AI Factory Austria AI:AT

Trustworthy AI: Legal Aspects

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Why do we need AI Factory Austria?

Sovereignty

Ethics and Trustworthiness

Connecting the Ecosystem

AI Factory Austria AI:AT

Austria’s key project for powerful and trustworthy artificial intelligence

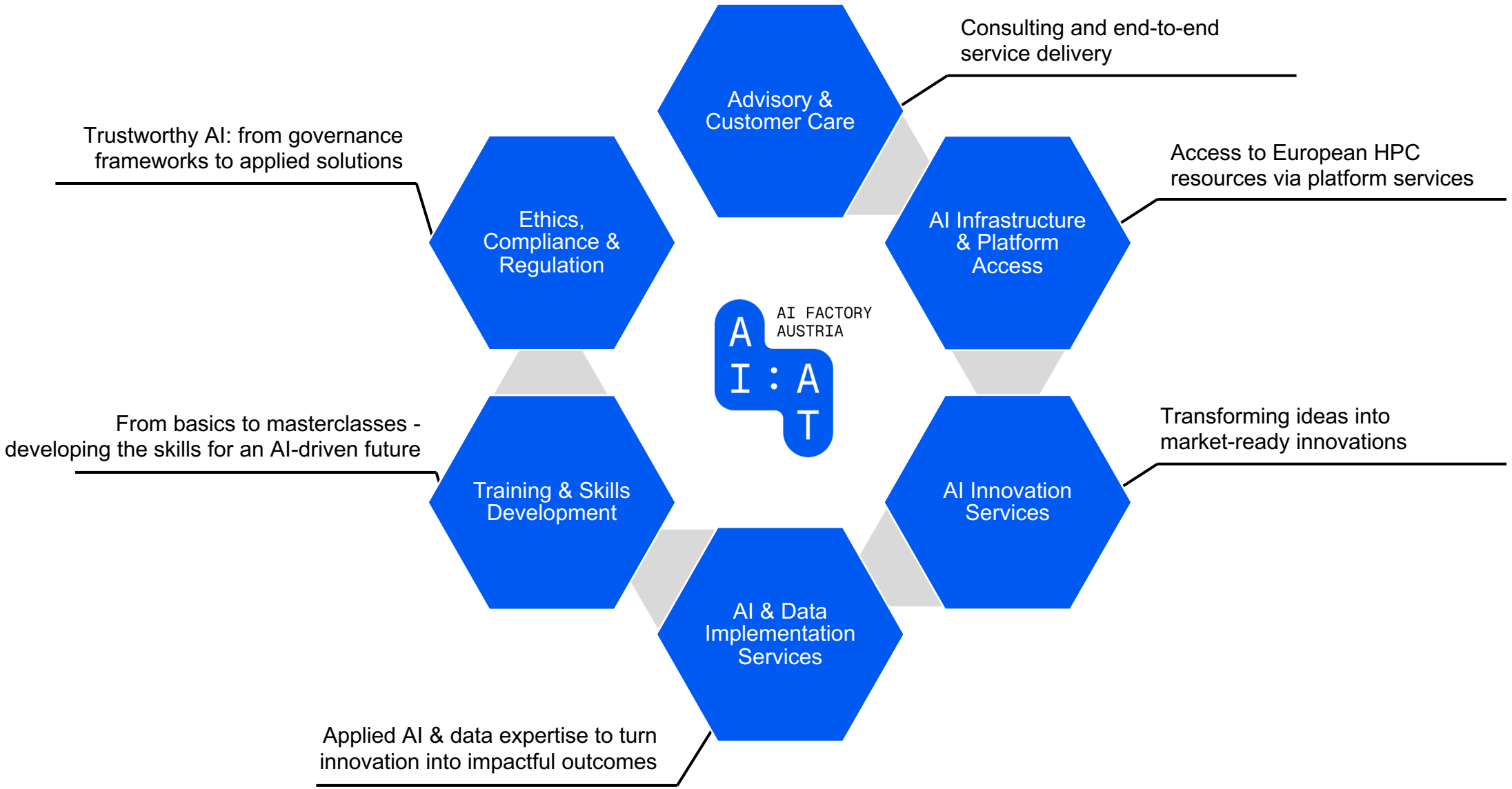
Establish a One-Stop Shop for AI

Bridge the AI Resource and Knowledge Divide

Promote Ethical and Trustworthy AI

Launchpad for AI-driven Innovation

Our services address the complete AI lifecycle



AI Factory Austria AI:AT – Team

AI Factory Austria AI:AT - PUBLIC Consortium

Disclaimer:
