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the European Union

Artificial Intelligence, Gender Equality and algorithmic discrimination

ERA, Strasbourg, 17-18 April 2026

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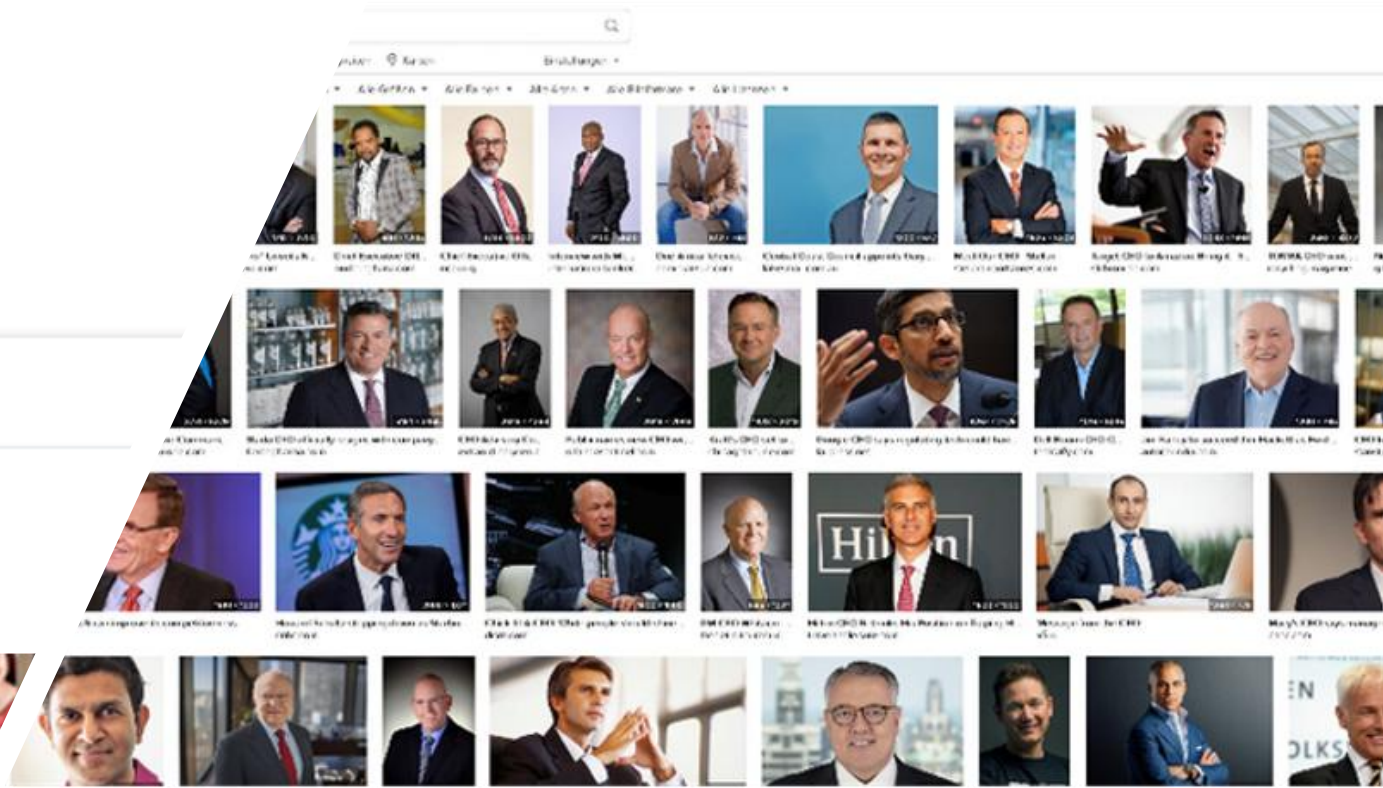


combine fatherhood and wor

combine **motherhood** and work

Google Suche

Auf gut Glück!



2310.09219

Computation and Language

23 (v1), last revised 1 Dec 2023 (this version, v5)]

Warm Person, Joseph is a Role Model": Gender Biases in LLM-Generated Reference Letters

Jorge Pu, Jiao Sun, Aparna Garimella, Kai-Wei Chang, Nanyun Peng

Language Models (LLMs) have recently emerged as an effective tool to assist individuals in writing various types of content, including professional documents such as recommendation letters. Model-generated reference letters might be directly used by users in professional scenarios. If underlying biases exist in these model-constructed letters, using them will harm job applicants. In light of this pressing issue, it is imminent and necessary to comprehensively study fairness issues and associated harms in this real-world use case. In this paper, we present our science findings, we design evaluation methods to manifest biases through 2 dimensions: (1) biases in language style and (2) biases in lexical content. We further investigate the exacerbation in model-hallucinated contents. Through benchmarking evaluation on 2 popular LLMs- ChatGPT and Alpaca, we reveal significant gender biases in LLM-generated reference letters, but also illuminate the importance of thoroughly studying hidden biases and harms in LLM-generated professional documents.

arXiv:2310.09219 [cs.CL]
(or arXiv:2310.09219v5 [cs.CL] for this version)
<https://doi.org/10.48550/arXiv.2310.09219>

Note: Sample of images is representative of the gender and skin tone per occupation. The percentages listed may not add to 100 due to rounding.

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AI is fascinating

It creates risks and opportunities for equality and non-discrimination

AI Act: AI systems used for employment

(57) AI systems used in employment, workers management and access to self-employment, in particular for the recruitment and selection of persons, for making decisions affecting 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 evaluation of persons in work-related contractual relationships, should also be classified as high-risk, since those systems may have an appreciable impact on future career prospects, livelihoods of those persons and workers' rights. Relevant work-related contractual relationships should, in a meaningful manner, involve employees and persons providing services through platforms as referred to in the Commission Work Programme 2021. 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 origins 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.

Work & AI

A recent survey by [Gallup](#) revealed that 93% of Fortune 500 Chief Human Resource Officers (CHROs) have begun integrating AI tools and technologies to enhance business practices. This widespread adoption underscores AI's transformative potential in

LEADERSHIP > LEADERSHIP STRATEGIES

The AI Recruitment Takeover: Redefining Hiring In The Digital Age

By [Keith Ferrazzi](#), Contributor. © I cover the future of work, team effectiveness... ▾

[Follow Author](#)

Published Mar 27, 2025 at 05:33pm EDT

New ILO data confirm women face higher workplace risks from generative AI than men

A new report finds that women face higher risks, as they are concentrated in tasks more prone to automation and remain underrepresented in technology and science fields.

5 March 2026

Hirevue launches Assessment Builder to scale validated skills hiring across enterprises.

hirevue⁺

Hire faster with confidence.

"Other tools didn't understand what we needed. We needed tangible solutions that would address our problems, reduce unqualified applicant volume, and ultimately reduce turnover."

—Kimberly Raimondi, Director of TA, Swire Coca-Cola

Trusted by the best.



Burlington

KraftHeinz



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Agenda of the day

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I. The entry doors for bias and discrimination

II. AI Act: AI and non-discrimination

III. Council of Europe

IV. Cases

V. Enforcement of algorithmic discrimination

VI. Conclusion

I. The entry doors for bias and discrimination



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AI literacy

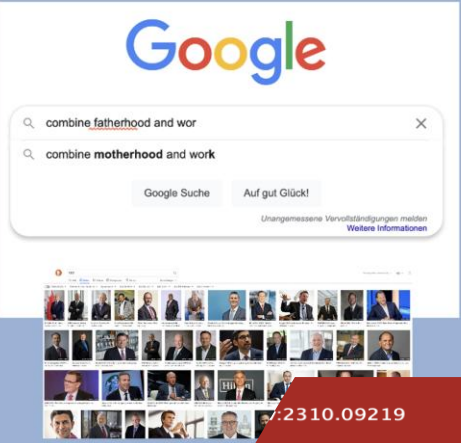
„skills, knowledge and understanding that allow providers, deployers and affected persons, taking into account their respective rights and obligations in the context of this Regulation, to make an informed deployment of AI systems, as well as to gain awareness about the opportunities and risks of AI and possible harm it can cause“

(Art. 3(56), Art. 4 AI Act)


A good description of the menu today!

When do we have a legally relevant behaviour ?

Before LLMs



Age of LLMs



2310.09219

Computation and Language

23 (v1), last revised 1 Dec 2023 (this version, v5)

"Warm Person, Joseph is a Role Model": Gender Biases in LLM-Generated Reference Letters

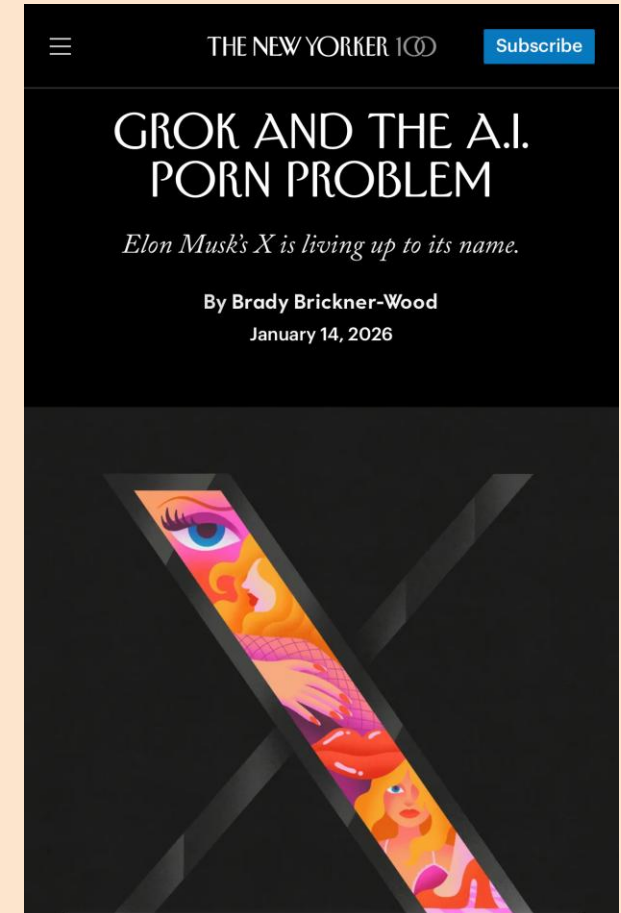
George Pu, Jiao Sun, Aparna Garimella, Kai-Wei Chang, Nanyun Peng

Language Models (LLMs) have recently emerged as an effective tool to assist individuals in writing various types of content, including professional documents such as recommendation letters. Model-generated reference letters might be directly used by users in professional scenarios. If underlying biases exist in these model-constructed letters, using them will harm applicants. In light of this pressing issue, it is imminent and necessary to comprehensively study fairness issues and associated harms in this real-world use case. In this paper, we present our findings, we design evaluation methods to manifest biases through 2 dimensions: (1) biases in language style and (2) biases in lexical content. We further investigate the exacerbation in model-hallucinated contents. Through benchmarking evaluation on 2 popular LLMs- ChatGPT and Alpaca, we reveal significant gender biases in LLM-generated reference letters, but also illuminate the importance of thoroughly studying hidden biases and harms in LLM-generated professional documents.

Contributions: Accepted to EMNLP 2023 Findings

Subjects: **Computation and Language (cs.CL)**; Artificial Intelligence (cs.AI)

Cite as: [arXiv:2310.09219](https://arxiv.org/abs/2310.09219) [cs.CL]
(or [arXiv:2310.09219v5](https://arxiv.org/abs/2310.09219v5) [cs.CL] for this version)
<https://doi.org/10.48550/arXiv.2310.09219>



But what if...

datasets contain biases/stereotypes

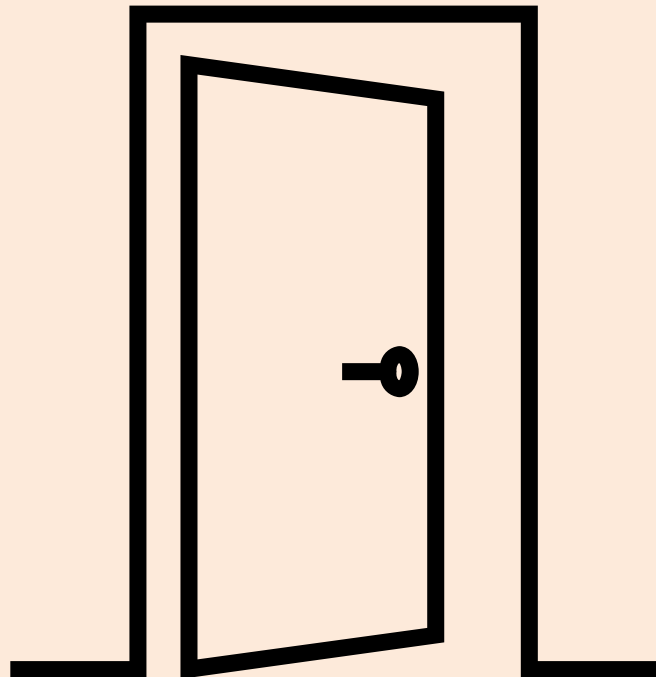
that are used in AI systems

and lead to a discrimination based on a protected characteristic

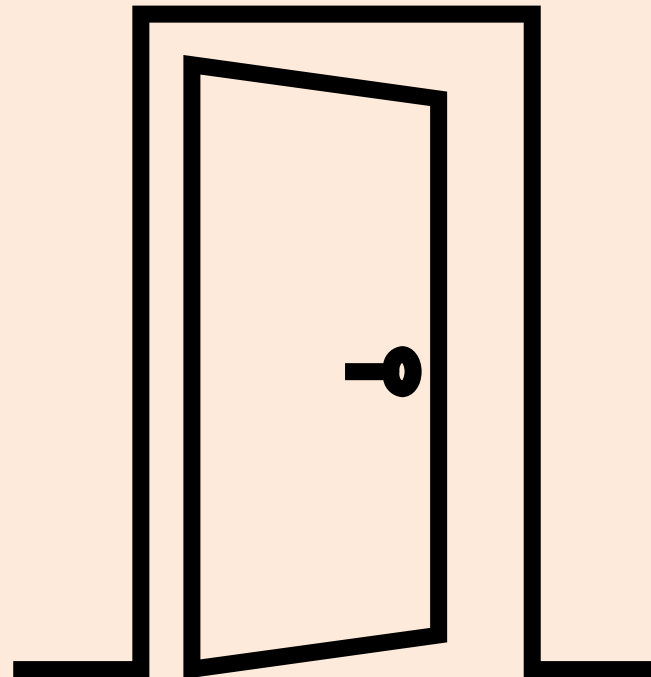
Example: AI Recruitment tool is discriminatory towards women

Risks of AI: Entry doors for biases and discrimination

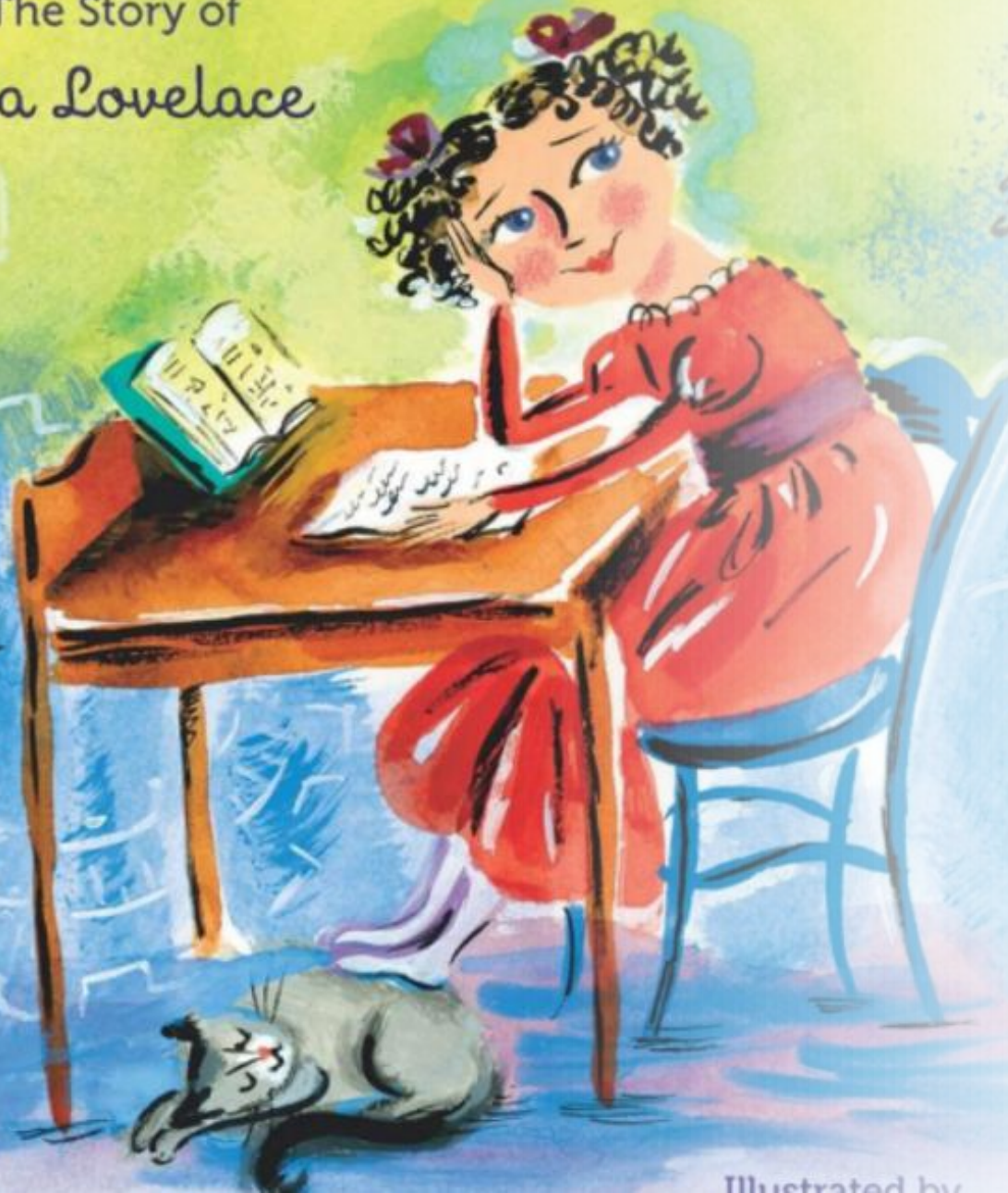
Design of AI systems



Datasets



The Story of
Ada Lovelace





Design of AI system

- Biases and Discrimination can occur in the design, modelling and development of AI systems
- (Who designs algorithms ?)

Datasets

- Biases enabling Discrimination are also often found in datasets that reflect society
- (Who and what is represented in datasets ?)



 Reuters World ▾ Business ▾ Markets ▾ Sustainability ▾ Legal ▾ Commentary ▾ Technology ▾ Investigatio

Insight - Amazon scraps secret AI recruiting tool that showed bias against women

By Jeffrey Dastin

October 10, 2018 8:50 PM EDT · Updated October 10, 2018

Besides biases, what about quality and accuracy ?

reddit

Q r/gdpr x Search in r/gdpr

Home Popular Explore

RESOURCES

- About Reddit
- Advertise
- Developer Platform
- Reddit Pro BETA
- Help
- Blog

r/gdpr · 3y ago
MaryMartina

How to read Art. 22(1) GDPR; prohibition on automated solely-automated decision making and profiling

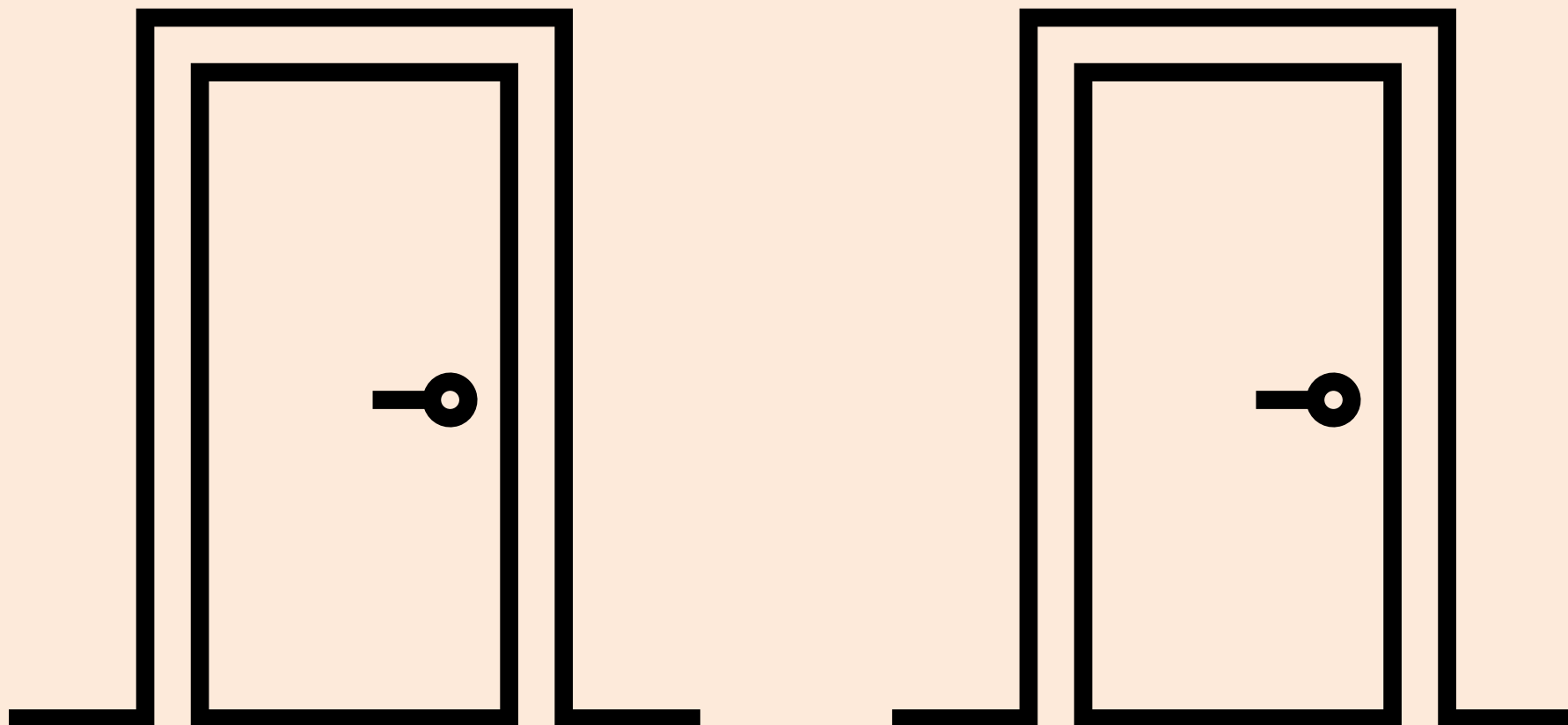
All right, so, for a piece I am currently writing on profiling, I need some clarification on Art. 22(1) GDPR - the prohibition on solely-automated decision making and profiling. The article reads that "the data subject shall not be subjected to decisions based SOLELY on automated processing, INCLUDING profiling, (...)". Art. 4(4) GDPR holds the definition of "profiling", stating that it entails "ANY form of automated processing of personal data (...)".

Looking only at the first paragraph of the article and not at the other paragraphs; does this mean that (A) only solely-automated decisions made through the use of profiling are prohibited or (B) both partially-automated decisions (those with significant human involvement) and solely-automated decisions made through the use of profiling are prohibited?

Whilst I'm assuming the latter because of the definition given in Art. 4(4) GDPR, I'm a bit torn because of the word "including" in Art. 22 GDPR. Any help (possibly with references to academic sources) would be much appreciated!

Thanks in advance!

