological development, AI does not have the capability to fulfil the emotional side of communication. Moreover, the issue of equipping AI with emotional intelligence prompts a range of doubts, questions, concerns and even fears. First of all, it is noted that machines should rely on a set of senses, though different from those of human beings, due to functioning in an altogether different world.<sup>87</sup> Concerns are raised in the literature that the deployment of EAI as a form of workplace supervision could result in a deterioration of workers' well-being and interfere with privacy in the workplace.<sup>88</sup> Concerns are also raised that EAI may lead to the reinforcement of the asymmetry between employees and the employer.<sup>89</sup> One of the ethical questions prompted by the incorporation of affective capabilities in computers is whether the emotional support offered by computers is authentic. In other words, whether it is of any importance that when computers express or communicate emotions to users they do not in reality feel such emotions in the way humans do. From the perspective of human-to-human interaction, this concern should be of little significance, because in human relationships we also interact with persons who have been trained in the use of relational strategies to build trust, even though they may not feel genuine compassion or empathy.<sup>90</sup>

The Regulation also points out possible risks in the use of AI in the area of management, emphasising that:

'There are serious concerns about the scientific basis of AI systems aiming to identify or infer emotions, particularly as expression of emotions vary considerably across cultures and situations, and even within a single individual. Among the key shortcomings of such systems are the limited reliability, the lack of specificity and the limited generalisability. Therefore, AI systems identifying or inferring emotions or intentions of natural persons on the basis of their biometric data may lead to discriminatory outcomes and can be intrusive to the rights and freedoms of the concerned persons.'<sup>91</sup>

For the reasons mentioned above, AI systems intended to be used to make decisions affecting the terms of work-related relationships, decisions on the promotion or termination of work-related contractual relationships, the allocation of tasks based on individual behaviour or personal traits or characteristics, or the monitoring and evaluation of the performance and behaviour of persons in such relationships are considered to be high-risk systems.<sup>92</sup> Consequently, they should be designed in such a way as to minimise the possibility of harm to public interests

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<sup>86</sup> M. Miszczak, 'Emocje w komunikacji interpersonalnej z perspektywy zarządzania', *Nowoczesne Systemy Zarządzania*, 2012, Vol. 7, No. 1, p. 212.

<sup>87</sup> K. Różanowski, 'Sztuczna inteligencja – rozwój, szanse i zagrożenia', *Zeszyty Naukowe Warszawskiej Wyższej Szkoły Informatyki*, 2007, No. 2, p. 132.

<sup>88</sup> S. Corvite, K. Roemlich, T.I. Rosenberg, N. Andalibi, 'Data Subjects...', op. cit., p. 124.

<sup>89</sup> Ibidem.

<sup>90</sup> C. Creed, R. Beale, 'Emotional...', op. cit., p. 205.

<sup>91</sup> Recital 44.

<sup>92</sup> Annex III, point 4(b).

and to fundamental rights protected by Union law. Such harm may be material or immaterial, including physical, psychological, social or economic harm.<sup>93</sup>

On the other hand, humans exhibit a tendency to interact with computers, new media and the like in a similar manner to how they interact with people – being kind, acting differently towards the computers they converse with, engaging in behaviours regulating closeness to faces on the screen, and many more.<sup>94</sup> Hence, there is conjecture in academic literature (based on existing experience with AI) that the positive correlation between the assessment of (human) intelligence and emotional reaction will continue to apply when the intelligence is artificial.<sup>95</sup>

There can be no doubt that even today, with regard to workforce management, whether this concerns individual persons or entire teams, artificial intelligence fulfils its role by supporting the employer in various aspects of the performance of tasks, involving recruitment, organisation of work, and the evaluation of employees. As for the question posed at the beginning of this article regarding the possibility of comprehensive delegation of an employer's managerial powers to AI, that is not a viable task at present, given the current stage of development of AI. It does, however, turn out (and perhaps for the better) that interpersonal relations are far more complex than they appear. The emotional side plays a very important role in these relations, and without it they cannot be complete. Transmission of content alone is not sufficient for effective communication. This is a task that AI (even EAI) cannot at present fulfil. As noted by M. Ciesielski, data analysis is important, but having an empathetic conversation with the employee and receiving feedback from them appears, as a rule, to be more important.<sup>96</sup> What is even more important is that employees adopt a positive attitude towards AI assuming more and more tasks. This will require time, and in consequence perhaps the evolutionary development of emotional artificial intelligence works to its benefit, allowing employees to develop a favourable attitude towards a digital manager that may perhaps one day assume the employer's managerial prerogative.

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<sup>93</sup> Recital 5.

<sup>94</sup> B. Reeves, C. Nass, *The Media Equation: How People Treat Computers, Television, and New Media Like Real People and Places*, New York, 1996, p. 24.

<sup>95</sup> E. Pantano, D. Scarpi, 'I, Robot, You, Consumer: Measuring Artificial Intelligence Types and their Effect on Consumers Emotions in Service', *Journal of Service Research*, 2022, Vol. 25, No. 4, p. 583.

<sup>96</sup> M. Ciesielski, 'Nowy...', op. cit.

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