The speakers are solely sharing their personal experiences. Therefore, this free seminar is not a substitute for professional/legal advice.

Beneficiaries

Advanced Computing Austria

AUSTRIAN INSTITUTE OF TECHNOLOGY

Affiliated Entities

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universität wien

BOKU UNIVERSITY

universität innsbruck

TU Graz

JOHANNES KEPLER UNIVERSITÄT LINZ

Institute of Science and Technology Austria

ÖAW ÖSTERREICHISCHE AKADEMIE DER WISSENSCHAFTEN

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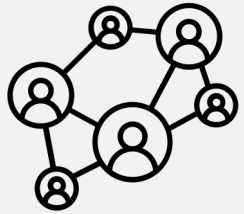
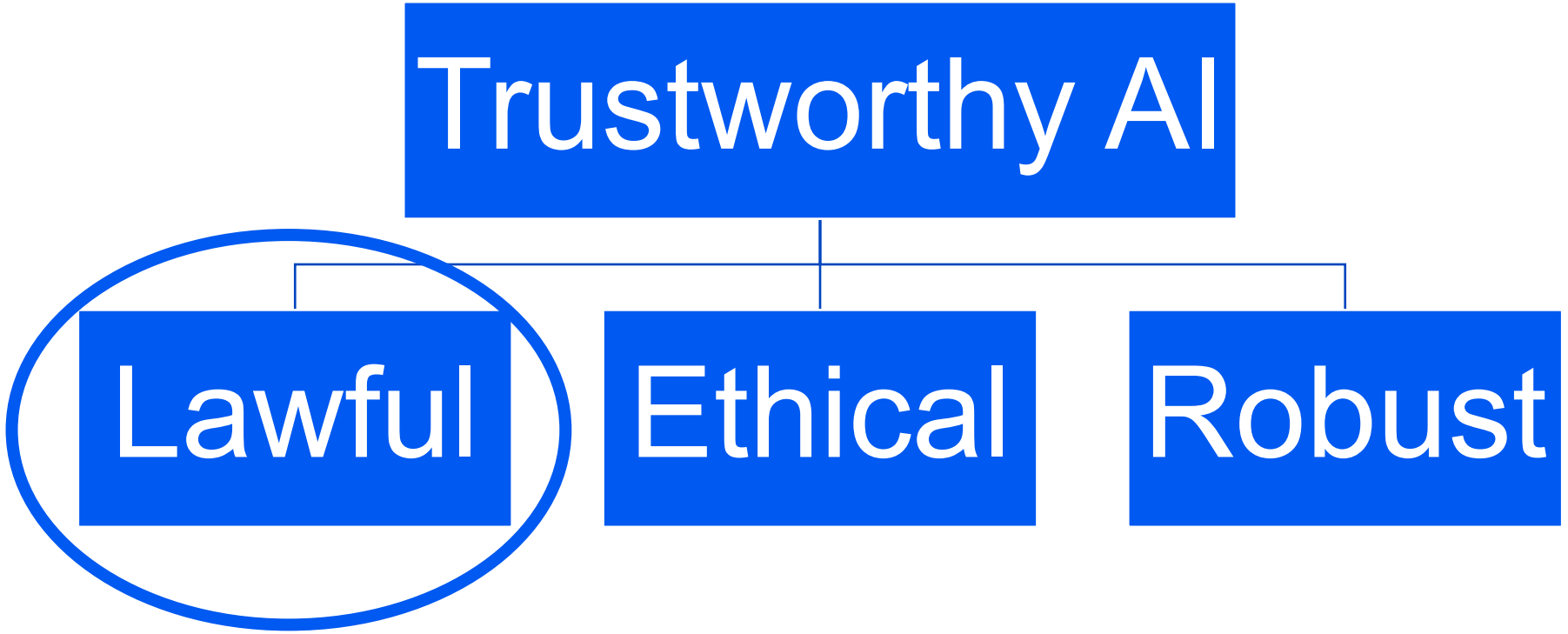
Why do we need AI Factory Austria?