7 · 17



Lütz, F, “Cadre légal et exigences éthiques: Comment éviter que les modèles d’IA propagent et renforcent les stéréotypes et les préjugés sociaux?”, Numéro spécial “stéréotypes et préjugés dans les modèles d’IA”, Bulletin de L’Académie suisse des sciences humaines et sociales (Juin 2026) ([Lien](#))

Gender Inequalities

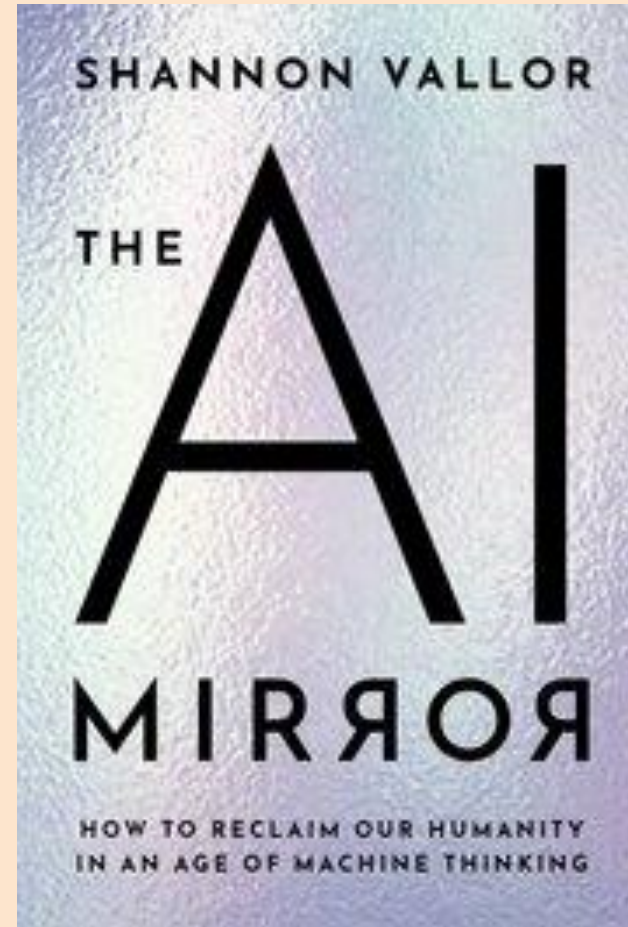
- Offline: Gender Pay Gap, Vertical and Horizontal Segregation, Labor market participation, WLB-Challenge, VAW, Political Participation etc.
- AI-specific: Loss of jobs due to AI, Job creation with AI (but gender dimension!), Digital Gender Divide and 21% women in AI



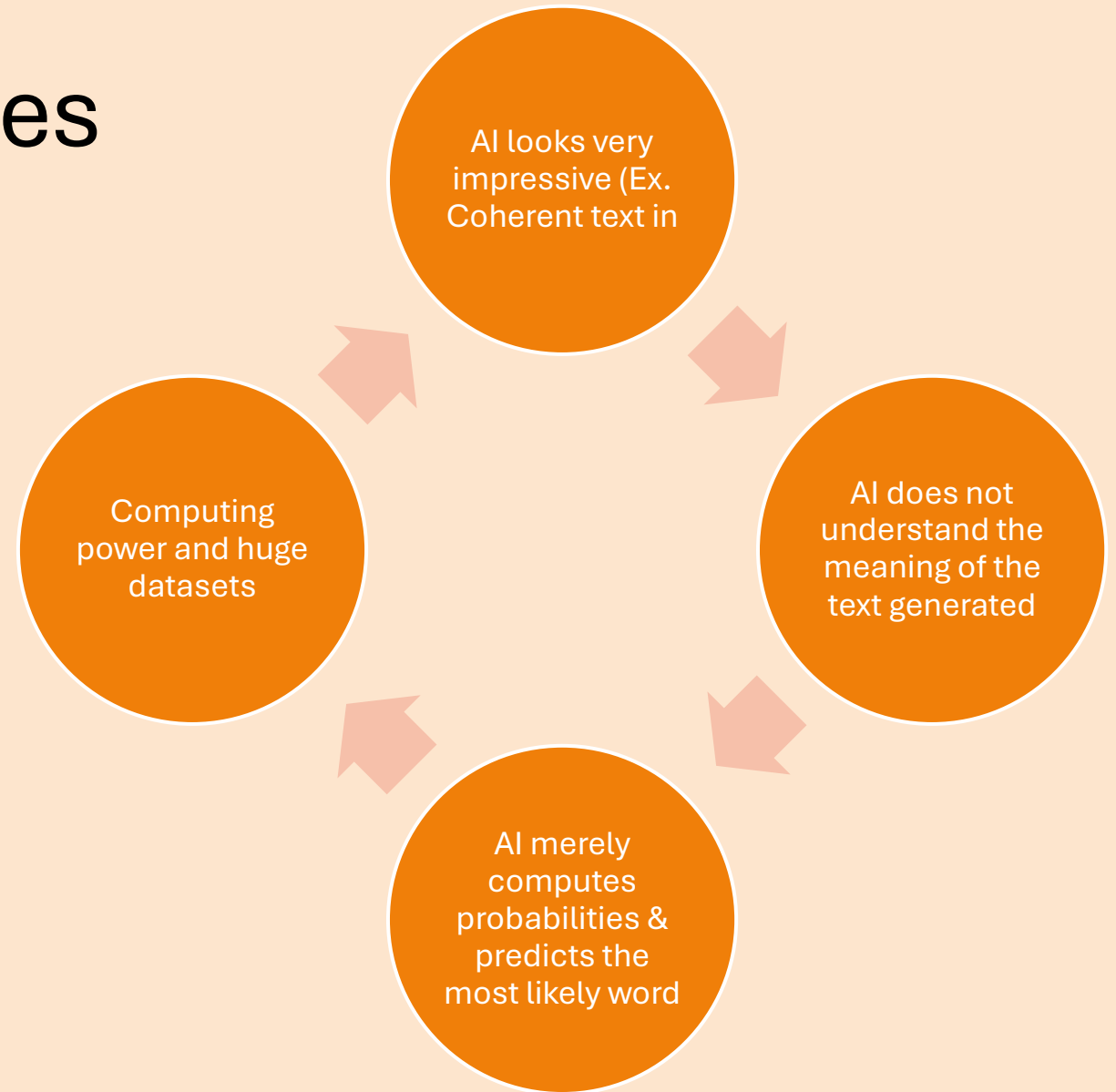
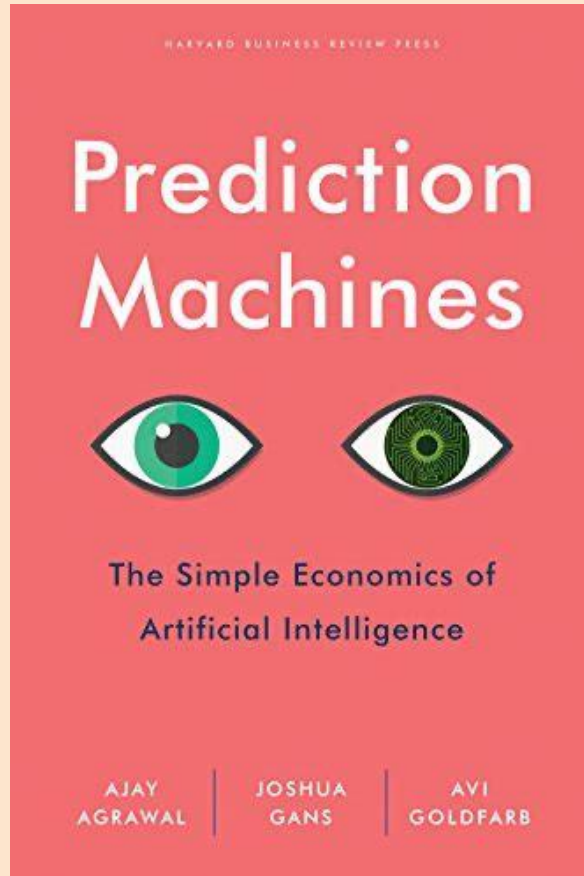
Biased in the past

- AI models aligned to historical data are effectively stuck in the past

(Vallor 2024, p. 1-14)



AI = Prediction machines



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What is AI ?

- AI Act (Art. 3(1)):

*„AI system’ means a **machine-based system** that is designed to operate with varying levels of autonomy and 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“*

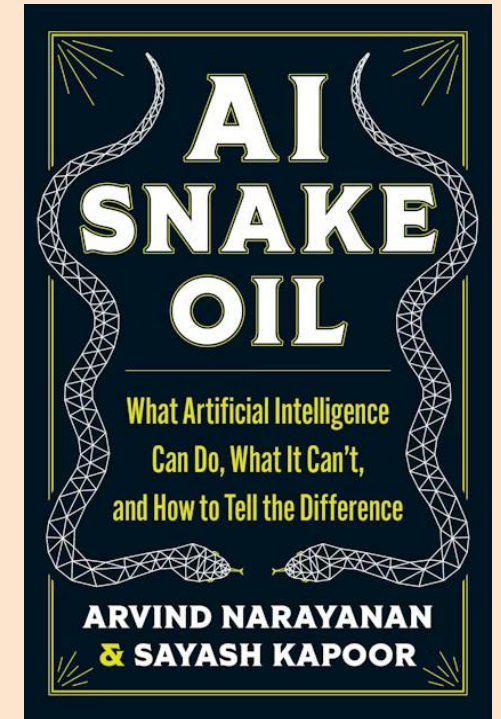
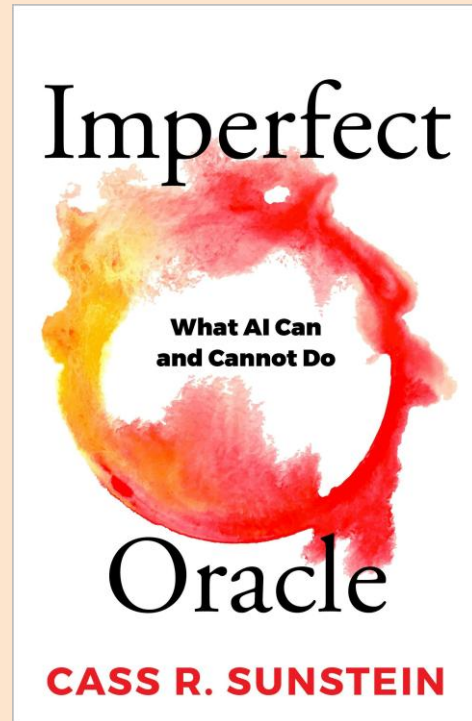
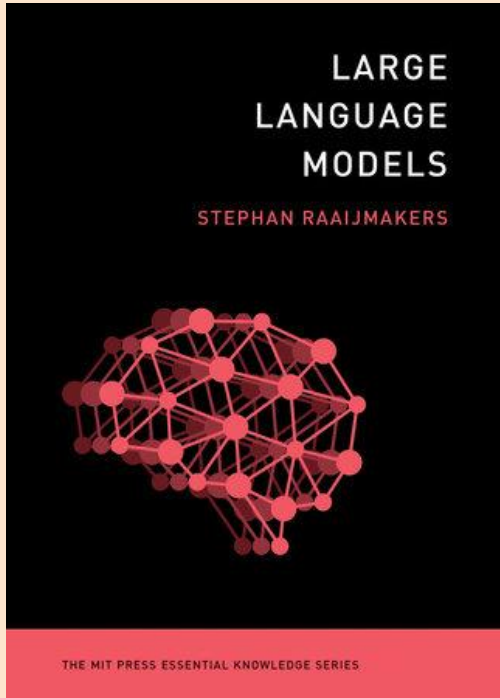


Brussels, 29.7.2025
C(2025) 5053 final

COMMUNICATION FROM THE COMMISSION

Commission Guidelines on the definition of an artificial intelligence system established by Regulation (EU) 2024/1689 (AI Act)

Reading on AI

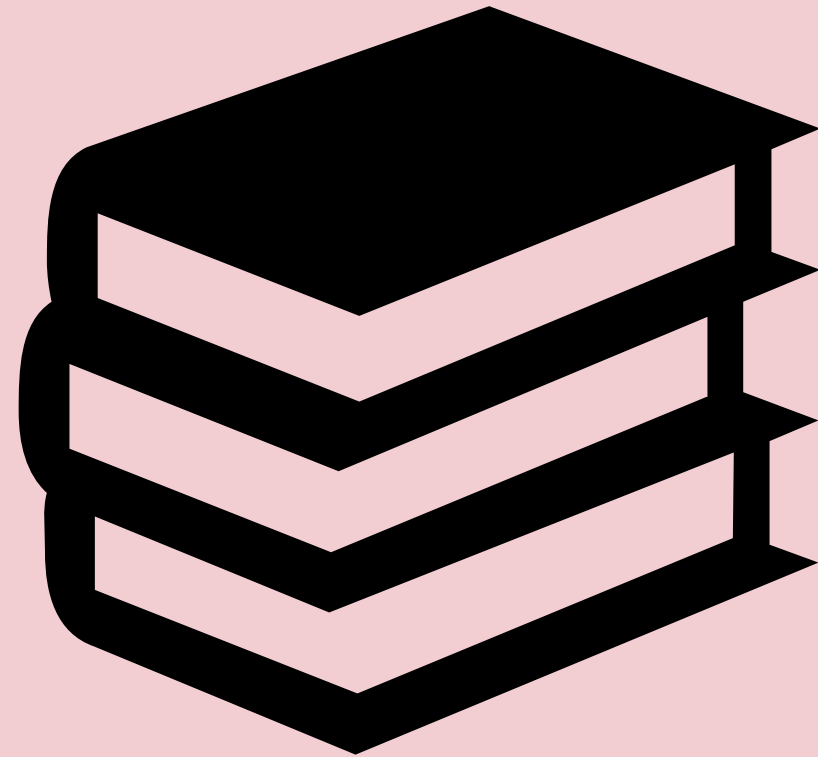


Reading

- Ferry, Julien, Ulrich Aïvodji, Sébastien Gambs, Marie-José Huguet, and Mohamed Siala. “Taming the Triangle: On the Interplays Between Fairness, Interpretability, and Privacy in Machine Learning.” *Computational Intelligence* 41, no. 4 (2025): e70113. <https://doi.org/10.1111/coin.70113>.
- Guillaud, Hubert. *Les algorithmes contre la société*. La Fabrique, 2025.
- Norwegian Consumer Authority, *BREAKING FREE – Pathways to a Fair Technological Future* (2026).

II. AI Act, Equality and non-discrimination

EU law protects against discrimination



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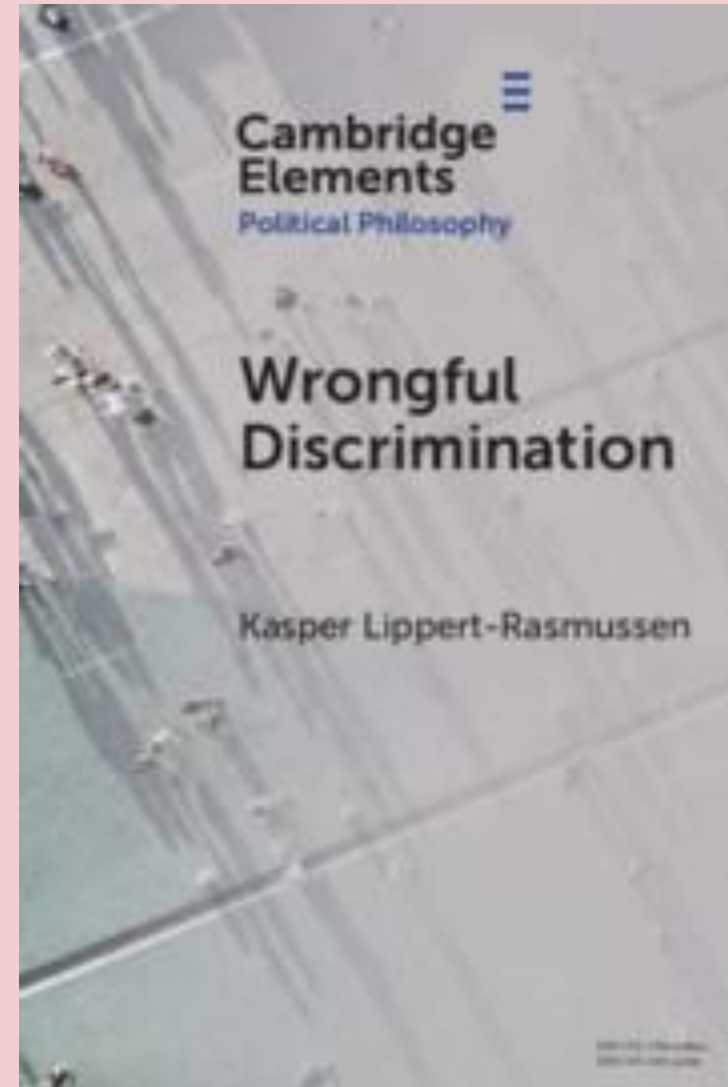
Enforcement

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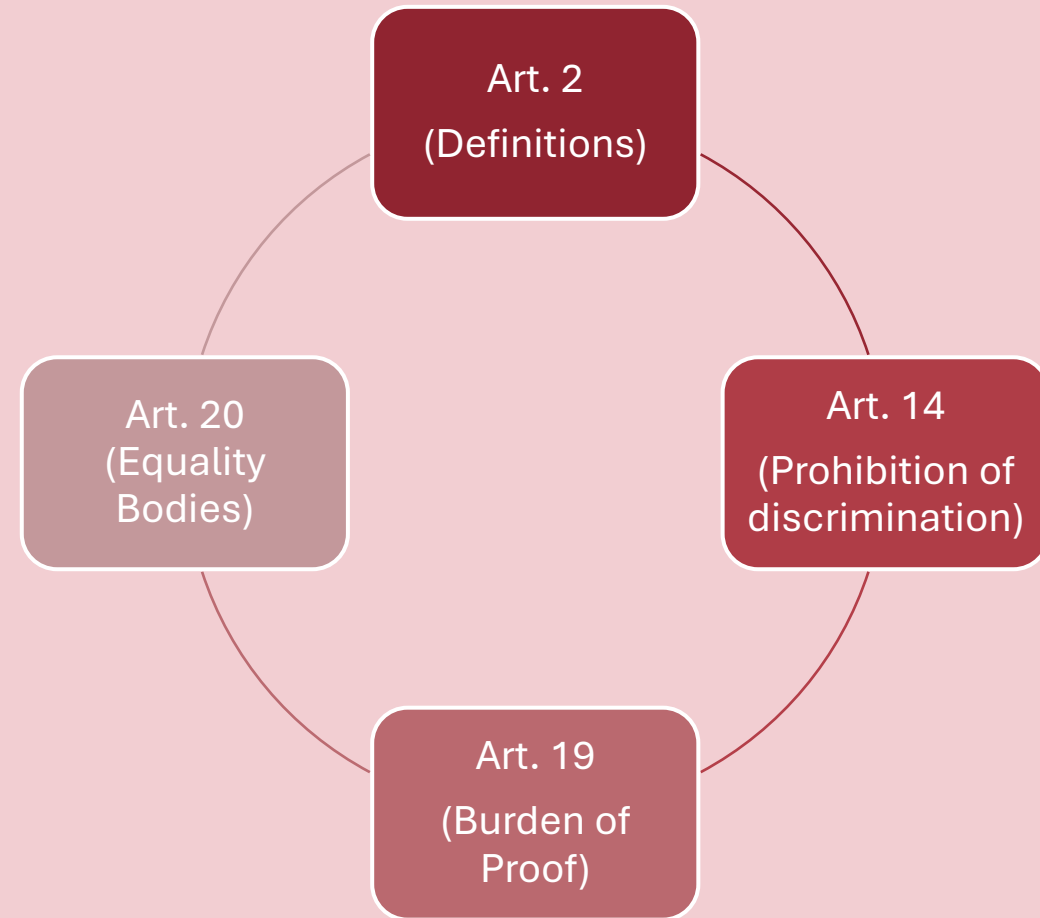
Notes on Discrimination

- *„In a generic sense, to discriminate is to differentiate. Generic discrimination is not wrongful. But many instances of a more specific form of discrimination – differentiating between people because they are members of different socially salient groups (henceforth: group discrimination) – are wrongful.“*

(Lippert-Rasmussen 2025, Abstract)



Directive 2006/54/EC of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast) OJ L 204, 26.7.2006, pp. 23–36



Examples

	Direct discrimination	Indirect discrimination
Classic Discrimination	Company only wants to higher male AI developers.	Company only wants to higher AI developers that are at least 1,75m tall.
Algorithmic Discrimination	Company uses an AI system that uses pre-defined criteria in the AI model that automatically excludes women from the application process	Company uses an AI system that creates a talent score for recruitment (for which part-time work, take-up of family leave, carer's leave for more than 1-month, low previous salaries reduce the talent score).

Is the distinction relevant ?

- Yes relevant for algorithmic discrimination !
- Justification and proportionality test
- Think about evidence gathering and proving a case of algorithmic discrimination !
- „The-not-so-transparent-box“-Problem
- Limits of AD law
- AI Act gives some relief but not enough

Article 2

Definitions

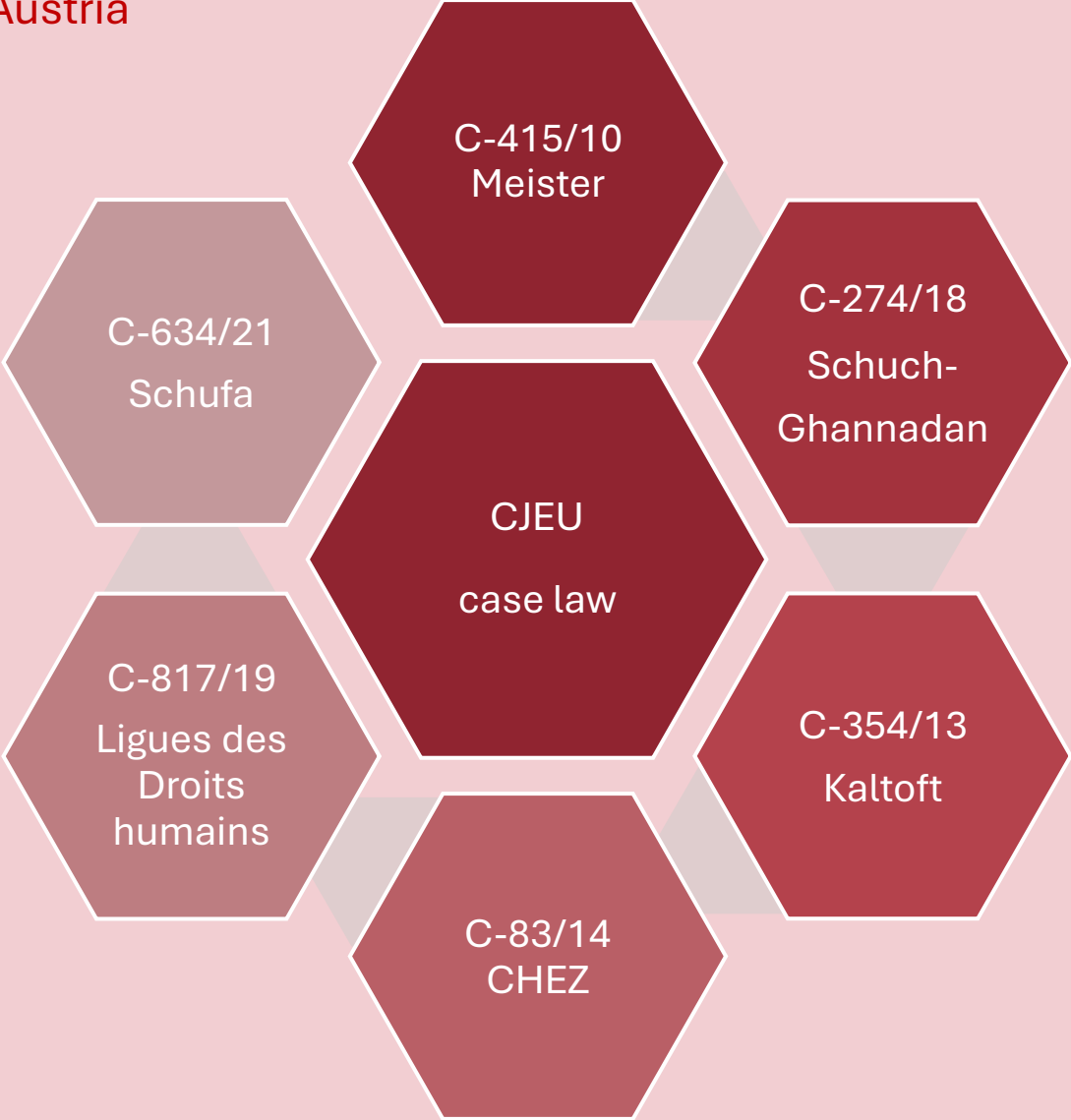
1. For the purposes of this Directive, the following definitions shall apply:
 - (a) ‘direct discrimination’: where one person is treated less favourably on grounds of sex than another is, has been or would be treated in a comparable situation;
 - (b) ‘indirect discrimination’: where an apparently neutral provision, criterion or practice would put persons of one sex at a particular disadvantage compared with persons of the other sex, unless that provision, criterion or practice is **objectively justified** by a **legitimate aim**, and the means of achieving that aim are **appropriate** and **necessary**;

DIRECTIVE 2006/54/EC

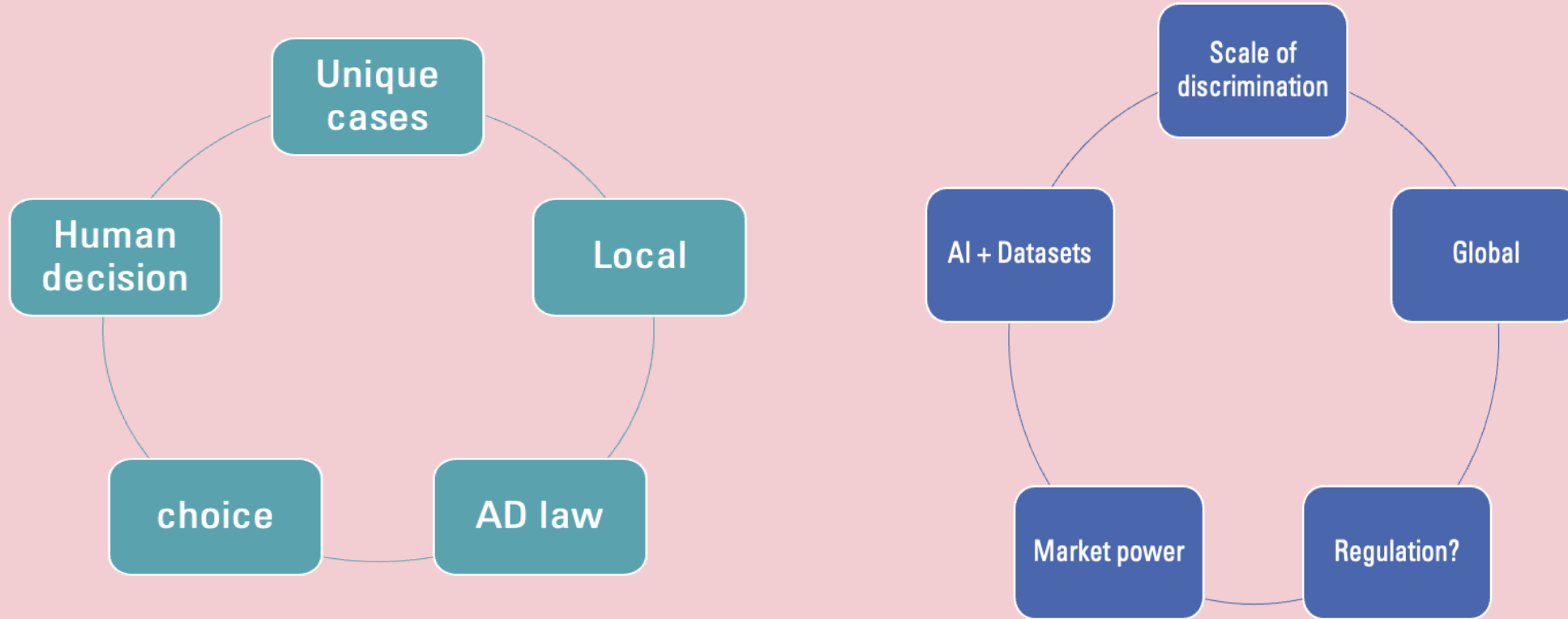
Algorithmic discrimination

“A classic discrimination based on a protected characteristic, such as sex, caused by an algorithm/ AI system”

(Lütz 2022, simplified)



Classic vs. Algorithmic discrimination



The AI Act, Equality and non-discrimination

A selection of relevant norms

EU AI Act

“ (..) functioning of the internal market and promote the uptake of human-centric and trustworthy **artificial intelligence (AI), while ensuring a **high level of protection of (..) fundamental rights**“ (Art. 1(1))**



2024/1689

12.7.2024

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)

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 16 and 114 thereof,

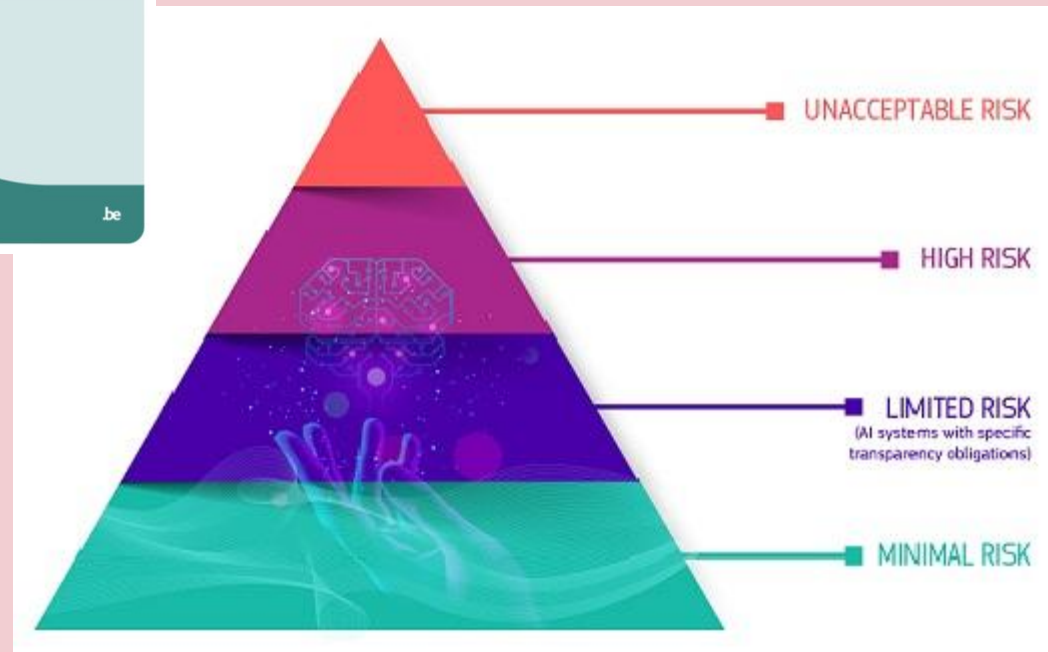
Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee⁽¹⁾,

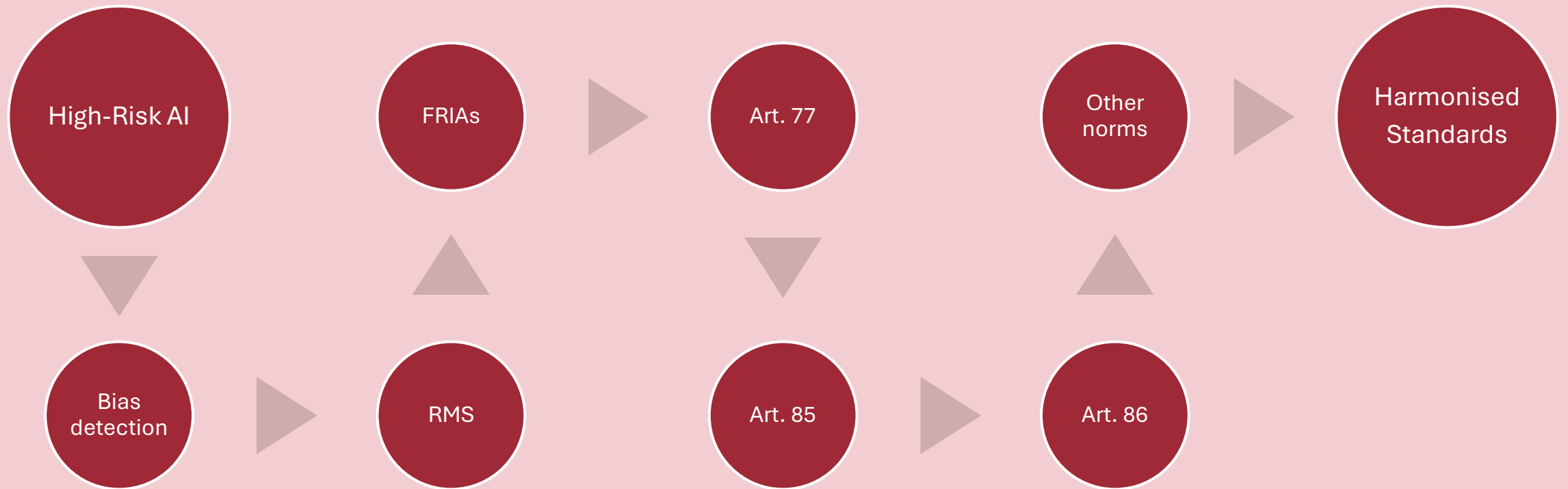
EU AI Act

- Horizontal proposal
- Risk-based approach
- Core: high-risk AI systems (Example AI recruitment), Art. 6
- Obligations/Requirements for high-risk AI systems (Art. 8-15)
 - Risk management
 - Data governance (bias testing)
 - Record keeping
 - Human oversight



Source: <https://digital-strategy.ec.europa.eu/de/policies/regulatory-framework-ai>

The AI Act through the equality and non-discrimination lens: selected issues



High-Risk AI systems

- AI systems, Art. 3
- High-risk AI systems Art. 6
 - Use cases (Annex III)
 - Example: Labour Market
 - See link with Dir 2006/54
- Requirements, Art. 8
 - Risk management system (Art. 9)
 - Data governance (bias detection) (Art. 10)
 - Record keeping (Art. 12)
 - Transparency and Information (Art. 13)
 - Human Oversight (Art. 14) -> automation bias
 - Accuracy (Art. 15) -> datasets

Art. 26(7): inform worker representatives and affected workers (+ recital 92; Art. 50 ?)

ANNEX III

High-risk AI systems referred to in Article 6(2)

High-risk AI systems pursuant to Article 6(2) are the AI systems listed in any of the following areas:

1. Biometrics, in so far as their use is permitted under relevant Union or national law:
 - (a) remote biometric identification systems.

This shall not include AI systems intended to be used for biometric verification the sole purpose of which is to confirm that a specific natural person is the person he or she claims to be;
 - (b) AI systems intended to be used for biometric categorisation, according to sensitive or protected attributes or characteristics based on the inference of those attributes or characteristics;
 - (c) AI systems intended to be used for emotion recognition.
2. Critical infrastructure: AI systems intended to be used as safety components in the management and operation of critical digital infrastructure, road traffic, or in the supply of water, gas, heating or electricity.
3. Education and vocational training:
 - (a) AI systems intended to be used to determine access or admission or to assign natural persons to educational and vocational training institutions at all levels;
 - (b) AI systems intended to be used to evaluate learning outcomes, including when those outcomes are used to steer the learning process of natural persons in educational and vocational training institutions at all levels;
 - (c) AI systems intended to be used for the purpose of assessing the appropriate level of education that an individual will receive or will be able to access, in the context of or within educational and vocational training institutions at all levels;
 - (d) AI systems intended to be used for monitoring and detecting prohibited behaviour of students during tests in the context of or within educational and vocational training institutions at all levels.
4. Employment, workers' management and access to self-employment:
 - (a) AI systems intended to be used for the recruitment or selection of natural persons, in particular to place targeted job advertisements, to analyse and filter job applications, and to evaluate candidates;
 - (b) AI systems intended to be used to make decisions affecting terms of work-related relationships, the promotion or termination of work-related contractual relationships, to allocate tasks based on individual behaviour or personal traits or characteristics or to monitor and evaluate the performance and behaviour of persons in such relationships.
5. Access to and enjoyment of essential private services and essential public services and benefits:
 - (a) AI systems intended to be used by public authorities or on behalf of public authorities to evaluate the eligibility of natural persons for essential public assistance benefits and services, including healthcare services, as well as to grant, reduce, revoke, or reclaim such benefits and services;
 - (b) AI systems intended to be used to evaluate the creditworthiness of natural persons or establish their credit score, with the exception of AI systems used for the purpose of detecting financial fraud;
 - (c) AI systems intended to be used for risk assessment and pricing in relation to natural persons in the case of life and health insurance;
 - (d) AI systems intended to evaluate and classify emergency calls by natural persons or to be used to dispatch, or to establish priority in the dispatching of, emergency first response services, including by police, firefighters and medical aid, as well as of emergency healthcare patient triage systems.
6. Law enforcement, in so far as their use is permitted under relevant Union or national law:
 - (a) AI systems intended to be used by or on behalf of law enforcement authorities, or by Union institutions, bodies, offices or agencies in support of law enforcement authorities or on their behalf to assess the risk of a natural person becoming the

Loopholes of the high-risk AI approach

From „narrow procedural task“, „preparatory task“ and out-of-control-AI-systems ?

3. By derogation from paragraph 2, an AI system referred to in Annex III shall not be considered to be high-risk where it does not pose a significant risk of harm to the health, safety or fundamental rights of natural persons, including by not materially influencing the outcome of decision making.

The first subparagraph shall apply where any of the following conditions is fulfilled:

- (a) the AI system is intended to perform a narrow procedural task;
- (b) the AI system is intended to improve the result of a previously completed human activity;
- (c) the AI system is intended to detect decision-making patterns or deviations from prior decision-making patterns and is not meant to replace or influence the previously completed human assessment, without proper human review; or
- (d) the AI system is intended to perform a preparatory task to an assessment relevant for the purposes of the use cases listed in Annex III.

Notwithstanding the first subparagraph, an AI system referred to in Annex III shall always be considered to be high-risk where the AI system performs profiling of natural persons.

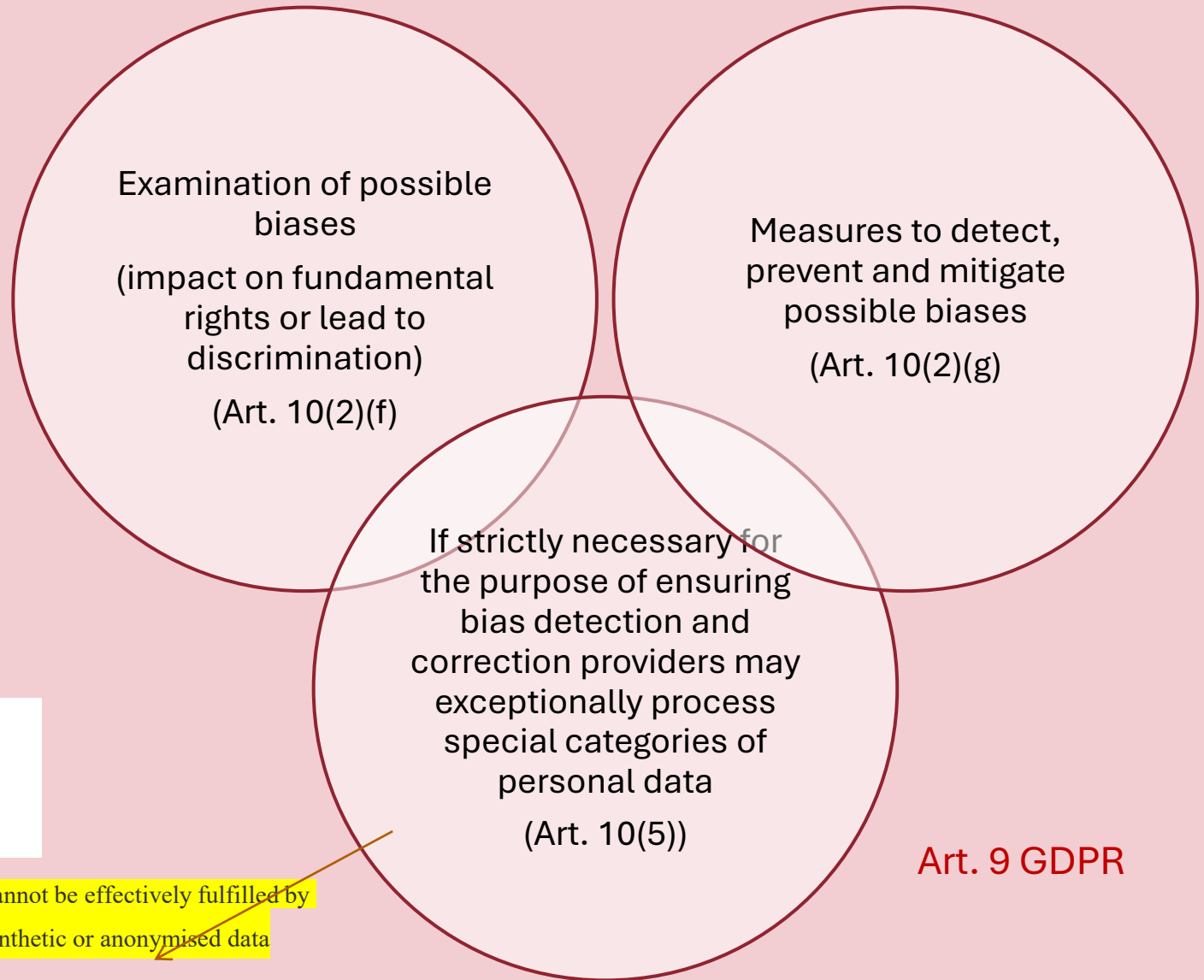
Art. 10(2)(f)(g) (Bias detection and mitigation)



La pollinisation croisée entre droit de la protection des données et droit de la non-discrimination – Le rôle des chercheurs pour garantir une intelligence artificielle non-discriminatoire..... 211
FABIAN LÜTZ

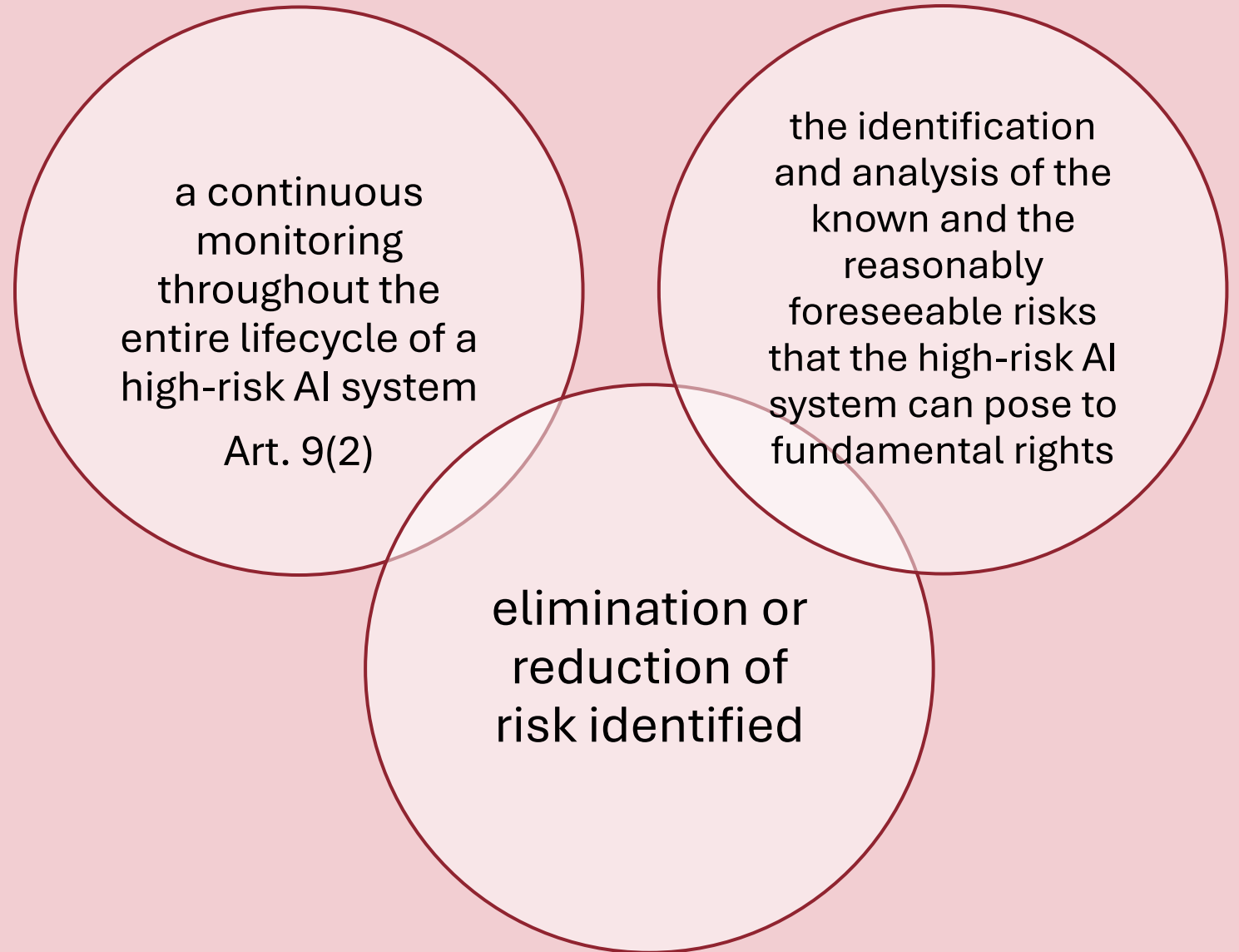


the bias detection and correction cannot be effectively fulfilled by processing other data, including synthetic or anonymised data
(Art. 10(5)(a))



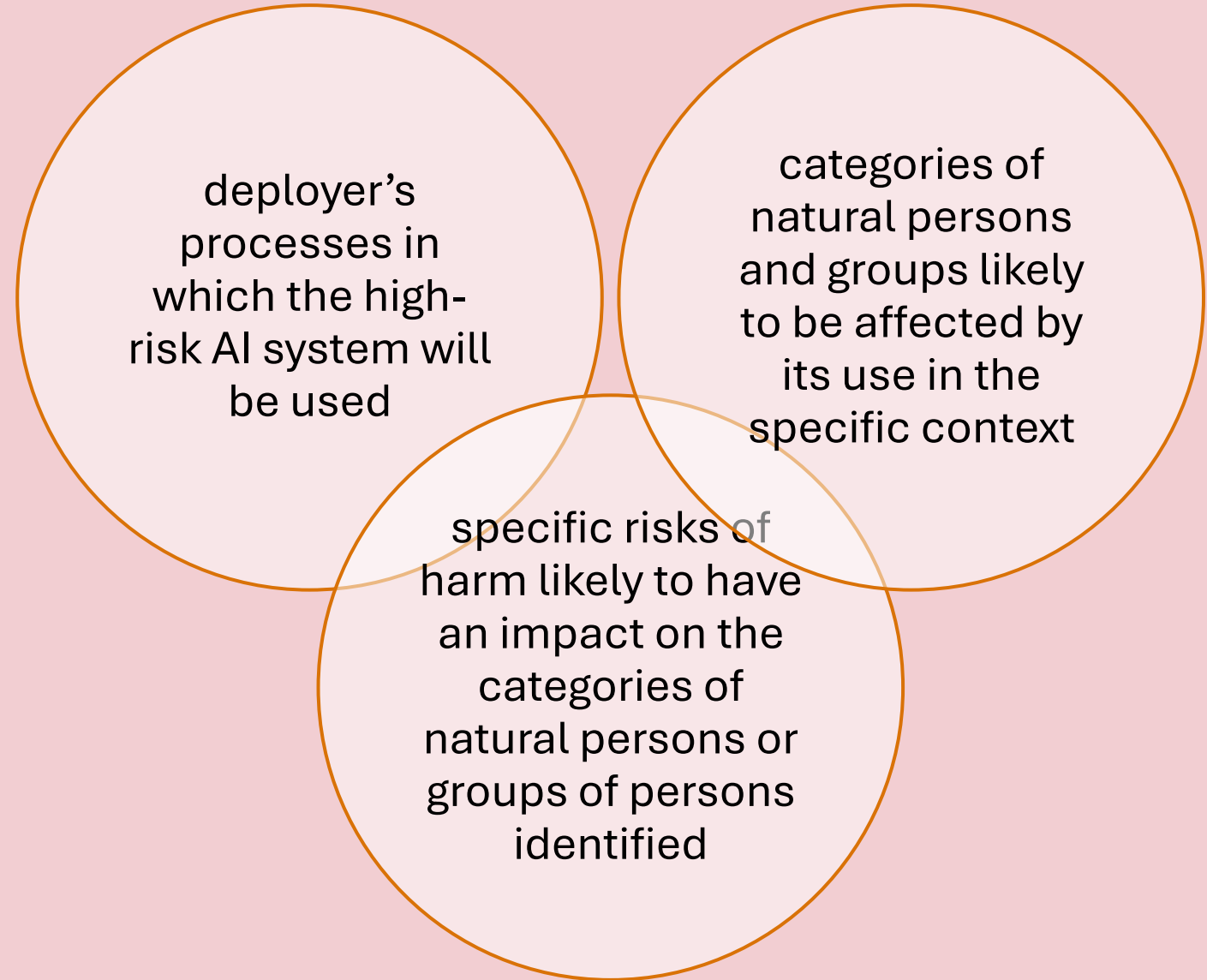
Art. 9 (Risk Management System)