Sovereignty

Ethics and Trustworthiness

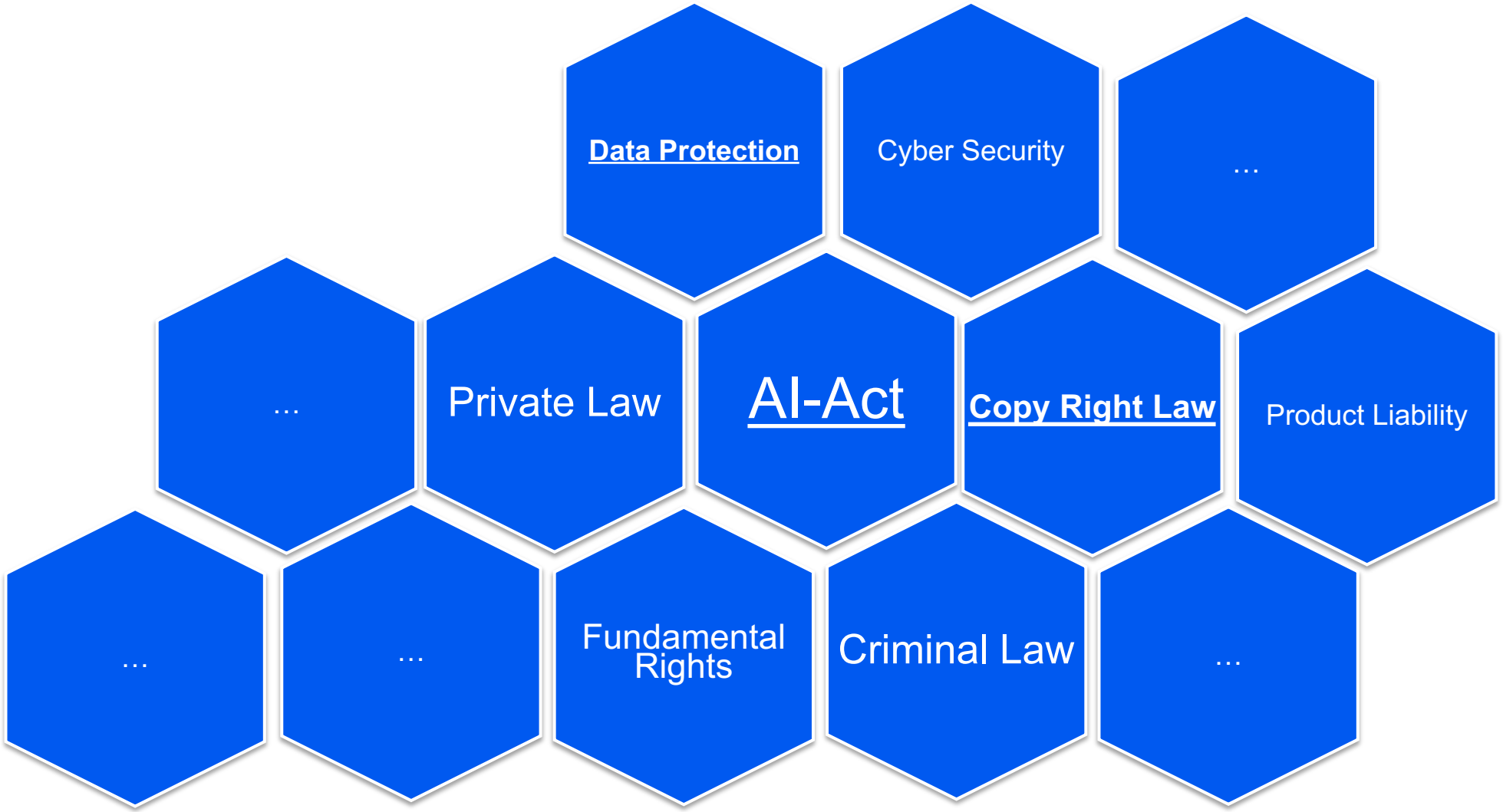


Connecting the Ecosystem

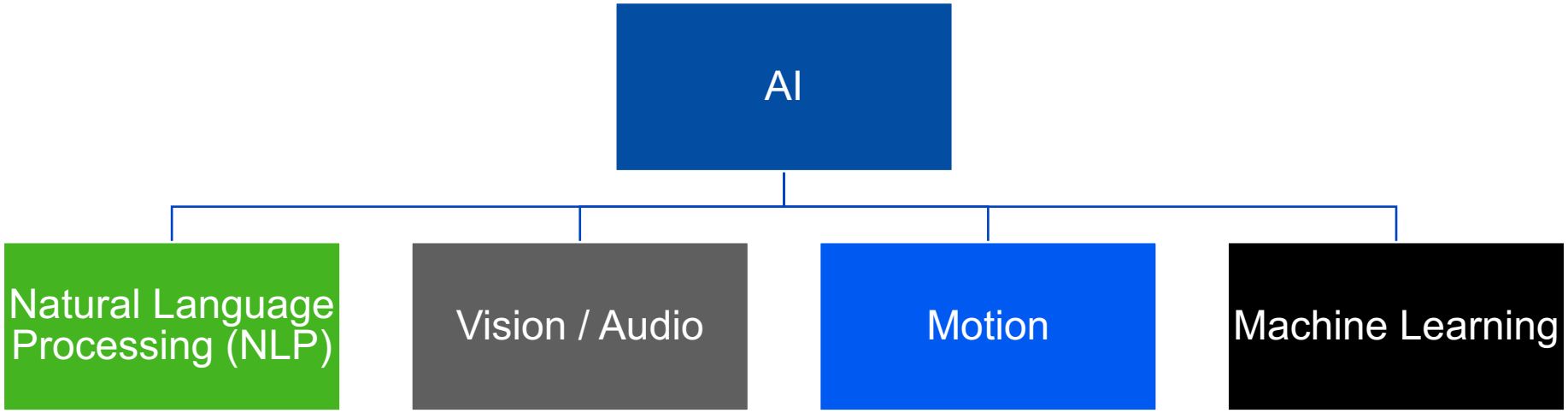


High-Level Expert Group on Artificial Intelligence (HLEG), Ethics guidelines for trustworthy AI, 08.04.2019.
Coester/Pohlmann, Warum Vertrauenswürdigkeit der Grundstein für die Digitalisierung ist, Datenschutz und Datensicherheit - DuD 2025, 11–15.

Legal Landscape



What is "artificial intelligence"?



IBM Technology, AI vs Machine Learning (https://www.youtube.com/watch?v=4RixMPF4xis).