- „A risk management system shall be established, implemented, documented and maintained in relation to high-risk AI systems.“



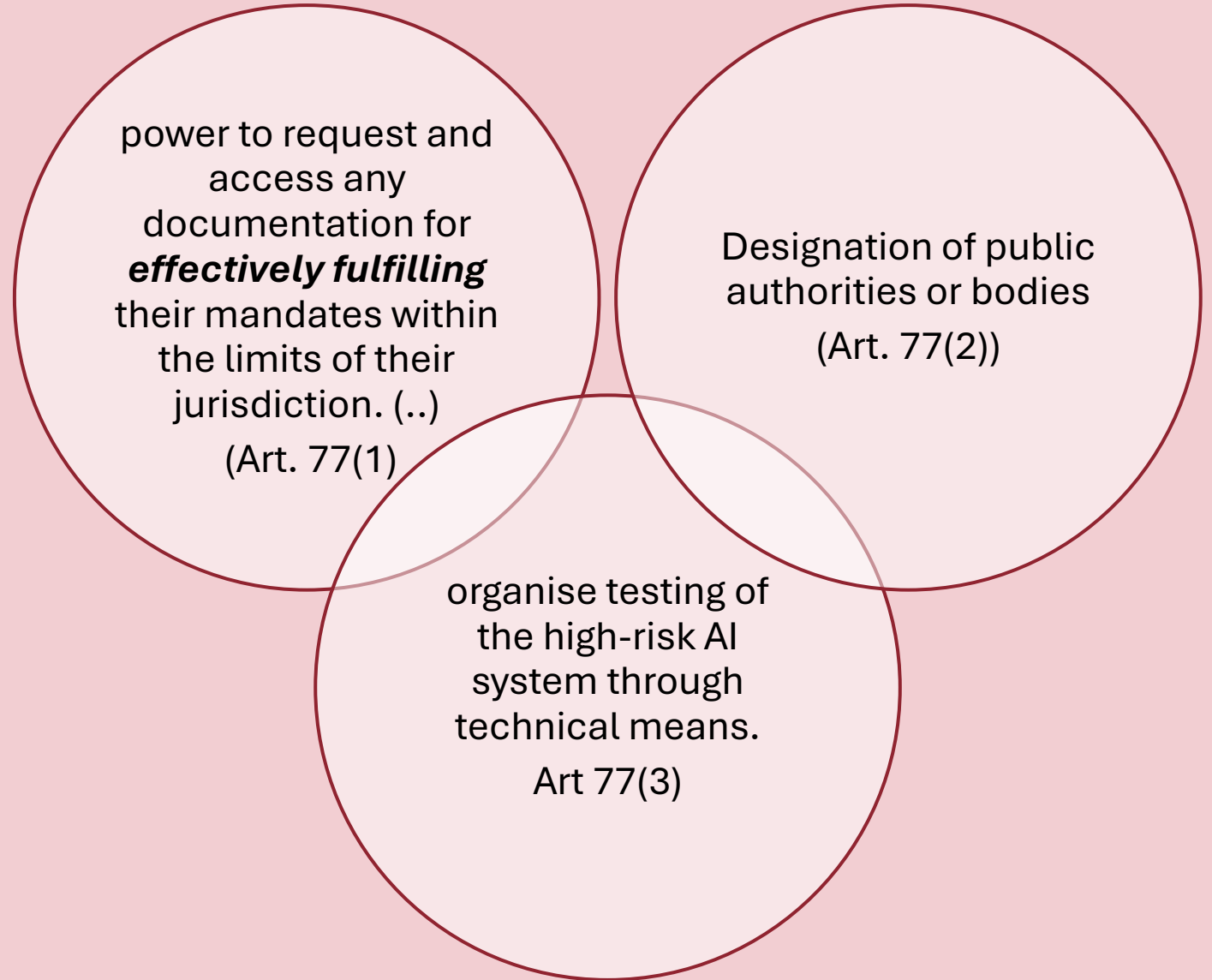
Art. 27 (Fundamental Rights Impact Assessments)

- Prior to deploying a high-risk AI system (..) **deployers that are bodies governed by public law, or are private entities providing public services (..)** shall perform an assessment of the impact on fundamental rights that the use of such system may produce.

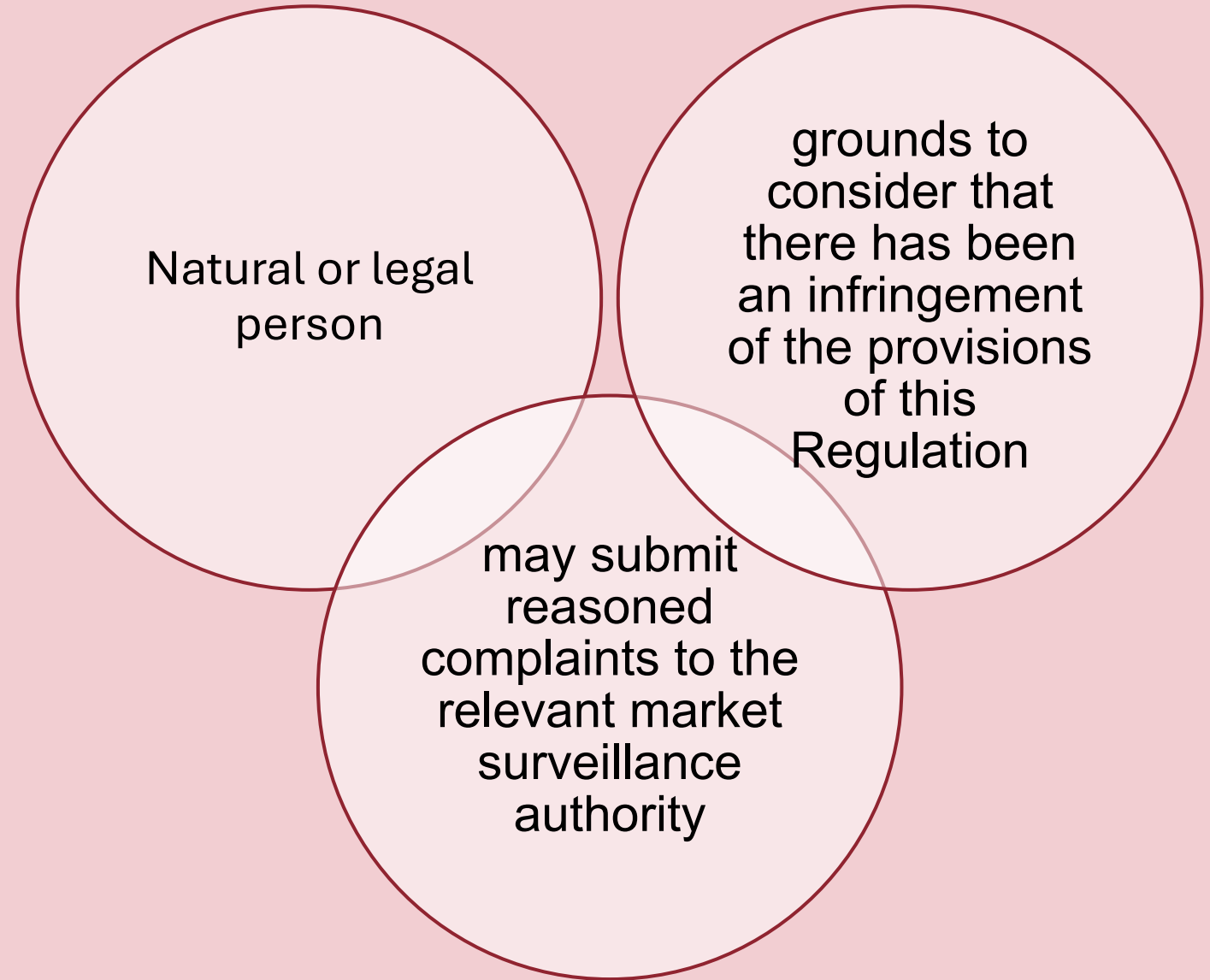


Art. 77

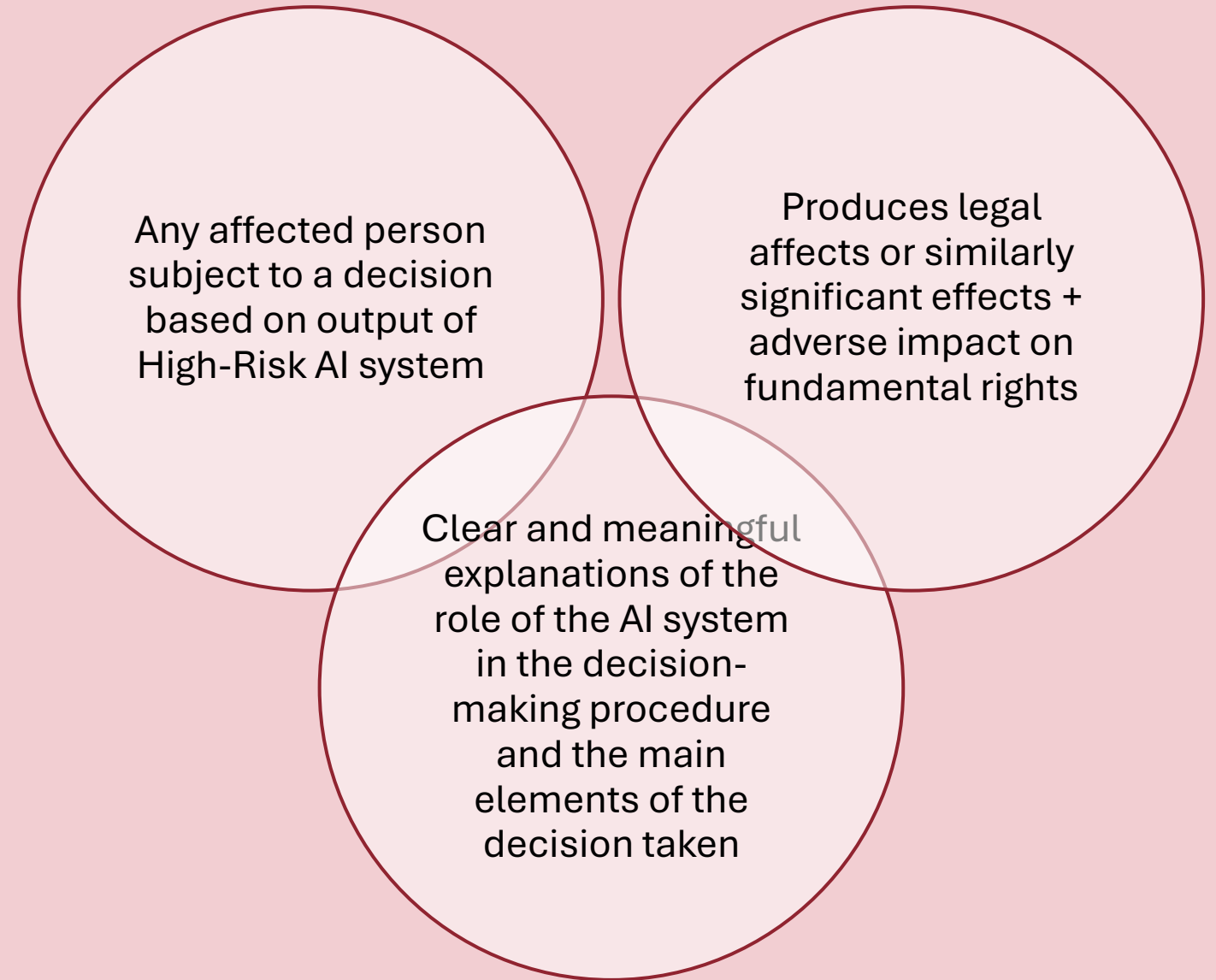
(Powers of authorities protecting fundamental rights)



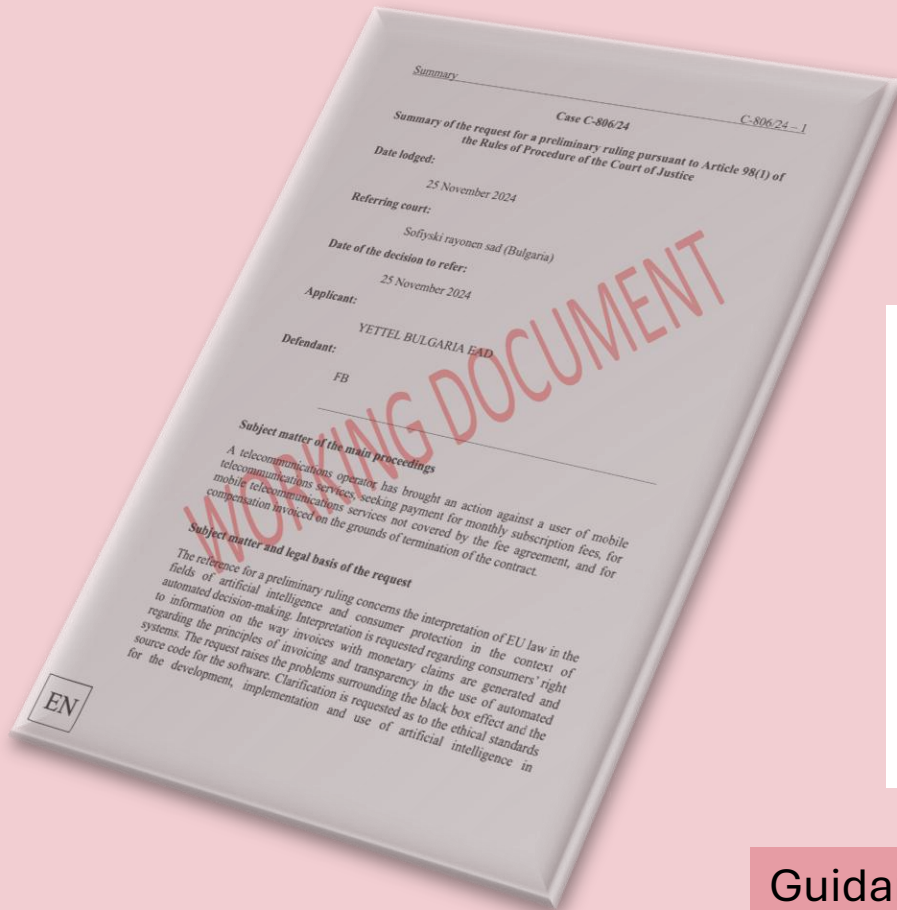
Art. 85 (Complaint)



Art. 86 (Right to meaningful information)



CJEU: Case C-806/24



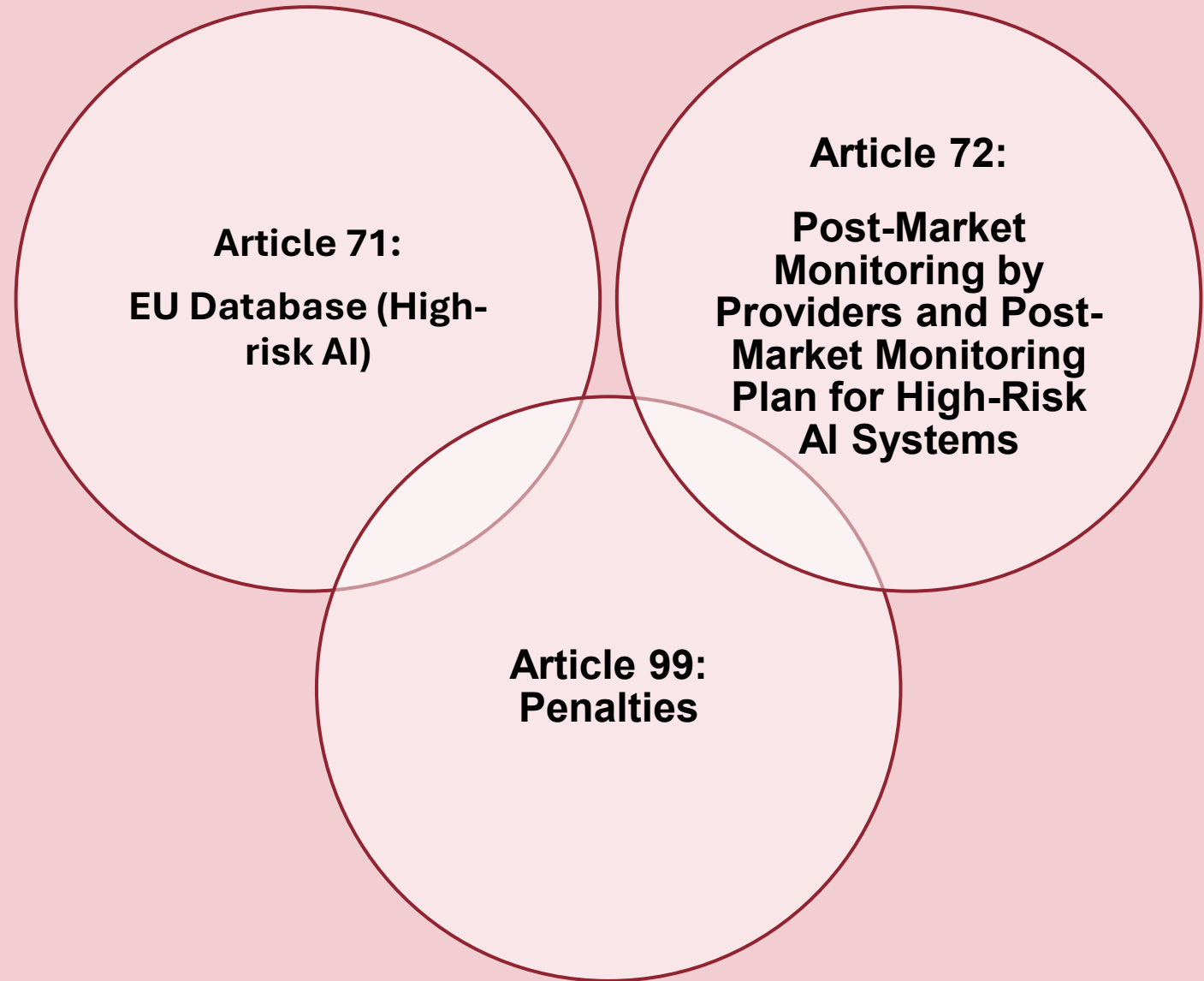
Questions referred for a preliminary ruling

1. Must **Article 86(1) of Regulation (EU) 2024/1689** be interpreted as meaning that the consumer has the right, within the meaning of Directives 2011/83/EU and 93/13/EEC, to know from the service provider how and with the aid of what elements [and] parameters automated decisions (invoices) were generated on the basis of data which the trader collected automatically in the context of a contract for the provision of mobile telecommunications services? Must **Article 86(1) of Regulation (EU) 2024/1689**, read in conjunction with Article 38 of the Charter of Fundamental Rights of the European Union, be interpreted as meaning that the consumer has the right to know from the service provider what algorithm calculates the automatically generated invoices [...] and

4. Must **Article 86(1) of Regulation (EU) 2024/1689**, read in conjunction with Article 47 of the Charter of Fundamental Rights of the European Union, read in conjunction with Article 38 of the Charter, and with the principle of effectiveness reflected in Articles 6(1) and 7(1) of Directive 93/13/EEC and in Article 5 of Directive 2011/83/EU, be interpreted as permitting the court to demand from the trader the black box data, the source code and the algorithm relating to the way in which automated decisions are made under the consumer contract?

Guidance EDPS/Art. 29 WP

Other relevant norms



Standards



EUROPEAN COMMISSION
Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs
Ecosystems III: Construction & machinery
Standards Policy

Brussels, 5.12.2022

A Notification under Article 12 of Regulation (EU) No 1025/2012¹

Subject matter related to

- Annual Union Work Programme for European standardisation (Art. 12, point a)
- Possible future standardisation requests to the European standardisation organisations (Art. 12, point b)
- Formal objections to harmonised standards (Art. 12, point c)
- Identifications of ICT technical specifications (Art. 12, point d)
- Delegated acts to modify Annexes I or III of Regulation (EU) No 1025/2012 (Art. 12, point e)

Title of the initiative

Draft standardisation request to the European Standardisation Organisations in support of safe and trustworthy artificial intelligence

Additional information

Legislative/Policy reference(s)	COM(2021) 206 final of 21.4.2021 Proposal for a Regulation of the European Parliament and of the Council laying down harmonised rules on artificial intelligence (artificial intelligence act) and amending certain Union legislative acts
EN reference(s)	-
Status	Draft
Other information	This draft has not been adopted or endorsed by the European Commission. Any views expressed are the preliminary views of the Commission services and may not in any circumstances be regarded as stating an official position of the Commission. The information transmitted is intended only for the Member State or entity to which it is addressed for discussions and may contain confidential and/or privileged material.
Deadline for feedback	3.1.2023
Commission contact point for this notification	CNECT-A2@ec.europa.eu

¹ OJ L 316, 14.11.2012, p. 12



4 ex/ante 2/2023

Gender Equality and Algorithmic Discrimination: the contribution of the EU standardisation request on AI

FABIAN LÜTZ*

SCHLAGWÖRTER

Standardisation – Gender Equality – Algorithmic Discrimination – Artificial Intelligence – Discrimination

ZUSAMMENFASSUNG

Dieser Beitrag untersucht das Standardisierungsverfahren für Künstliche Intelligenz in Europa am Beispiel der Normungsanfrage der Europäischen Kommission im Rahmen des EU-KI-Gesetzes und bewertet dessen Relevanz und Auswirkungen für die Gleichstellung der Geschlechter und algorithmische Diskriminierung.

RÉSUMÉ

Cet article examine la procédure normative pour l'intelligence artificielle en Europe sur la base de l'exemple de la demande de normalisation de la Commission européenne dans le cadre de la loi européenne sur l'IA et évalue sa pertinence et ses impacts pour l'égalité des sexes et la discrimination algorithmique.

SUMMARY

This article examines the standard setting procedure for Artificial Intelligence in Europe with example of the European Commission's request for standardization in the framework of the EU AI Act and assesses its relevance and impacts for gender equality and algorithmic discrimination.

I. Introduction

Artificial Intelligence (AI) is not only making frontpage news, but also keeping legislators and regulators around the world busy.¹ Large Language Models (LLMs), such as ChatGPT² or Bard³ are now known by most people. The UN High Commissioner for Human Rights recently re-

called that AI must be grounded in human rights⁴ and underlined the serious risks of AI for human rights and the need "to develop quickly effective guardrails"⁵. In the same vein, the *The Elders* called for a global cooperation to manage risks and share benefits of AI.⁶ A booming amount of AI conferences⁷, reports⁸ and articles is increasingly shedding light on the risks of biases and dis-

* FABIAN LÜTZ, Ass. jur., Maître en droit (Paris), LL.M. (Bruges), PhD Researcher (Université de Lausanne, UNIL). This contribution is licensed under Creative Commons License CC BY-NC-ND. DOI of this article: 10.3256/978-3-03929-042-0_02.

¹ For a general overview, FABIAN LÜTZ, *Artificial Intelligence and Gender-Based Discrimination*, in: Temperman/Quintavilla (ed.), *Artificial Intelligence and Human Rights*, Oxford 2023, 207-222, and specifically the EU (Proposal for a Regulation of the European Parliament and of the Council laying down harmonised rules on Artificial Intelligence (Artificial Intelligence Act), COM(2021)206 final, the U.S. Algorithmic Accountability Act, https://www.congress.gov/bills/117/congress/senate/bills/3572, accessed on 11 September 2023), Canada (Artificial Intelligence and Data Act, https://nsl-ide.canada.ca/site/innovation-better-canada/en/artificial-intelligence-and-data-act-aid-companion-document, accessed on 11 September 2023) and Brazil (proposed legislation to regulate Artificial Intelligence, https://legis.senado.leg.br/legislacao/atividade?atividade=1643152235237&disposition=inline&gl=1%27edq%20m%20ga%20M7qMDY0MTcwMS4xNj%20cSOT-4%20MT10%20ga%20CW3Z125XMK%20TY4MzIxNzUzMy-4%20EUMTY4MzIyMDYwMw%20AwJlAuMA, accessed on 11 September 2023).

² UN High Commissioner for Human Rights, Statement of 12 July 2023, https://www.ohchr.org/en/statements/2023/07/artificial-intelligence-must-be-grounded-human-rights-says-high-commissioner, accessed on 11 September 2023.

³ UN High Commissioner for Human Rights, Statement of 18th February 2023, https://www.ohchr.org/en/state-rights-volker-turk-advances-artificial accessed on 11 September 2023.

⁴ The Elders, *The Elders urge global co-operation to manage risks and share benefits of AI*, 31 May 2023, Statement, https://theelders.org/sites/default/files/newsarticaldocument/2023-05-31-STATEMENT-TheElders-urge-global-co-operation-AI.pdf, accessed on 11 September 2023. Remarkably, they call on the UN General Assembly to mandate the International Law Commission to "draft an international treaty establishing a new international AI safety agency".

⁵ See Global AI for Good Summit where AI experts from different domains were drawing attention not only to the benefits of AI but also to the risk side of AI including biases and discrimination. However, only one event was specifically dedicated to women and AI, https://aiforgood.it.int, accessed on 11 September 2023.

⁶ See Norwegian Consumer Council, *Ghost in the machine – Addressing the consumer harms of generative AI*, June 2023, www.forbrukerradet.no/ai accessed on 11 September 2023.

JRC 139430

SCIENCE FOR POLICY BRIEF

Harmonised Standards for the European AI Act

HIGHLIGHTS

- The European Union adopted the AI Act in August 2024, and the provisions for high-risk AI systems will start to apply after a transition period of 2 or 3 years¹.
- European harmonised standards for the AI Act, provided they are published in the Official Journal of the EU, will grant a legal presumption of conformity to AI systems developed in accordance with them.

- European standardisation organisations, led by CEN and CENELEC, are in the process of drafting the necessary AI standards, following a request from the European Commission.
- This brief discusses some of the key characteristics expected from upcoming standards that would support the implementation of the AI Act.

INTRODUCTION AND STATE OF PLAY

The AI Act

The European Union AI Act [1], the first-ever legal framework on Artificial Intelligence (AI), entered into force on August 1st 2024. The AI Act is part of a wider package of policy measures in the EU to support the development of trustworthy AI while strengthening its uptake, investment and innovation in the EU.

Among the key aims of the AI Act are to ensure that AI systems respect the safety, health and fundamental rights of individuals, and to address the risks of very powerful AI models. The AI Act provides a uniform approach to address these issues across the EU.

This document is concerned with the essential requirements laid down in the AI Act for high-risk AI systems, and with the role of technical standards in defining how to meet them in practice.

After a transition period of 2 or 3 years¹, i.e. starting August 2026, high-risk AI systems will have to comply with requirements related to risk management, data quality and governance, logging and traceability, oversight, accuracy, robustness, transparency, human compliance with these requirements will be ensured through the establishment of a quality management system and through conformity assessment before placement on the market.

¹ A transition period of 3 years is defined for systems embedded in products already subject to third-party conformity assessment identified in Annex I to the Regulation, and 2 years for other high-risk systems identified in Annex III to the Regulation

General Purpose AI systems (GPAIs)

- AI Act
 - Art. 51: GPAIs
 - Art. 53, 55: Obligations
 - Art. 56: Code of Practice

The screenshot shows the European Commission website page for the General-Purpose AI Code of Practice. The page header includes the European Commission logo, the text 'Shaping Europe's digital future', and a search bar. The main navigation menu contains links for Home, Policies, Activities, News, Library, Funding, Calendar, Consultations, and AI Office. The breadcrumb trail reads: Home > Policies > Artificial Intelligence > European approach to artificial intelligence > The General-Purpose AI Code of Practice. The main heading is 'The General-Purpose AI Code of Practice'. On the left, there is a 'PAGE CONTENTS' section with links for 'The 3 chapters of the code' and 'Signatories of Code of Practice'. The main content area contains three paragraphs: 1) 'The Code of Practice helps industry comply with the AI Act legal obligations on safety, transparency and copyright of general-purpose AI models.' 2) 'The General-Purpose AI (GPAI) Code of Practice is a voluntary tool, prepared by independent experts in a multi-stakeholder process, designed to help industry comply with the AI Act's obligations for providers of general-purpose AI models. Read more about the timeline and the drafting process of the code.' 3) 'The code was published on July 10, 2025. It is complemented by Commission guidelines on key concepts related to general-purpose AI models. The Commission and the AI Board have confirmed that the code is an adequate voluntary tool for providers of GPAI models to demonstrate compliance with the AI Act.' Below this, it states: 'Following the endorsement, AI model providers who voluntarily sign it can show they comply with the AI Act by adhering to the code. This will reduce their administrative burden and give them more legal certainty than if they proved compliance through other methods. Find more information on the questions and answers (Q&A) about the code of practice for General-Purpose AI.' At the bottom, it says: 'Providers of general-purpose AI models may sign the code by completing the Signatory Form and sending the signed form to EU-AIOFFICE-CODE-'. On the right, there is a 'Share' button and a 'Quick links' section with five links: 'Drawing-up a General-Purpose AI Code of Practice', 'Signing the General-Purpose AI Code of Practice – Questions & Answers', 'AI Office invites providers to sign the GPAI Code of Practice', 'Commission Assessment of the GPAI Code of Practice', and 'General-Purpose AI Models in the AI Act – Questions & Answers'. The last link is followed by 'The code of practice for General-Purpose AI – Questions & Answers'.

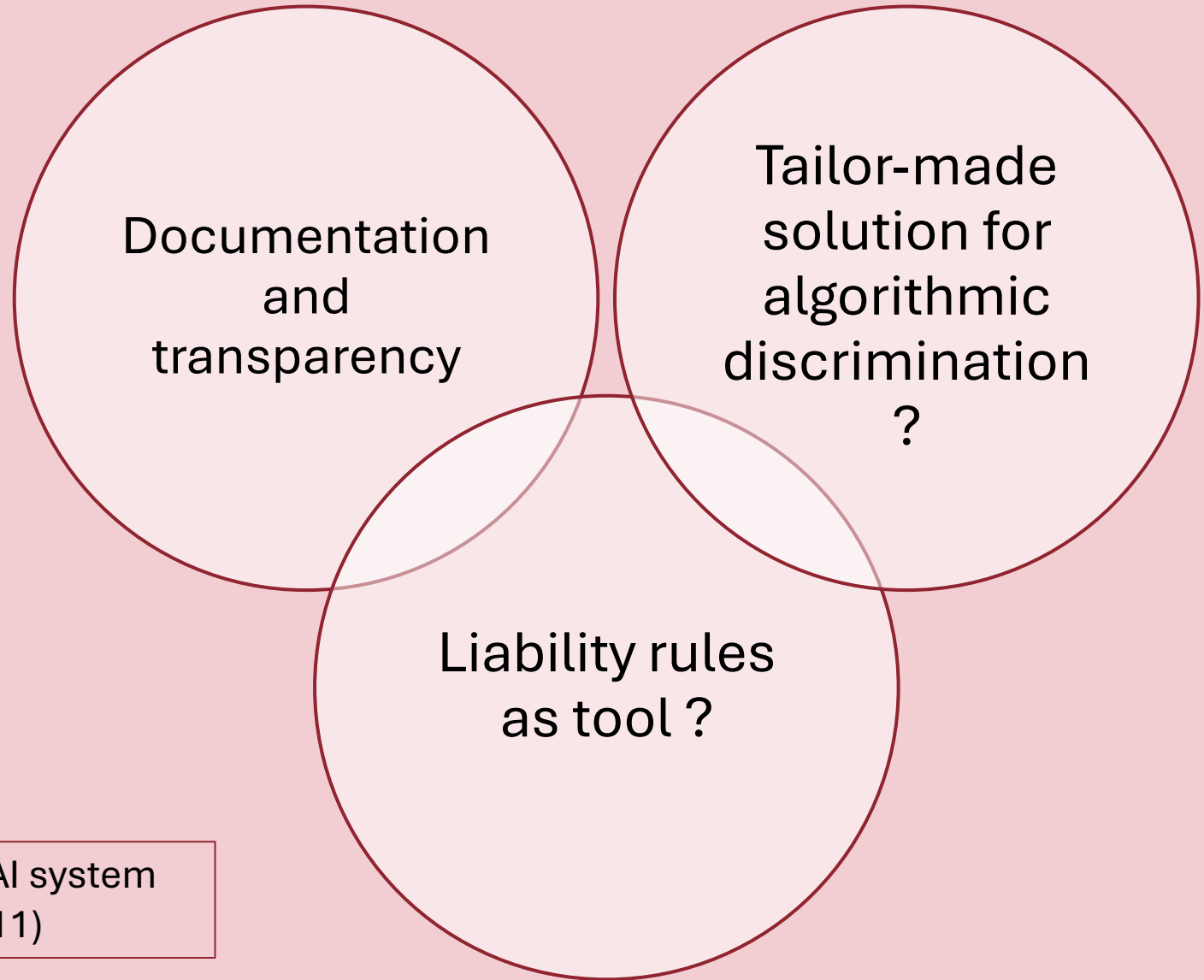
Snapshot of other EU legal acts

- DSA (+ECAT), Art. 34 (risk assessment)
- DMA
- Equality Bodies Directive (recital 22 on AI and discrimination)
- Platform Work Directive
- GDPR: Art. 9, 15, 22
- Liability Directive (withdrawn)
- Art. 19 Directive (withdrawn, back on table?)

Legal challenges

Knowledge of an AI decision, evidence, **explainability**, burden of proof, shifting of the burden of proof, litigation of algorithmic discrimination cases, situation testing in case of scarce evidence?

Explainability = level of understanding how the AI system comes up with a given result (ISI/IEC TR 29119-11)



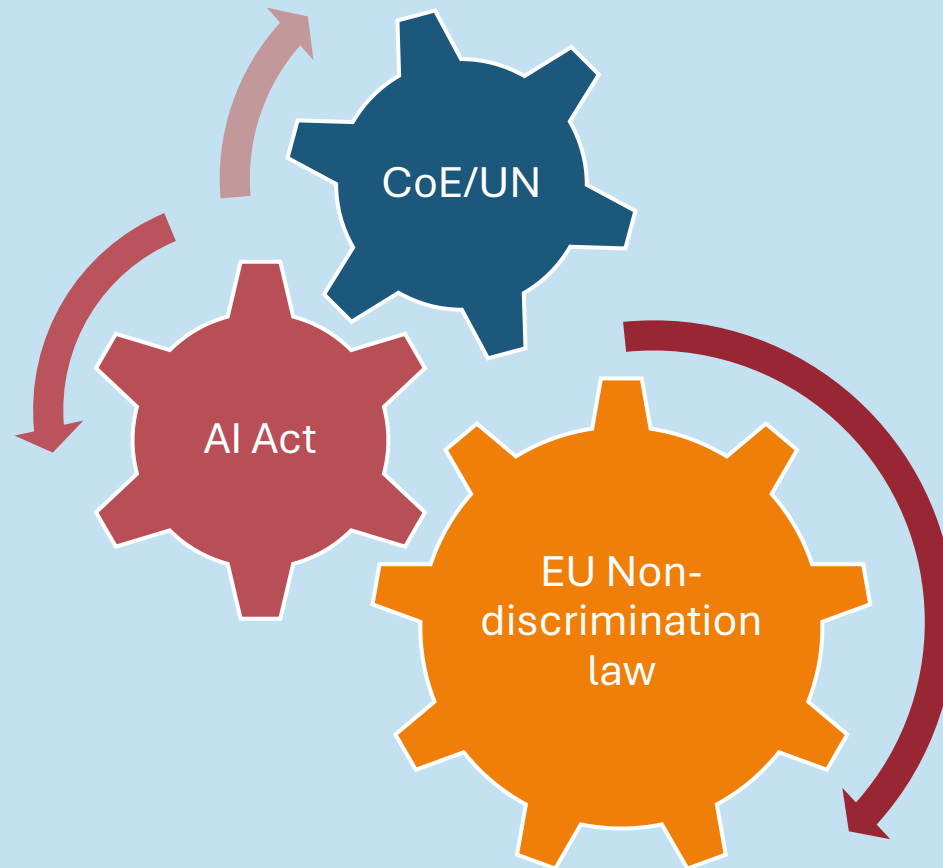
Reading

- Castets-Renard, Céline, and Karen Sandoval. “Discrimination de Genre et Intelligence Artificielle (IA): Pour Une Interprétation Féministe Du Règlement Européen Sur l’IA (AI Act).” *Recueil Dalloz*, no. 30 (2025): 1430.
- Meding, Kristof. “It’s Complicated. The Relationship of Algorithmic Fairness and Non-Discrimination Provisions for High-Risk Systems in the EU AI Act.” arXiv:2501.12962. Preprint, arXiv, January 22, 2026.
<https://doi.org/10.48550/arXiv.2501.12962>.
- Lütz, Fabian. “The AI Act, Gender Equality and Non-Discrimination: What Role for the AI Office?” *ERA Forum* 25, no. 1 (2024): 79–95.
<https://doi.org/10.1007/s12027-024-00785-w>.

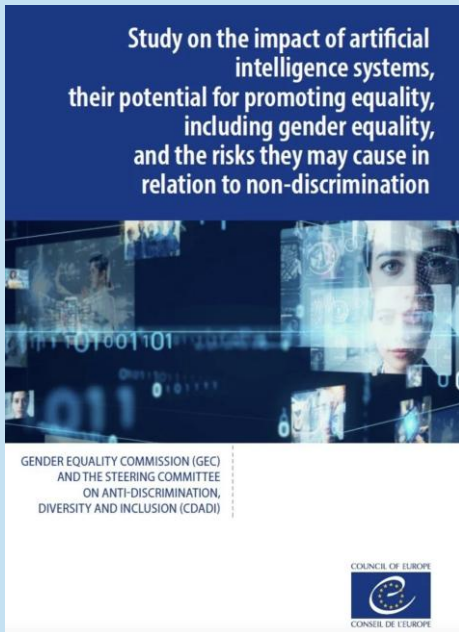
III. Council of Europe & AI

The AI Framework Convention and the Recommendation on Equality and discrimination

Interaction between different legal regimes



Council of Europe work on AI



Study (Borghesius 2018)

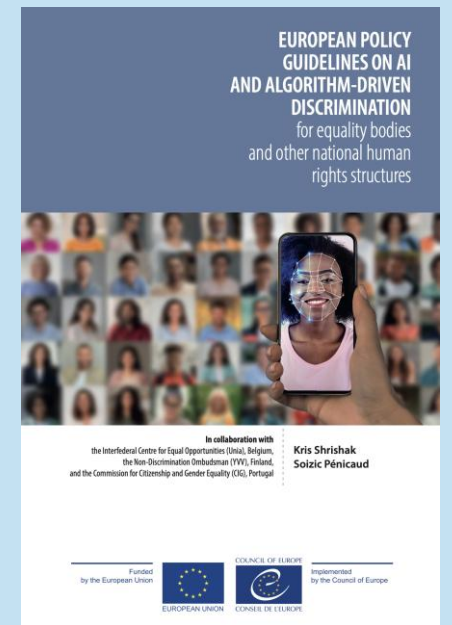
Recommendation on AI and Human Rights

Framework Convention on AI (2024)

Study on AI, Equality and Non-discrimination

Recommendation on AI, Equality and Non-discrimination

New studies on policy guidelines and legal protection against algorithmic discrimination (2026)



AI Framework Convention and Equality

- First international legally binding treaty on AI & human rights adopted in May 2024 and open for signature by non-member countries (US, Canada, Switzerland,...)
- Aim: to ensure that activities within the lifecycle of AI systems are fully consistent with human rights, democracy and the rule of law while allowing technological progress and innovation
- Implementation through follow-up mechanism (Conference of the Parties) which findings and recommendations help to ensure States' compliance

Art. 10 - Equality and non-discrimination

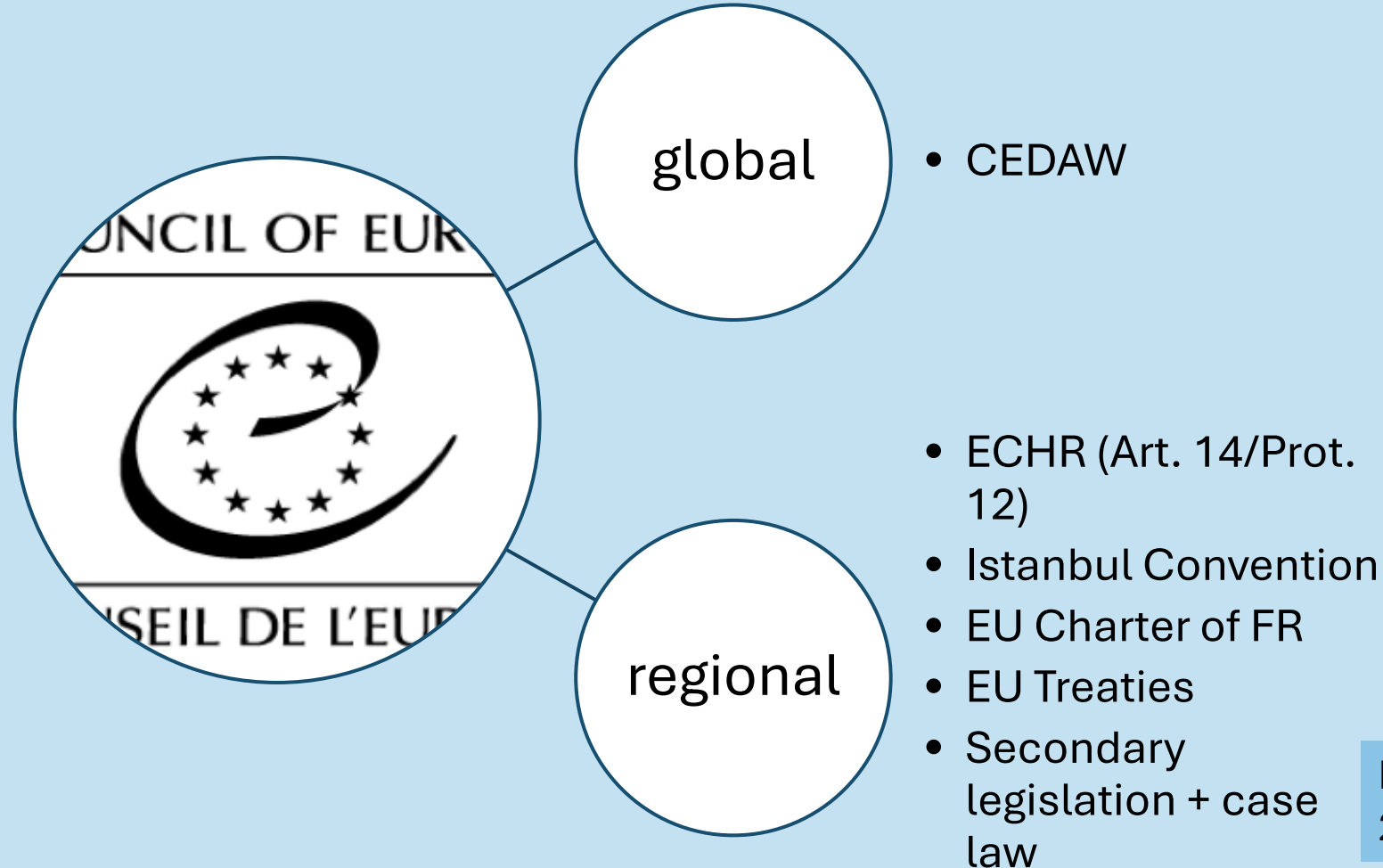
Article 10 – Equality and non-discrimination

- 1 Each Party shall adopt or maintain measures with a view to ensuring that activities within the lifecycle of artificial intelligence systems respect equality, including gender equality, and the prohibition of discrimination, as provided under applicable international and domestic law.
- 2 Each Party undertakes to adopt or maintain measures aimed at overcoming inequalities to achieve fair, just and equitable outcomes, in line with its applicable domestic and international human rights obligations, in relation to activities within the lifecycle of artificial intelligence systems.

AI Framework Convention: Explanatory Report (p. 16-17)

“In formulating Article 10, paragraph 1 (..) the Drafters’ intention was to refer specifically to the body of the existing human rights law consisting of international (at both global and regional levels) and domestic legal instruments (..) which together provide a solid legal basis and (..) to ensuring equality and prohibition of discrimination in respect of the issues in the relevant spheres in the context of activities within the lifecycle of artificial intelligence systems.” (para. 71)

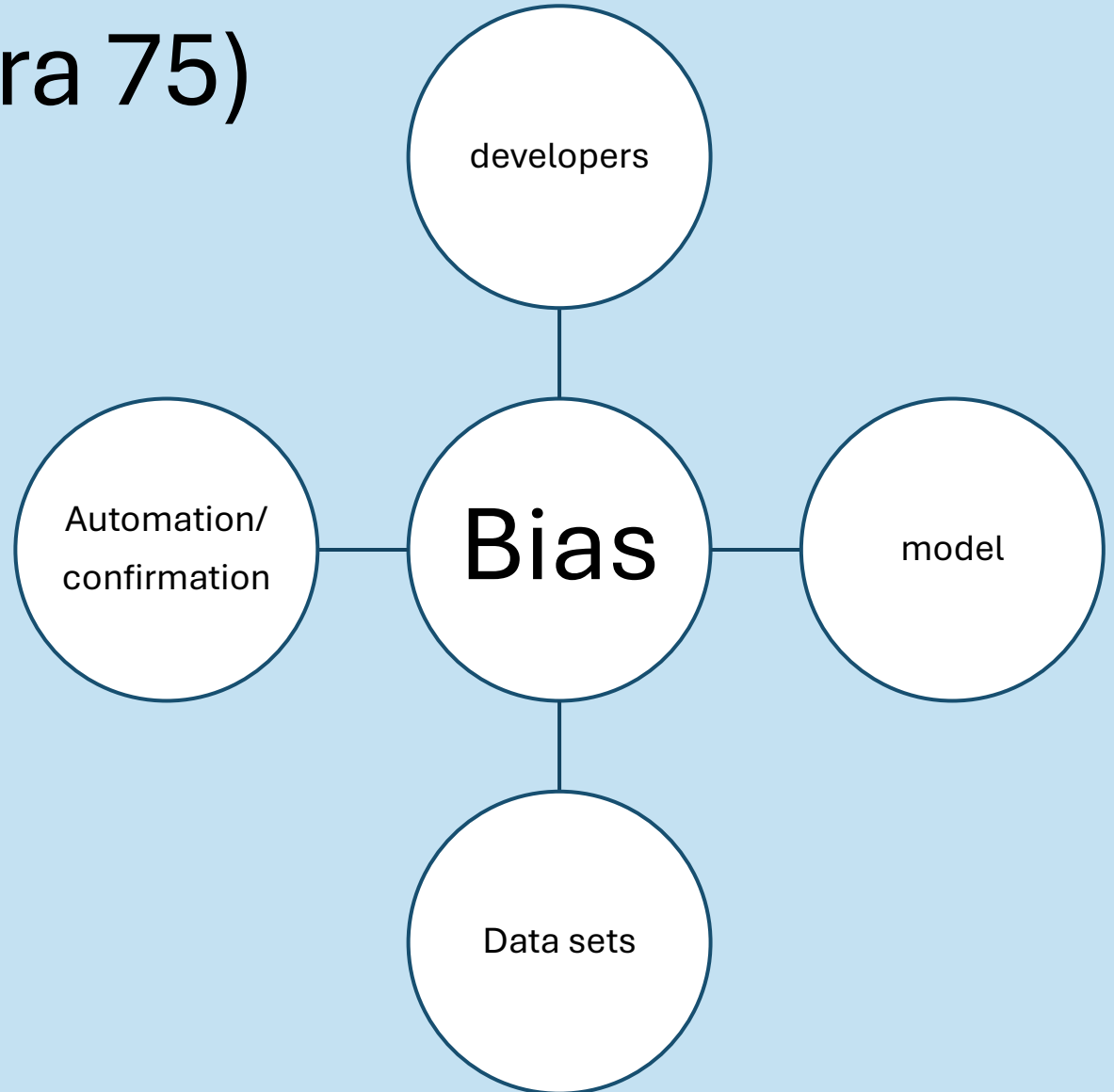
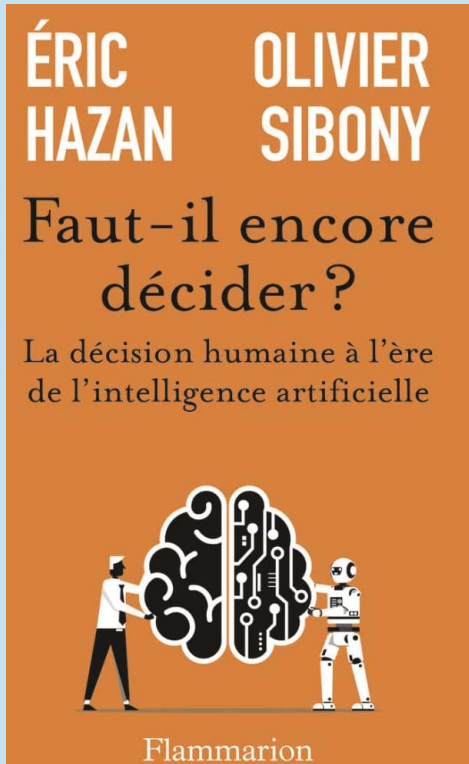
Explanatory Report (paras 72 + 74)



Explanatory Report (paras 75, 77)

- Real + well documented risk of bias that can contribute to unlawful discrimination caused by AI systems
- Consider appropriate regulatory, governance, technical or other solutions
- Measures against structural and historical biases
- Involving impacted parties

Explanatory Report (para 75)



Introduction

Entry doors

AI Act

CoE

Cases

Enforcement

Conclusion

Recommendation on Equality and AI (I)

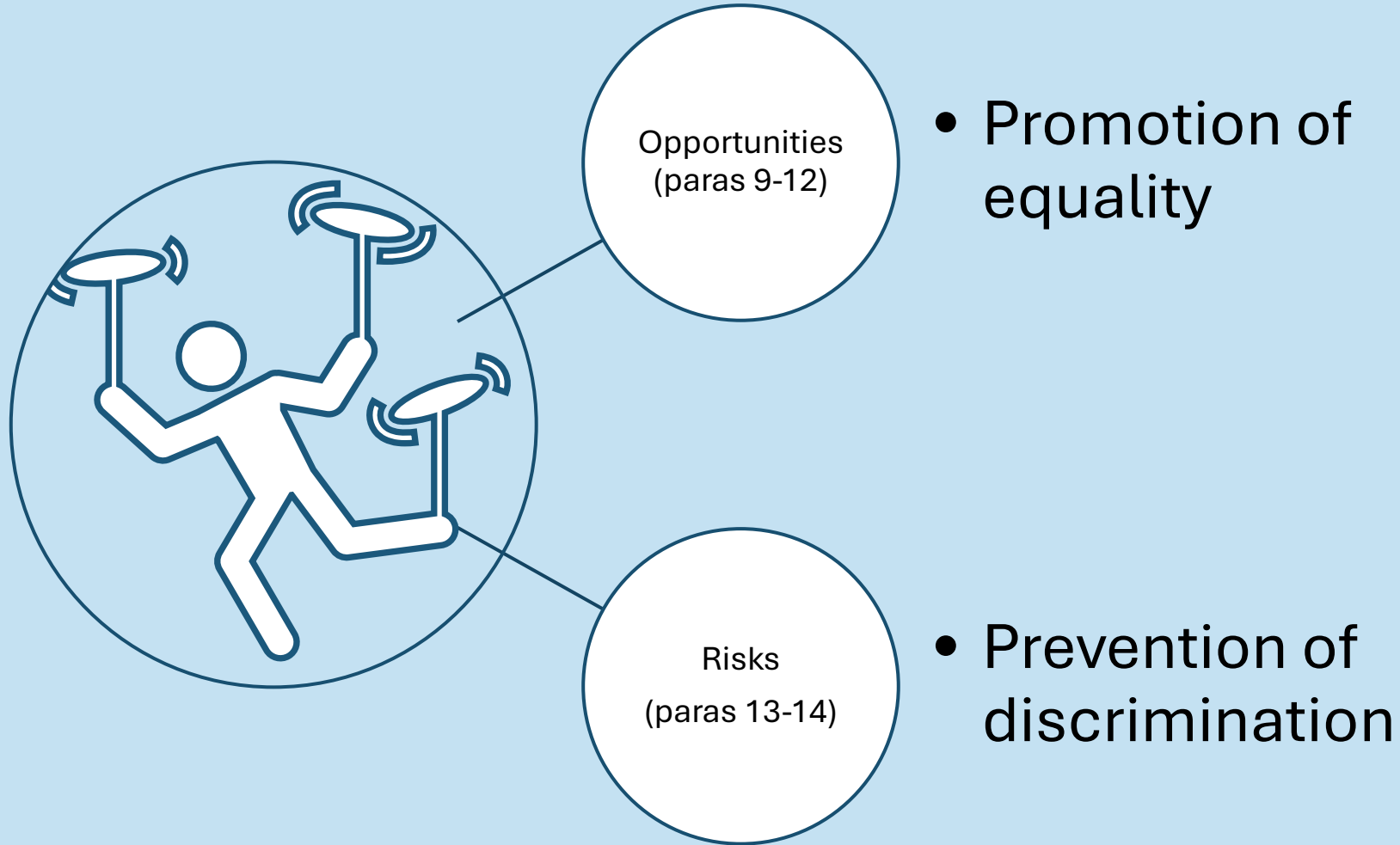
Soft law...

- Recommendation CM/Rec(2026)1

...but

- ECtHR might consider Rec. for interpreting cases (ECHR, *Tănase v. Moldova* 7/08, Judgment 27.4.2010 [GC], para. 176)
- Specific instrument for equality and AI
- All MS of the EU are part of CoE

Recommendation on Equality and AI (II)



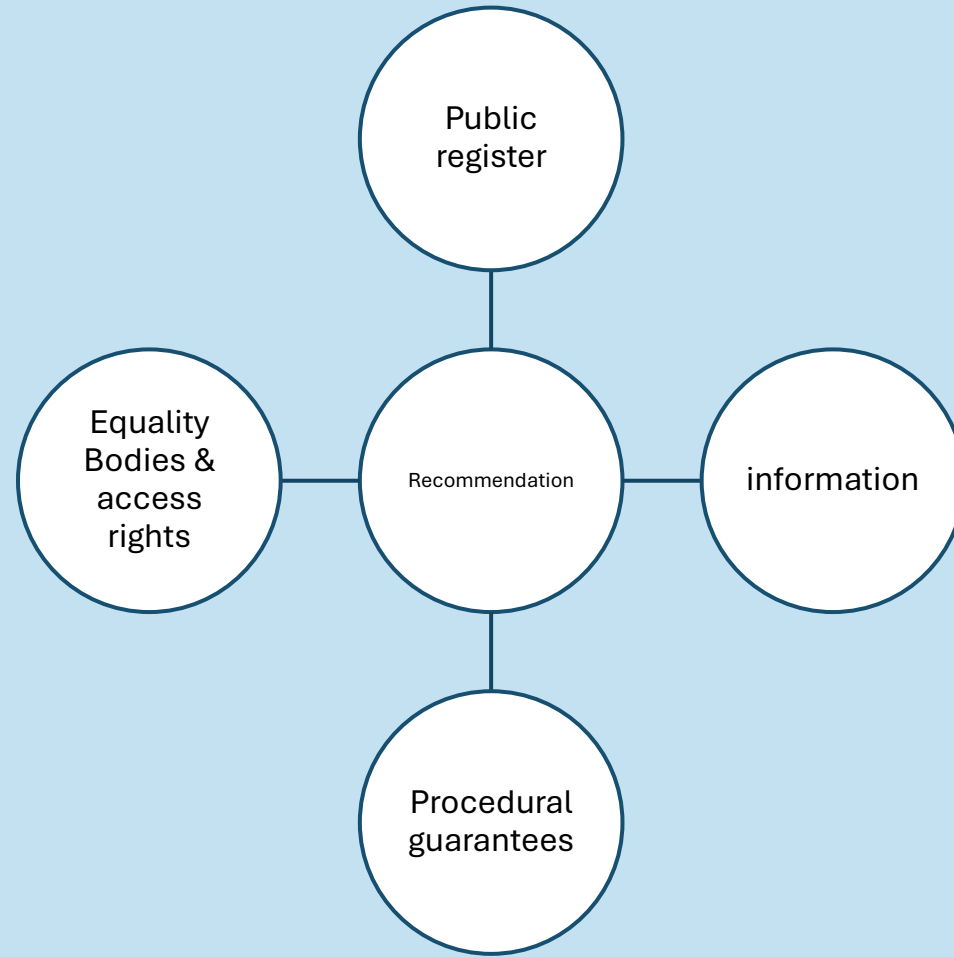
Recommendation on Equality and AI (III)

- Reading guide/comparison AI Act/Recommendation on equality and AI
- Lütz, F., *Enforcing and reforming the AI Act: on the importance of gender equality and non-discrimination in AI regulation*, ERA Forum (forthcoming 2026).

Table 1 - Comparison AI Act and CoE Recommendation on equality and AI

Topic	AI Act (EU)	Recommendation on equality and AI (CoE)
Legal nature	Regulation is legally binding on EU Member States (hard law)	Recommendation (soft law)
Promotion of equality	Art. 1(1)	Para 9 (gender)equality), 10.1 (address underrepresentation in design, development and deployment of AI systems) and 10.2 (measures to prevent inter alia exclusion and discrimination in the workplace)
Prevention of discrimination	Art. 1(1)	Para 13 and 14
Transparency	Articles 11, 12, 13	Para 15, para 15.1 (document), para 15.2 (communicate), 15.3 (identify AI content) and 15.4 (collect and information about training and test data)
Explainability		Para. 17
Oversight	Art. 86	Para. 19
Public register	EU and national level	Para. 16
Access to information	Art. 71	Para. 17
Procedural guarantees and remedies	Art. 86	Para. 16
Rights of equality bodies	Art. 85	Para. 17
Impact assessments	Art. 77(1) and (3)	Para. 18
Testing of AI systems	Art. 27 (mainly public sector)	Para. 19
(Technical) standards	Art. 9 (risk management system) and Art. 10 (bias audits)	Para. 20.1
Certification	Standardisation request, Articles 40 and 42	Para. 20.2
Collective actions	Art. 47, 48	Para. 20.3
Liability	/	Para. 20.4
Evidentiary rules	AI liability Directive*	Para. 23
Sanctions	General rules applicable to equality and non-discrimination	Para. 24
Cooperation authorities between competent	Art. 99	Para. 25
		Para. 26
		Para. 28

Transparency, explainability and oversight



Introduction

Entry doors

AI Act

CoE

Cases

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Conclusion

Impact Assessment, Certification, monitoring



Introduction

Entry doors

AI Act

CoE

Cases

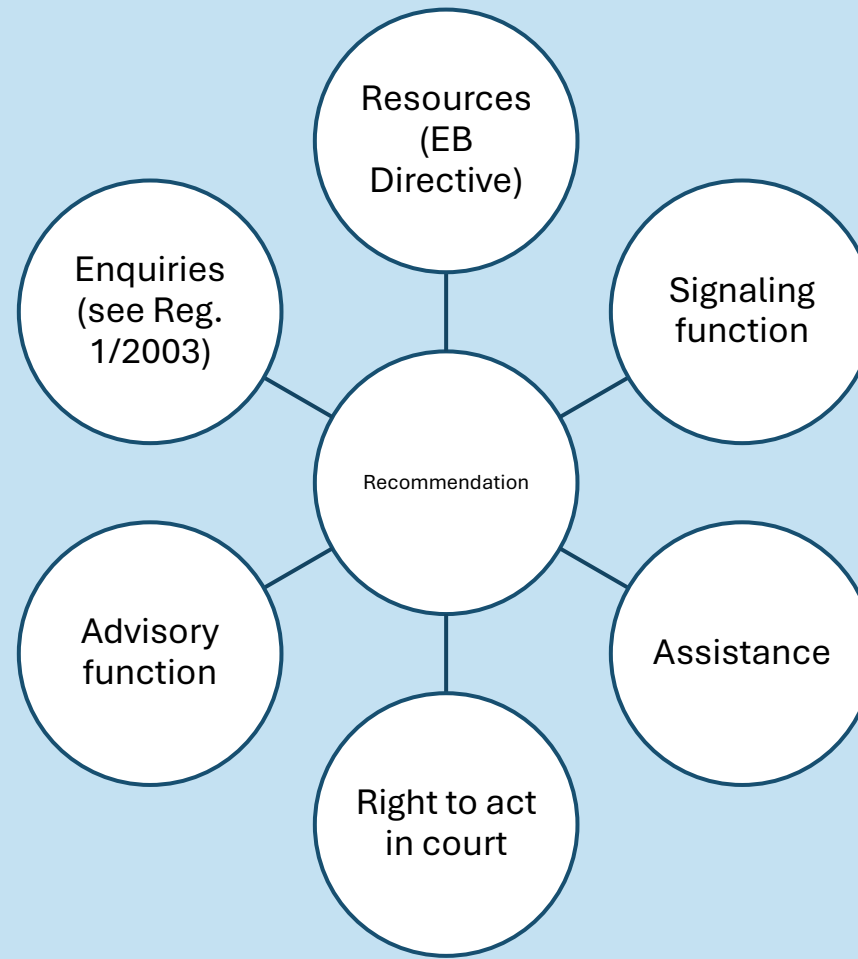
Enforcement

Conclusion

Accountability, liability, Evidence



Competences & powers of oversight bodies



United Nations and AI

High-level
Advisory Body on
Artificial
Intelligence

UNGA Resolution

UNGA Resolution
on AI governance
architecture
Resolution 79/1

The Global Dialogue on AI
Governance

Independent
International
Scientific Panel
on AI

It's only a soft law framework

Reading

- Zani, Mamoud. “La Convention-cadre du Conseil de l’Europe sur l’intelligence artificielle et les droits de l’homme, la démocratie et l’État de droit du 17 mai 2024.” *Cahiers de la recherche sur les droits fondamentaux*, no. 23 (November 2025): 23. <https://doi.org/10.4000/1506t>.
- Bartoletti, Ivana, and Raphaële Xenidis. *Study on the Impact of Artificial Intelligence Systems, Their Potential for Promoting Equality, Including Gender Equality, and the Risks They May Cause in Relation to Non-Discrimination* (2024).
- Cluzel-Métayer, Lucie. *Le droit de l’intelligence artificielle*. Groupe Lefebvre Dalloz, 2025.

IV. Cases



When is the legal threshold crossed ?

- „(..) effects that shape, influence and perpetuate gender biases and stereotypes by altering datasets that underlie algorithms and that have neither a direct impact nor represent a clear violation of EU gender equality law as such.“



- „violations of the gender equality norms or as behaviours of algorithms that are directly measurable and discriminatory.“

(Lütz 2022, p. 37-40)

SPRINGER NATURE Link

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Home > ERA Forum > Article

Gender equality and artificial intelligence in Europe. Addressing direct and indirect impacts of algorithms on gender-based discrimination

Article | Open access | Published: 14 April 2022
Volume 23, pages 33–52, (2022) | Cite this article

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Fabian Lütz

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Abstract

This article assesses whether current European law sufficiently captures gender-based biases and algorithmic discrimination in the context of artificial intelligence (AI) and provides a short analysis of a draft EU legislative proposal, the Artificial Intelligence Act. To this end, current trends and uses of algorithms with potential impacts on gender will be analysed through the lens of direct and indirect impacts for gender equality law, highlighting the implications for European gender equality enforcement. This article concludes that legislative and accompanying policy measures are necessary to ensure an effective gender equality policy and to avoid algorithmic discrimination.

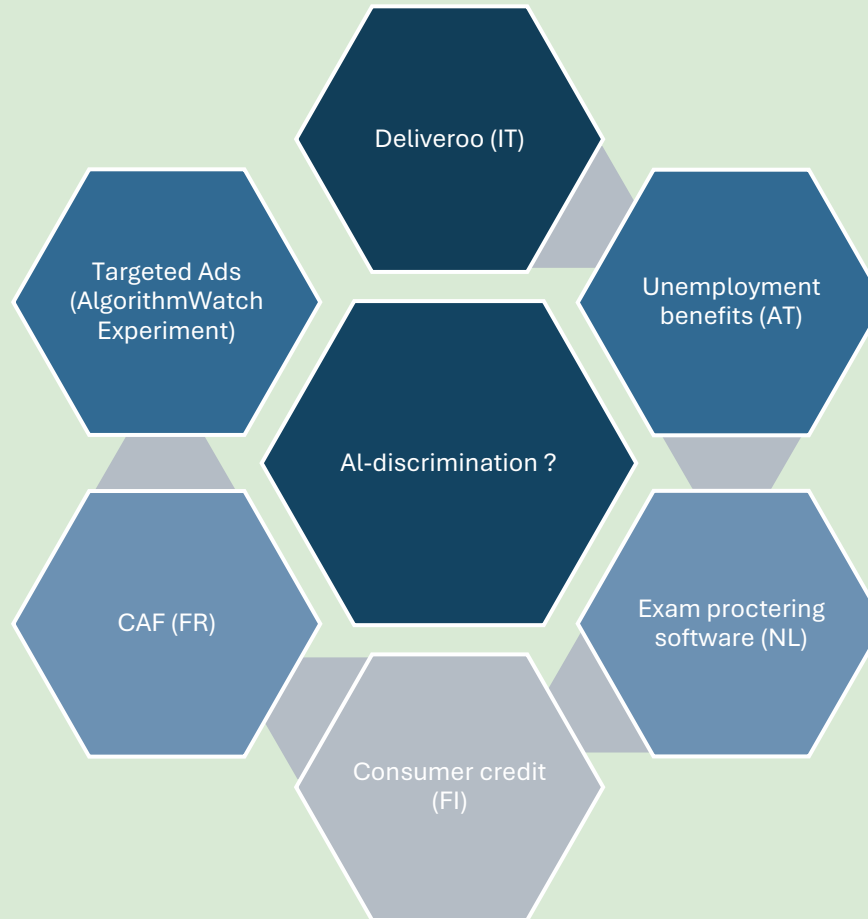
[ERA Forum](#)
Aims and scope →

[Use our pre-submission checklist](#)
Avoid common mistakes
manuscript.

Sections

- [Abstract](#)
- [Introduction](#)
- [The challenges and opportunities of AI](#)
- [How gender equality law is affected](#)
- [The future legislative and policy measures](#)
- [Regulatory and policy measures](#)
- [Notes](#)

A European journey of algorithmic discrimination



Deliveroo (IT)

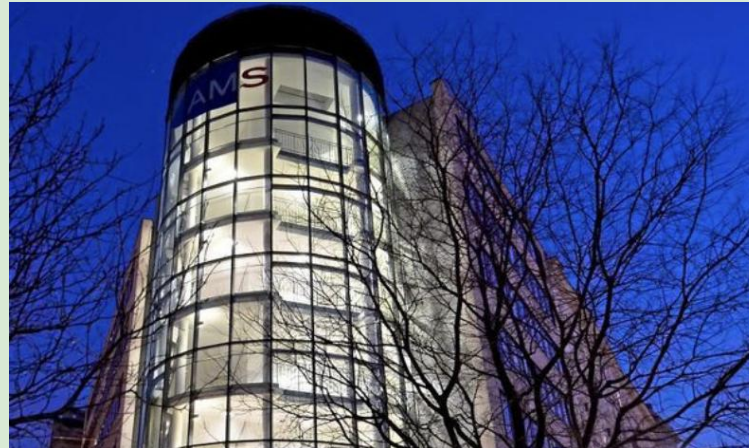
- Ranking ensures making money /refusing shifts impacts ranking
- Refusing shift due to caring responsibilities
- indirect discrimination (women shoulder the bigger burden)



Tribunale di Bologna
2949/2019
(27/11/2020)



AMS Algorithm (AT)



Das Ergebnis kann in einer Tabelle bestehend aus 81.000 (2x3x3x3x2x2x2x50x5) Datensätzen mit folgenden Feldern dargestellt werden:

- GESCHLECHT
- ALTERSGRUPPE
- STAATENGRUPPE
- AUSBILDUNG
- GESUNDHEITLICHE_BEEINTRÄCHTIGUNG
- BETREUUNGSPFLICHTEN (nur für Frauen)
- BERUFSGRUPPE
- VORKARRIERE
- TYP REGIONALES ARBEITSMARKTGESCHEHEN

- INTEGRATIONSCHANCE

AMS Berufoinfomat

Ich bin eine 18-jähriger Mann und habe die Matura mit Auszeichnung bestanden. Welche Berufe empfehlen Sie mir?

Als 18-jähriger Mann mit Matura und Auszeichnung haben Sie eine solide Grundlage für verschiedene Berufe. Basierend auf Ihren Interessen und Fähigkeiten könnten Sie beispielsweise in den Bereichen Informationstechnik, Wirtschaftsingenieurwesen, Gesundheitsberufe, oder auch im Bereich der Internationalen Betriebswirtschaft tätig werden. Es gibt auch zahlreiche Berufe im Bereich Handel, Verkauf, Natur, Pflanzen, Tiere, Umwelt, Auto, Flugzeug, Transport, Büro, Computer, IT, EDV und Lebensmittel, die für Sie interessant sein könnten. Darüber hinaus könnten Sie sich auch für eine Ausbildung im Bereich Obst-, Wein- und Gartenbau oder im Bereich Handwerk und Technik entscheiden. Es ist wichtig, dass Sie sich über die verschiedenen Berufsfelder informieren und sich bewusst sind, dass Ihre individuellen Interessen und Stärken bei der Berufswahl im Vordergrund stehen sollten. Gerne können Sie sich auch persönlich im BerufoInfoZentrum (BIZ) beraten lassen, um die für Sie passende Berufswahl zu treffen.

Haben Sie bereits konkrete Vorstellungen oder Interessen bezüglich eines Berufsfeldes oder einer Ausbildung?

Ich bin eine 18-jähriger Frau und habe die Matura mit Auszeichnung bestanden. Welche Berufe empfehlen Sie mir?

Als 18-jährige Frau mit Matura und Auszeichnung haben Sie eine breite Palette an Berufsmöglichkeiten. Basierend auf Ihren Interessen und Fähigkeiten könnten Sie beispielsweise in den Bereichen Wirtschaftspsychologie, Gender Studies, Philosophie, Politik & Wirtschaft, oder auch im Bereich der Anglistik und Amerikanistik tätig werden. Darüber hinaus gibt es zahlreiche Berufe im Bereich der Lehrausbildung, die für Sie interessant sein könnten, wie beispielsweise im Gastgewerbe, der Küche, dem Tourismus, der Medizin oder der Technik. Es ist wichtig, dass Sie sich über die verschiedenen Berufsfelder informieren und sich bewusst sind, dass Ihre individuellen Interessen und Stärken bei der Berufswahl im Vordergrund stehen sollten. Gerne können Sie sich auch persönlich im BerufoInfoZentrum (BIZ) beraten lassen, um die für Sie passende Berufswahl zu treffen.

Haben Sie bereits konkrete Vorstellungen oder Interessen bezüglich eines bestimmten Berufsfeldes oder einer bestimmten Ausbildung?

Ask us in your first language about careers and training

Exam Proctering (NL)

- Use of Proctorio during exams
- Facial recognition
- Worked less well on darker skin colours

De Vrije Universiteit discrimineert een student niet door voor online tentamens de software van Proctorio te gebruiken. De Vrije Universiteit heeft de discriminatieklacht van de studente onvoldoende zorgvuldig behandeld.

Oordeelnummer: 2023-111

Datum: 17-10-2023

Taal: Nederlands

Trefwoord: Bewijsvermoeden weerlegd, Indirect onderscheid, Bewijsvermoeden toegepast

Discriminatiegrond: Ras

Terrein: Goederen en diensten - Onderwijs

Targeted Ads (EU)

- Gendered targeted advertisement
- Is the threshold crossed ?
- Similar effects for image generation with Generative AI tools in terms of professions

Automated Discrimination in online ad delivery

This folder contains the results of an experiment that assesses how Facebook and Google skew the distribution of advertisements, absent any targeting from the advertiser. It is a replication of the following paper:

Ali, M., Sapiezynski, P., Bogen, M., Korolova, A., Mislove, A., & Rieke, A. (2019). Discrimination through Optimization: How Facebook's Ad Delivery Can Lead to Biased Outcomes. *Proceedings of the ACM on Human-Computer Interaction*, 3(CSCW), 1-30.

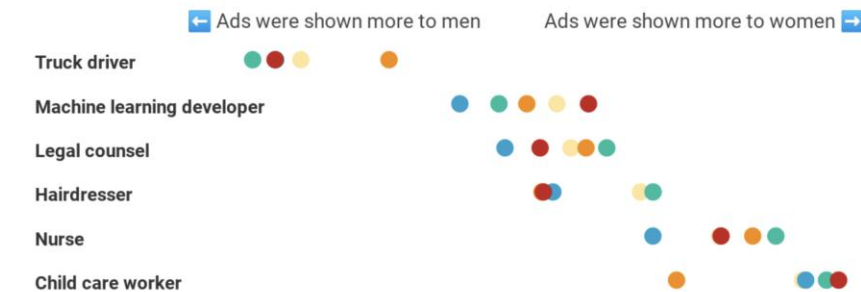
All analyses are based on the number of **impressions**. However, a sentence in the article mentions people who saw the ads. This corresponds to the **reach** of the ads. Data about reach is available in `input/facebook.csv`.

These are the results of the main experiment on Facebook.

When deciding who to show an ad to, Facebook relies on gross stereotypes

We bought ads for six different job offers in five countries. This is how Facebook optimized the ad impressions, based on gender.

Germany Spain France Poland Switzerland



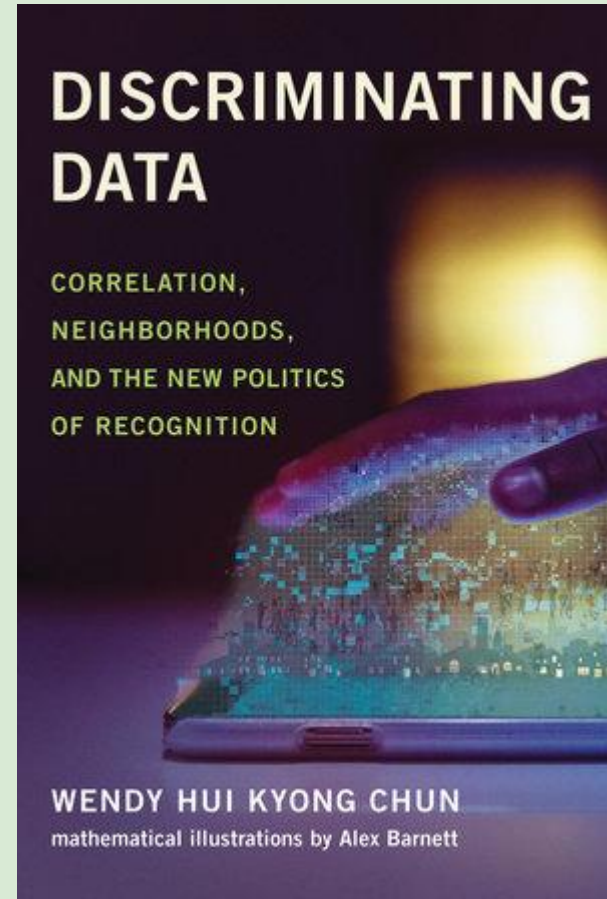
Based on 102,472 ad impressions between 27 Aug and 3 Sep.

Chart: AlgorithmWatch · Created with Datawrapper

„PROXIES, OR RECONSTRUCTING THE UNKNOWN“

„(..) how proxies can serve to buttress—and justify—discrimination. **Correlations produce proxies.** In statistics and economics, most proxies correspond linearly and associate with hidden or unknown variables. Effectively acting as **stand-ins or surrogates**, proxies reveal protected categories such as race and gender in seemingly color-blind or agent-based categories such as **zip code** or “age at first arrest.”

(Chun 2021, p. 121)



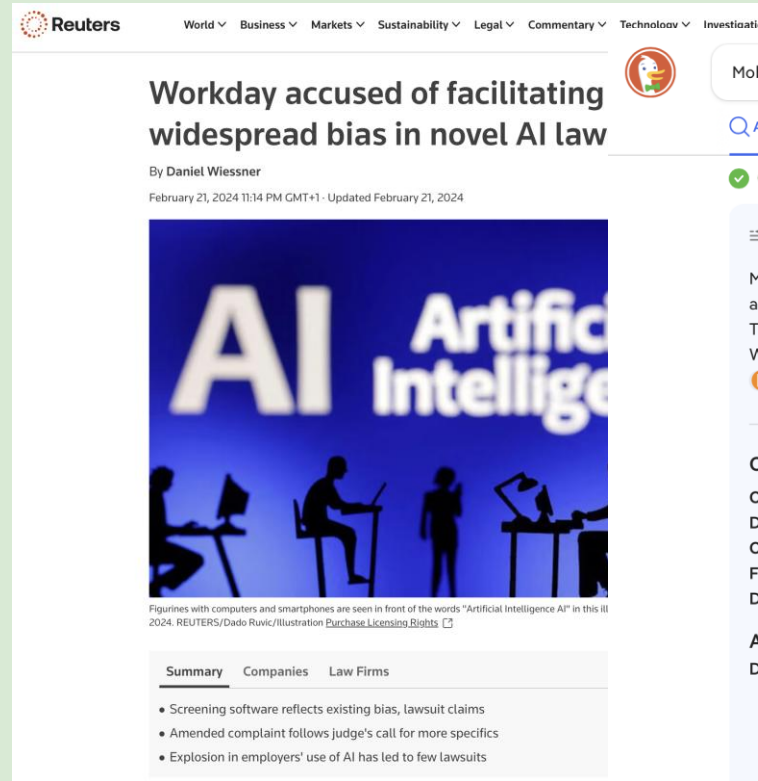
Proxy or „postal code discrimination“

- Banking (see US case)
- School and university applications
- Social benefits
- Health benefits
- Taxes
- Jobs
- Unemployment benefits



AI: Risks

- I'm not talking about existential risks
- Biases
- Risk of discrimination
- 2 entry doors
 - Design of AI system: who ?
 - Datasets used: on what basis ?
- Example: „Workday“ lawsuit in the U.S.



Mobley v. Workday, Inc., N

A screenshot of a legal research platform. The search bar at the top shows the case name "Mobley v. Workday, Inc., No. 3:23-cv-00770 (N.D. Cal. July 18, 2024)". Below the search bar are navigation options like "Alle", "Bilder", "Nachrichten", "Videos", and "Mehr anzeigen". There are also settings for "Geschützt", "Kanada (eng)", "Abgesicherte Suche: moderat", and "Irgendwann". The main content area is titled "Search Assist" and provides a summary of the case: "Mobley v. Workday, Inc. is a legal case in which the plaintiff, Derek Mobley, alleges that Workday's algorithm-based applicant screening tools discriminated against him based on race, age, and disability. The case has seen multiple motions to dismiss and amendments to the complaint, focusing on whether Workday qualifies as an employment agency under various civil rights laws." Below this is a "Case Overview" section with details: Case Name: Mobley v. Workday, Inc.; Docket Number: 3:23-cv-00770; Court: U.S. District Court for the Northern District of California; Filed Date: February 21, 2023; Decision Date: July 12, 2024. The "Allegations" section is titled "Discrimination Claims" and lists: "The plaintiff, Derek Mobley, alleges that Workday's algorithm-based applicant screening software discriminated against him based on: Race, Age, Disability". The "Background of the Plaintiff" section states: "Mobley is an African American male over 40 years old with a disability. He has applied for over 100 positions using Workday's screening tools since 2017." The "Legal Proceedings" section is titled "Initial Complaint" and lists: "The initial complaint was filed under several laws, including: Title VII of the Civil Rights Act of 1964, Age Discrimination in Employment Act (ADEA), Americans with Disabilities Act (ADA)". The "Motions and Court Decisions" section lists: "July 17, 2023: Workday filed a motion to dismiss, arguing it is merely a software provider. January 19, 2024: The court granted Workday's motion to dismiss with leave for Mobley to amend his complaint. July 12, 2024: The court granted in part and denied in part Workday's motion to dismiss the first amended complaint."

AI: Opportunities

- AI can be used „for good“
- Bias detection, mitigation and prevention
- Combating human (unconscious) bias and **noise**
- More specifically prevent algorithmic discrimination
- Example: proposed Art. 4a AI Act (currently reflected in Art. 10(5) AI Act))
- But: Discussion about the collection of sensitive data (sexual orientation, ethnicity, race, religion) re Privacy laws

Bias measures tailored to your problem

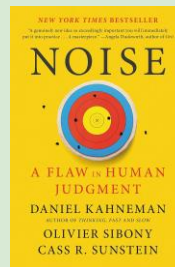
After installing on your computer

Run `aequitas-report` on COMPAS data:

`compas_for_aequitas.csv` excerpt:

score	label_value	race	sex	age_cat
0	1	African-American	Male	25 - 45
1	1	Native American	Female	Less than 25

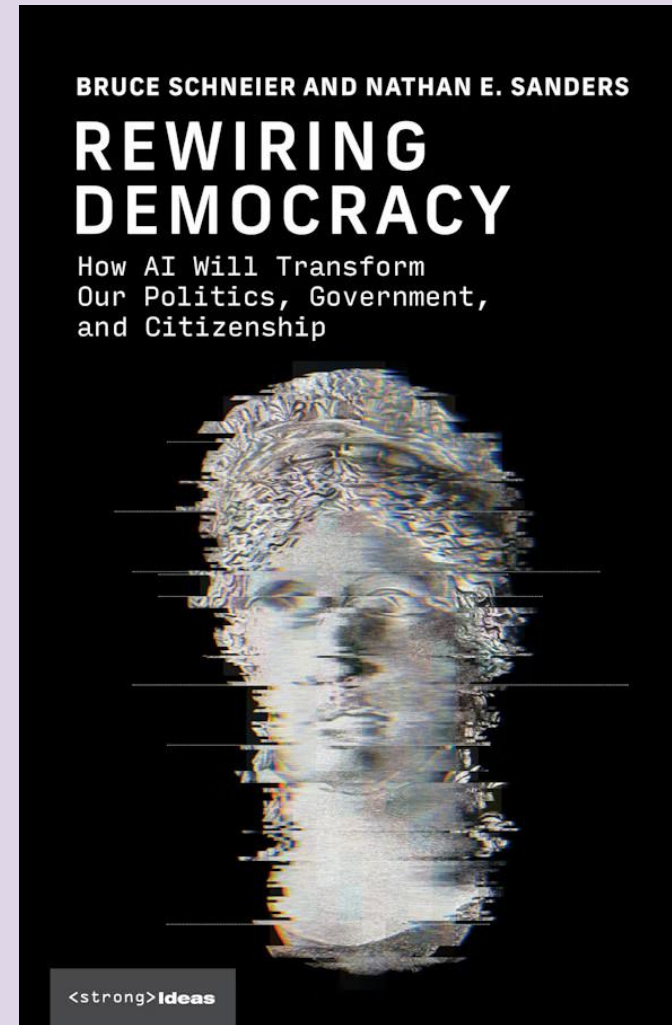
```
aequitas-report --input compas_for_aequitas.csv
```



V. Enforcement of algorithmic discrimination

„Democracies have no shortage of regulations, but often lack the time, resources, and willpower to enforce them.“

(Schneiers/Sanders, Rewiring Democracy,
p. 161 on Enforcing Regulations)



The enforcement landscape of the AI Act

AI Office, Market Surveillance Authorities, Art. 77 bodies, Advisory Board, Scientific Panel of Experts

AI Office (Art. 64)

- Joint enforcement with MSAs
- Enforcement for big AI models (GPAIs)
- Coordination
- Guidelines (see some examples)
 - Definition of AI systems
 - Guidelines on prohibited AI practices
 - Template FRIAs (Art. 27)



AI Act reform: Art. 64(2a)

“ (..) the AI Office shall be allocated with adequate human, financial and technical resources, and with infrastructure to fulfil their tasks, to effectively perform its duties and exercise its powers in respect of the enforcement of Regulation (EU) 2024/1689. In particular, the AI Office shall have a sufficient number of personnel permanently available with in-depth competences and technical expertise.”

European Commisison

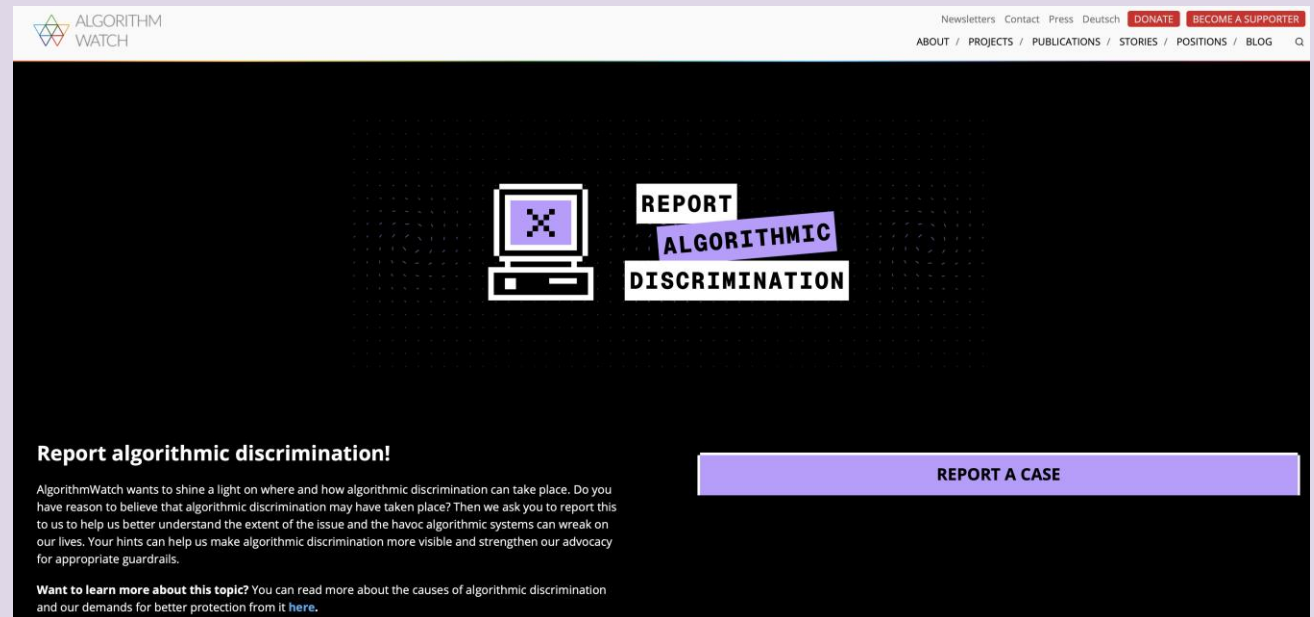
- Hybrid role as quasi law maker in some regards (proposal, power to change some Annexes (delegated acts) and enforcer
- Enforcement via AI Office which is formally part of DG Connect
- But no independance or enforcement powers such as DG Competition



Source: [visit.brussels](https://www.visit.brussels)

Know about and report algorithmic discrimination

- CH/DE AlgorithmWatch project
- National Equality Bodies



<https://algorithmwatch.org/en/report-algorithmic-discrimination/>

European Equality Bodies

- Equinet
- France: Défenseur des droits
- „Recital 27 of Directive (EU) 2024/1500: *“Evidence is key in determining whether discrimination has taken place and it is often not in the possession of the victim. Equality bodies should therefore be able to access the information necessary to establish whether discrimination has occurred”.* „

Equinet Members and Grounds they cover*



* This list illustrates only the grounds covered by the mandates of Equinet's member Equality Bodies, in employment and beyond employment. In some cases, it is possible that grounds differ from those covered by the country's legislation.



	Employment	Beyond Employment	
ITALY			National Office against Racial Discrimination www.unar.it
KOSOVO*			Ombudsperson Institution www.oik-rks.org
LATVIA			Office of the Ombudsman www.tiesibsargs.lv
LITHUANIA			Office of the Equal Opportunities Ombudsman www.lygybe.lt
LUXEMBOURG			Centre for Equal Treatment www.cet.lu
MALTA			National Commission for the Protection of Equality www.ncpe.gov.mt Commission for the Rights of Persons with Disability www.crgpd.org.mt
MOLDOVA			Council on Preventing and Eliminating Discrimination and Ensuring Equality www.egalitate.md
ALBANIA			Commissioner for the Protection from Discrimination www.kmd.at
AUSTRIA			Ombud for Equal Treatment www.gleichbehandlungsanwaltschaft.gv.at Austrian Disability Ombudsman www.behindertenanwalt.gv.at
BELGIUM			Institute for the Equality of Women and Men www.igvm-iefh.belgium.be Unia (Interfederal Centre for Equal Opportunities) www.unia.be
BOSNIA AND HERZEGOVINA			Institution of Human Rights Ombudsman www.ombudsmen.gov.ba

https://equineteurope.org/wp-content/uploads/2023/02/Equinet-Brochure_digital.pdf

Courts

- National courts
- CJEU

7.6.2016 EN Official Journal of the European Union C 202/164

Article 267
(ex Article 234 TEC)

The Court of Justice of the European Union shall have jurisdiction to give preliminary rulings concerning:

- (a) the interpretation of the Treaties;
- (b) the validity and interpretation of acts of the institutions, bodies, offices or agencies of the Union;

Where such a question is raised before any court or tribunal of a Member State, that court or tribunal may, if it considers that a decision on the question is necessary to enable it to give judgment, request the Court to give a ruling thereon.

Where any such question is raised in a case pending before a court or tribunal of a Member State against whose decisions there is no judicial remedy under national law, that court or tribunal shall bring the matter before the Court.

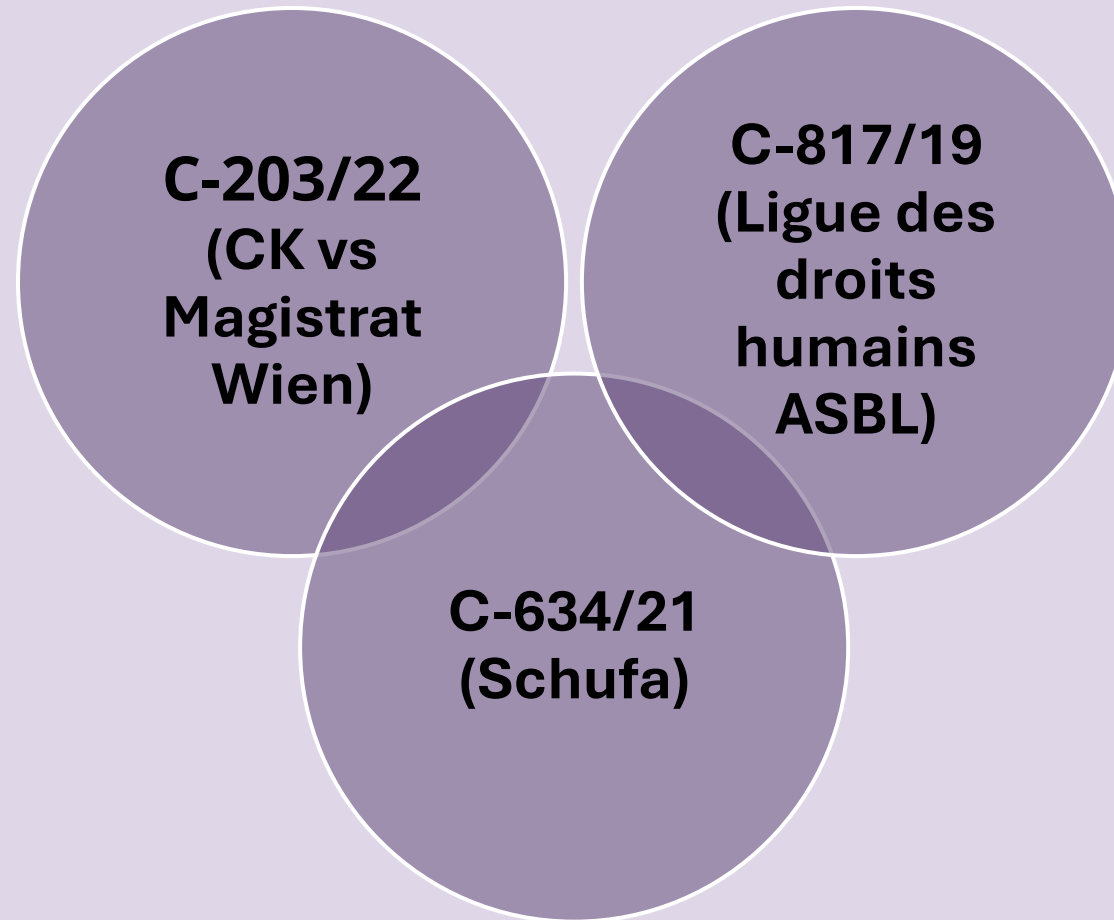
If such a question is raised in a case pending before a court or tribunal of a Member State with regard to a person in custody, the Court of Justice of the European Union shall act with the minimum of delay.

Protection of human rights, non-discrimination and equality (p.18)



GUIDELINES FOR THE
**USE OF AI SYSTEMS IN
COURTS AND TRIBUNALS**

GDPR: the right to know and understand



Civil Society

- Advocacy
- Complaints
- Awareness raising
- Example: France ODAP helps to shed some light on the use of AI by administration and ensure transparency

Observatoire des algorithmes publics | Articles | Inventaire des algorithmes publics | À propos | English

L'observatoire des algorithmes publics (ODAP) crée et rassemble des informations sur les algorithmes utilisés par les administrations françaises, pour les rendre plus transparents.

Pourquoi l'ODAP ?

Les administrations utilisent de plus en plus d'algorithmes, dans des domaines incontournables et essentiels : éducation, santé, prestations sociales, immigration...

Nous contacter
Vous êtes :
↳ une personne, association ou un collectif qui s'intéresse au...

Observatoire des algorithmes publics | Articles | Inventaire des algorithmes publics | À propos

Inventaire des algorithmes publics

L'inventaire fait figurer tous types de systèmes algorithmiques mis en place par une administration centrale ou agence d'État et documentés de manière publique. La liste, non exhaustive, est mise à jour régulièrement

Metadonnées
Mis à jour le 13/11/2025
120 algorithmes répertoriés
Liste des contributeurs et contributrices ▼

Liens externes
Télécharger les données sur data.gouv.fr

Chiffres clés

Algorithmes soumis au CRPA remplissant leurs obligations: 6/24

Algorithmes avec un budget publié: 18/120

Algorithmes avec des évaluations publiées: 24/120

Filtres et tri

61 / 120 algorithmes affichés
Réinitialiser les filtres

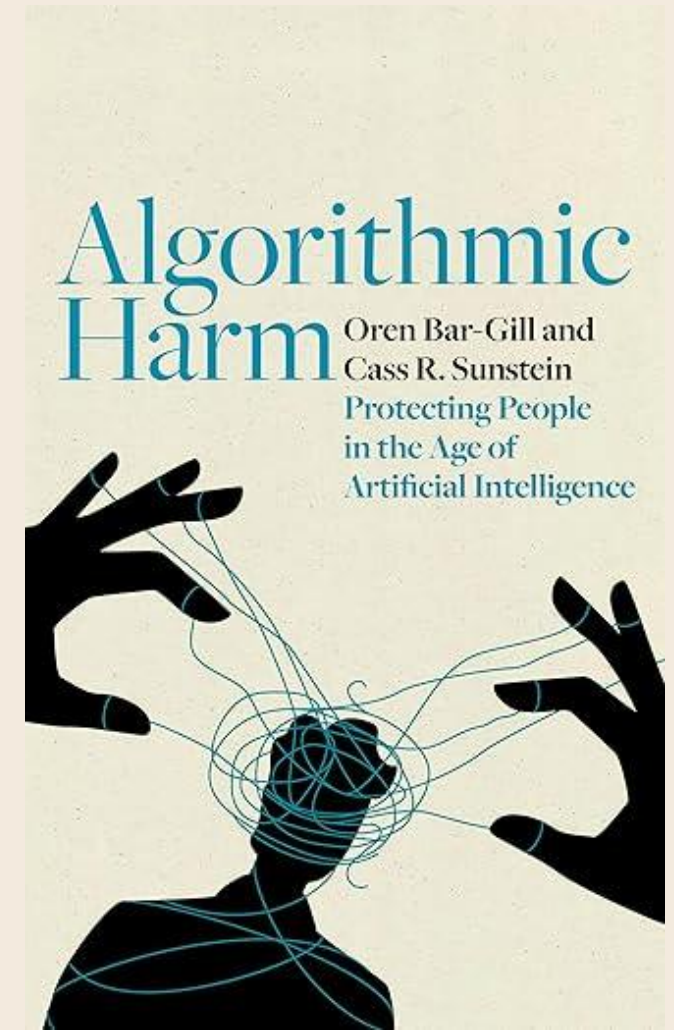
Administration porteuse
Tout

Finalités
Appariement et allocation des ressources
Calcul socio-fiscal
Contrôle
Information
Organisation du travail

Respect de l'obligation de transparence

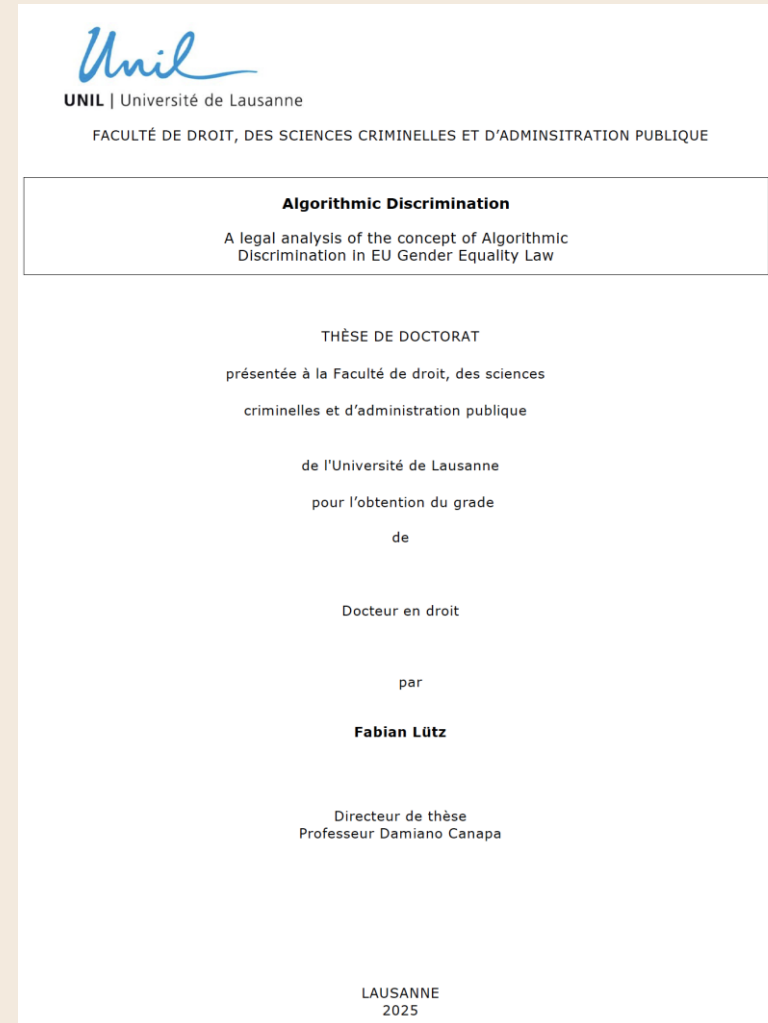
Algorithme	Porté par	Système	Obligation crpa remplie	Statut
Foncier Innovant : volet piscine	Direction générale des Finances publiques (DGFiP)	Apprentissage automatique	Non applicable	Impôts et comptes publics / Déployé
Orientation des pourvois	Cour de Cassation	Apprentissage automatique + Algorithme par règles	Non applicable	Justice / Déployé
Séries de contentieux	Conseil d'Etat	Apprentissage automatique + Algorithme par règles	Non applicable	Justice / Abandonné
Divergences de jurisprudence	Cour de Cassation	Apprentissage automatique + Algorithme par règles	Non applicable	Justice / Information indisponible
Signaux faibles	Ministère de l'Économie ; Ministère du Travail, de l'Emploi et de l'Insertion ; Banque de France ; URSSAF ; Caisse Nationale	Apprentissage automatique + Algorithme par règles	Non applicable	
Prévisecours	Ministère de l'Intérieur	Apprentissage automatique	Non applicable	Sécurité / Déployé
MonitorFish	Centre national de surveillance des pêches	Apprentissage automatique + Algorithme par règles	Non applicable	Agriculture / Déployé
MonitorEnv	Centre d'Appui au Contrôle de l'Environnement Marin	Apprentissage automatique + Algorithme par règles	Non applicable	Environnement / Déployé

Conclusion



Legal Challenges

- Access to evidence (Not so transparent box Problem)
- IP/business secrets
- Legal basis to access datasets and models
- Courts could do that even without a specific legal basis (Dieselgate scandal)
- A selection in my PhD



Digital Omnibus on AI

- Changes the date of application (notably for high-risk AI systems)
- Substantive changes:
 - Art. 77 bodies (less powers)
 - Reinforcing exception to collect sensitive data for purposes of AI bias detection and mitigation
 - Reduced obligations of providers and deployers (AI literacy)
 - Reduced reporting/notification obligations in new Art. 6(4) (no need to register in EU database of Art. 49(2) if provider thinks that AI system is no high-risk)

Is that in harmony with the objective of the AI Act ?



Brussels, 19.11.2025
COM(2025) 836 final

2025/0359 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Regulations (EU) 2024/1689 and (EU) 2018/1139 as regards the simplification of the implementation of harmonised rules on artificial intelligence (Digital Omnibus on AI)

{SWD(2025) 836 final}

(Text with EEA relevance)

AI Act reform

- EU Parliament adopted amendments on 26 March 2026
- Key changes:
 - clear application dates for high-risk system requirements: 2 December 2027
 - new ban on so-called “nudifier” systems that use AI to create or manipulate images that are sexually explicit (Art. 6(1))
 - Data collection for bias detection allowed also for non-high-risk AI systems (Art. 4a(2))
- Next steps: Negotiations with Council

European Parliament

2024-2029



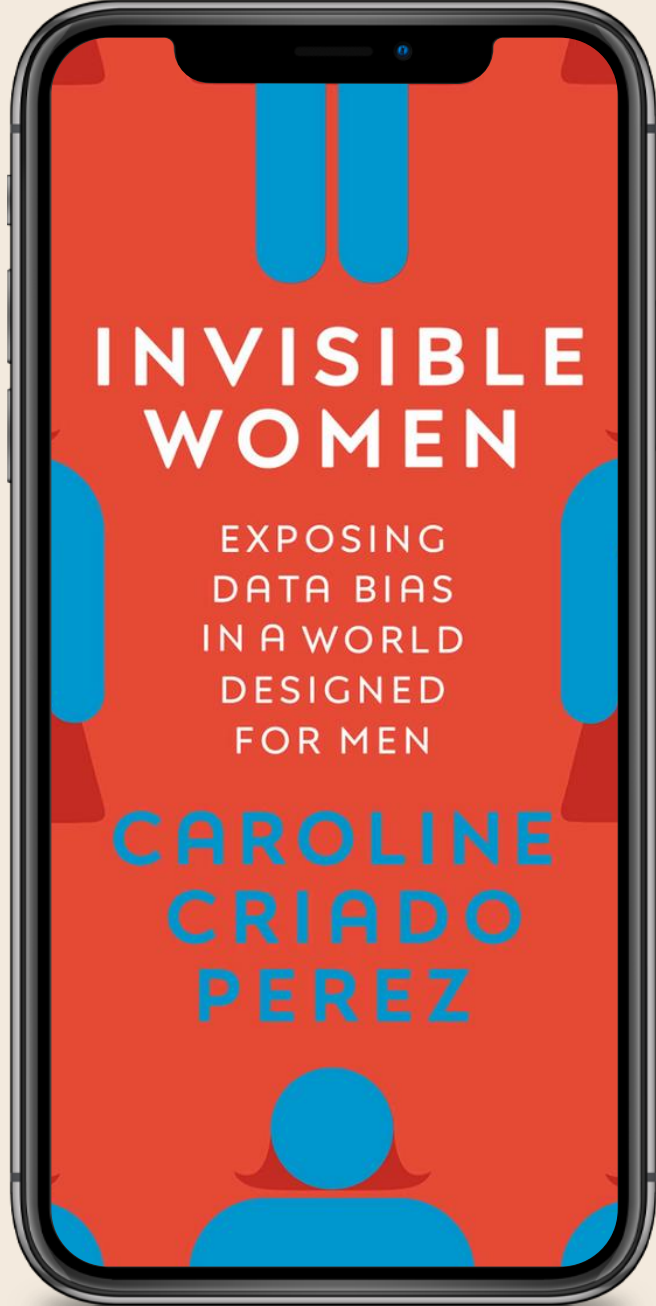
TEXTS ADOPTED

P10_TA(2026)0098

Simplification of the implementation of harmonised rules on artificial intelligence (Digital Omnibus on AI)

Amendments adopted by the European Parliament on 26 March 2026 on the proposal for a regulation of the European Parliament and of the Council amending Regulations (EU) 2024/1689 and (EU) 2018/1139 as regards the simplification of the implementation of harmonised rules on artificial intelligence (Digital Omnibus on AI) (COM(2025)0836 – C10-0304/2025 – 2025/0359(COD))¹

(Ordinary legislative procedure: first reading)



AI needs to be more inclusive

- Design of AI systems
- datasets

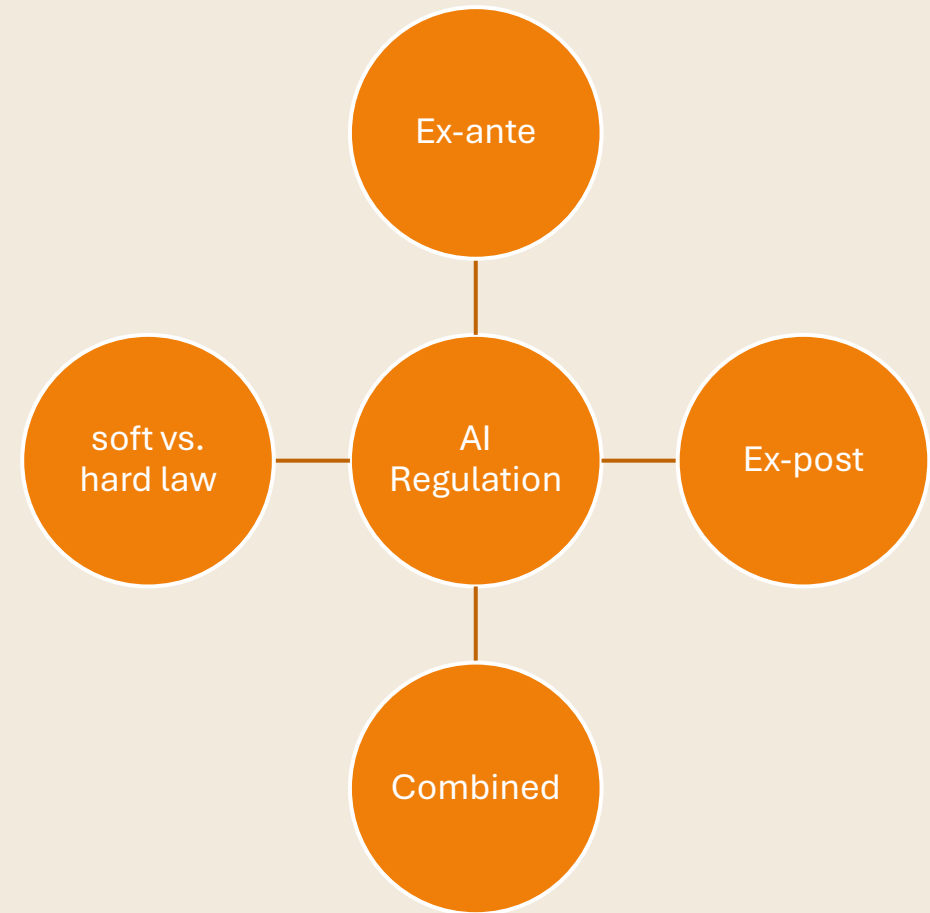
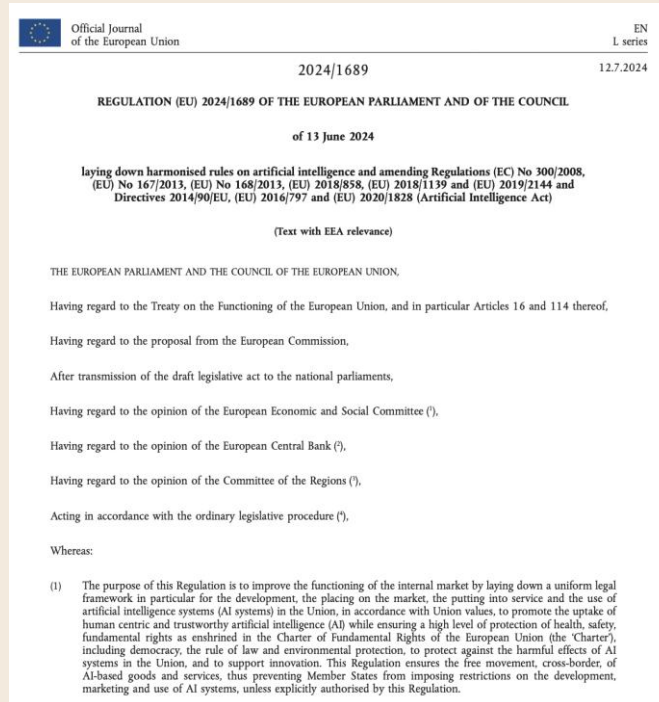
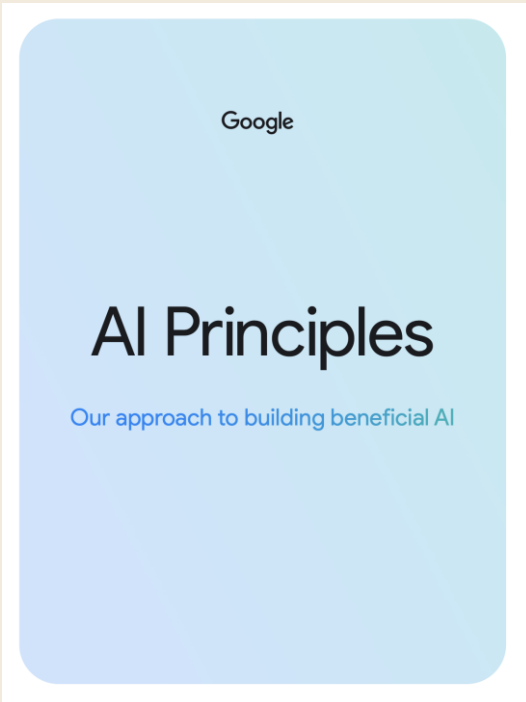
The Diversity Principle

The Story of a Transformative Idea

David B. Oppenheimer

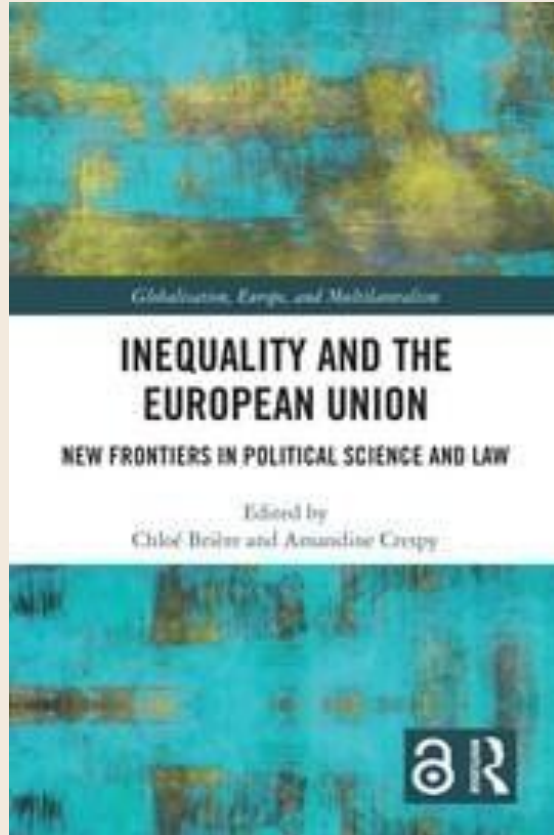
„People with different backgrounds, experiences, and viewpoints benefit from engaging with each other. (..) Compared with groups that are homogeneous, diverse groups do a better job of solving problems, making discoveries, teaching and learning from each other, and improving democratic discourse.“
(p. xi)

Different approaches



Lütz, F. (2025). "Chapter 5 Shared Responsibility for Human Rights in the Algorithmic Age: Why Business Should Be the States' Ally to Eliminate Discrimination". In *Business and Human Rights*. Leiden, Niederlande: Brill | Nijhoff. https://doi.org/10.1163/9789004715158_007

Hybrid approach



Chapter
Revisiting gender-based discrimination
in the algorithmic age
By Fabian Lütz

Current AD-law is not (entirely) fit
for purpose and AI Act only
indirectly protects against gender-
based discrimination caused by AI

Via non-discrimination law: ex post
(+ reform in light of AI-based
discrimination)

Via the AI Act/regulatory law: ex
ante/ex post (+reform regulatory
framework/stronger enforcement)

Introduction

Entry doors

AI Act

CoE

Cases

Enforcement

Conclusion

Further reading

Substack von Fabian

Where is the Omnibus going? Next stop Silicon Valley and mind the gap when you get off...

...because during the journey of the (Digital) Omnibus (on AI) there will be not only a huge gap and hole for fundamental rights protection that you might fall into.



FABIAN LÜTZ, PHD
NOV 21, 2025



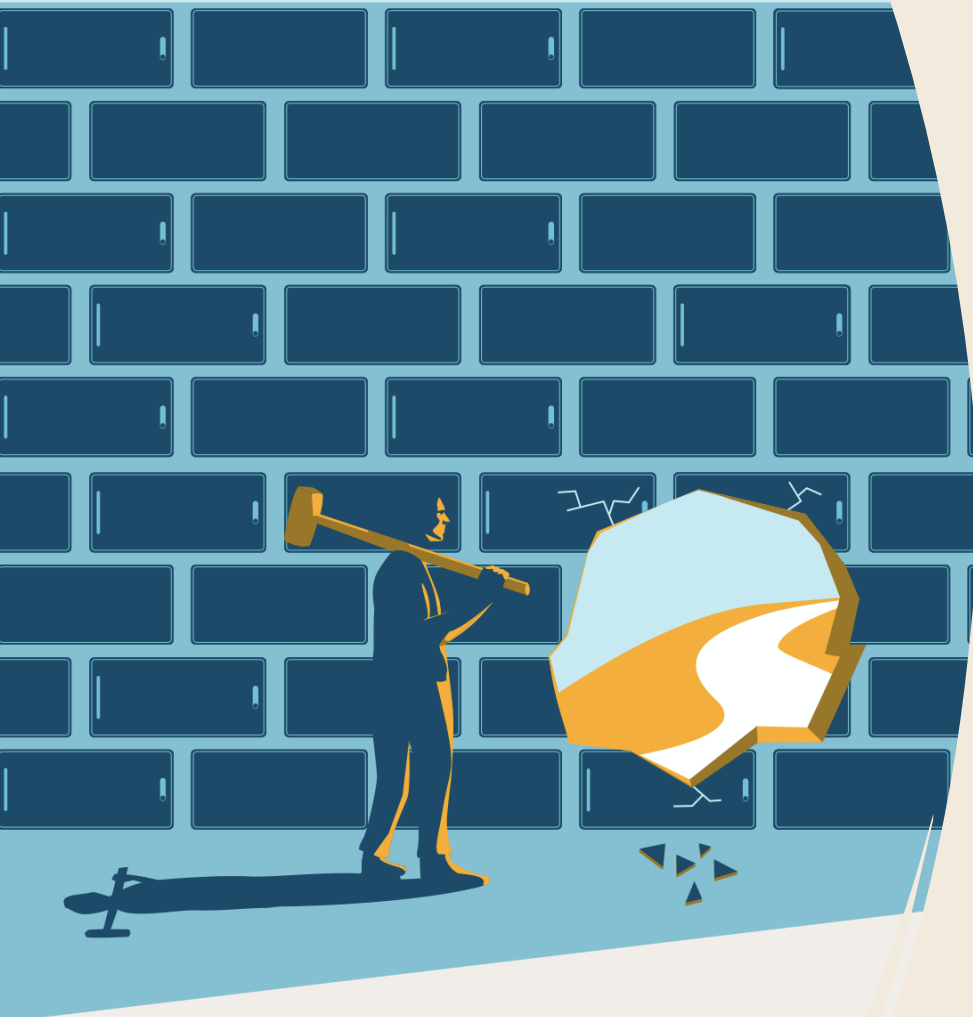
Share



- www.algorithmic-discrimination.com
- algorithmicdiscrimination.substack.com

BREAKING FREE

Pathways to a fair technological future



Conclusion: *quo vadis* AI regulation ?

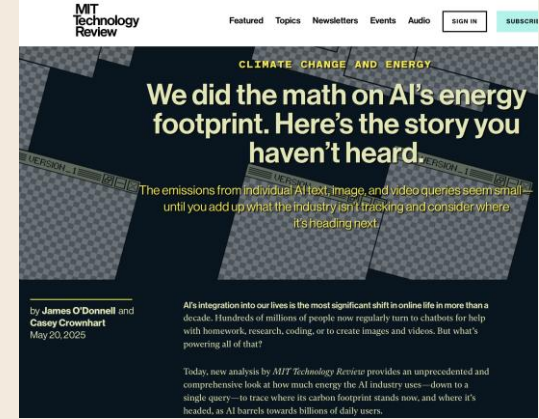
„Enshittification is the result of a dysfunctional market, where companies have been able to get away with mistreating and exploiting consumers. Consumers are trapped in digital services, potential competitors are shut out, and **policymakers and regulators are unable or reluctant to clamp down on anticompetitive, illegal and otherwise abusive behavior**. In practice, **a handful of tech companies have become so powerful that they do not have reason to fear any consequences.**“ (p. 3)

It's your turn

Do you have any questions, ideas or views to share ?

“Concerned that the environmental impact of AI systems, including their carbon footprint and resource consumption” (CoE Rec./CM(2026)1) // **Note:** If I had used an LLM to create this ppt – e.g., by asking 15 questions, generating 10 images and 3 three-second videos – I would have used 2.9 kilowatt-hours of electricity, which is enough to travel over 160 km on an electric bike.

Thank you // merci // Danke



Research focus:
EU law, AI, Regulation,
Gender Equality and Non-
discrimination, human rights
law, law and societal impacts of
technologies and AI

The story of algorithmic discrimination originates in the use of technologies, such as algorithms or AI to complement or substitute human decision-making. As humans, AI-facilitated decision-making can be biased and lead to discrimination. The two main entry doors for algorithmic biases and discrimination are the design of the AI system and the underlying datasets used to train and take algorithmic decisions. To proof algorithmic discrimination, any prediction or decision caused by AI systems needs to „cross“ the threshold of a legally relevant behaviour. Under EU law a discrimination is direct „where one person is treated less favourably on grounds of sex (..)“ and indirect „where an apparently neutral (..) practice would put persons of one sex at a particular disadvantage compared with persons of the other sex, unless (..) objectively justified by a legitimate aim, and the means of achieving that aim are appropriate and necessary“ (Art. 2, Dir 2006/54/EC). The AI Act indirectly addresses some of the relevant challenges arising from AI for discrimination, but more legal reform and regulatory action is needed to ensure an adequate protection against discriminaton in the algorithmic age. Curious? My research is on www.algorithmic-discrimination.com /(c) Fabian Lütz 2026