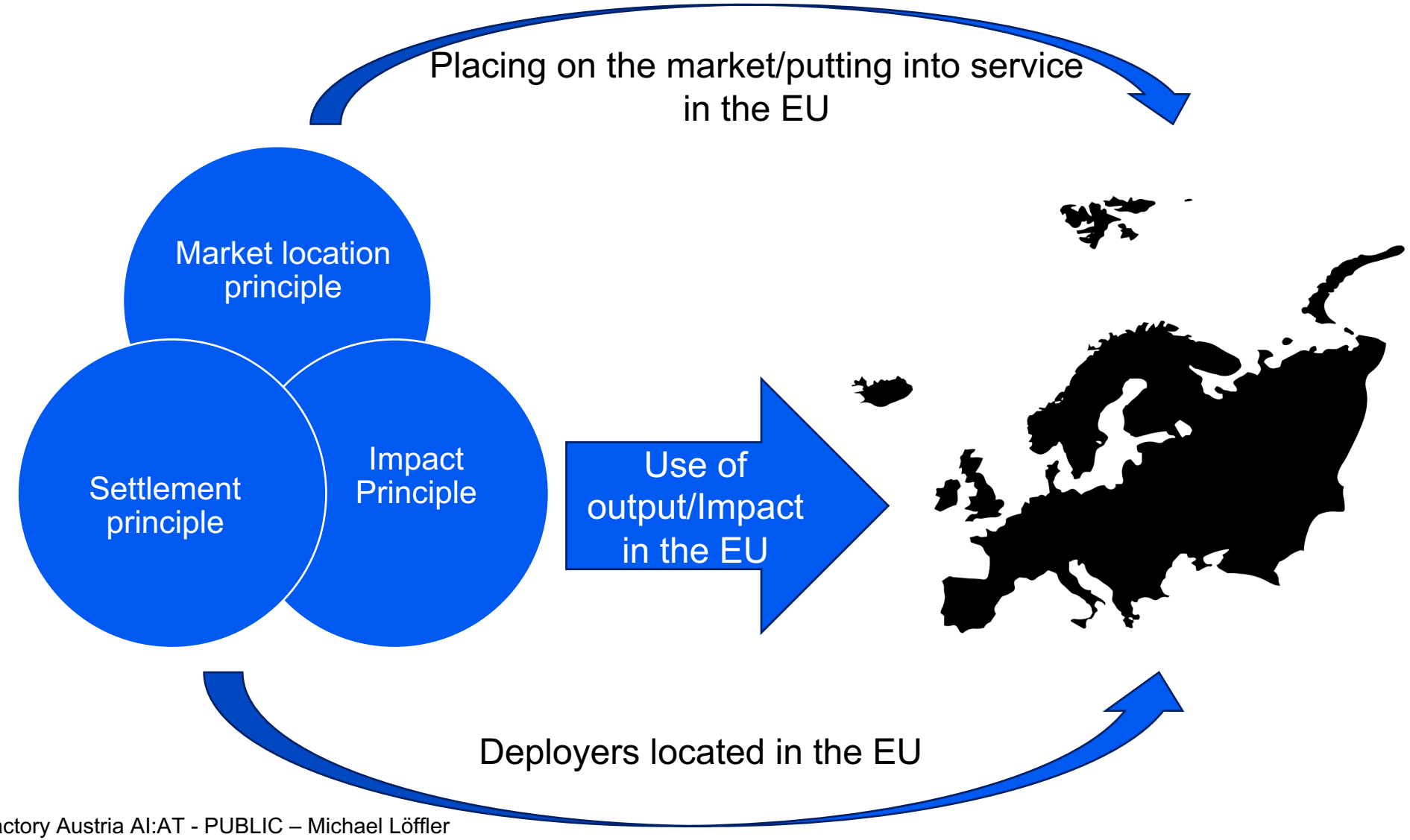
What is "artificial intelligence"?

AI system:[1]

- **machine-based** system,
- designed to operate with **varying levels of autonomy**,
- may exhibit **adaptiveness** after deployment
- for explicit or implicit objectives, infers, from the input it receives, how to **generate outputs** such as predictions, content, recommendations, or decisions**,**
- can **influence** physical or virtual **environments**.

1: Sec 3 Num 1 AI-Act; European Commission (EC), Commission Guidelines on the definition of an artificial intelligence system established by Regulation (EU) 2024/1689 (AI Act), 06.02.2025.

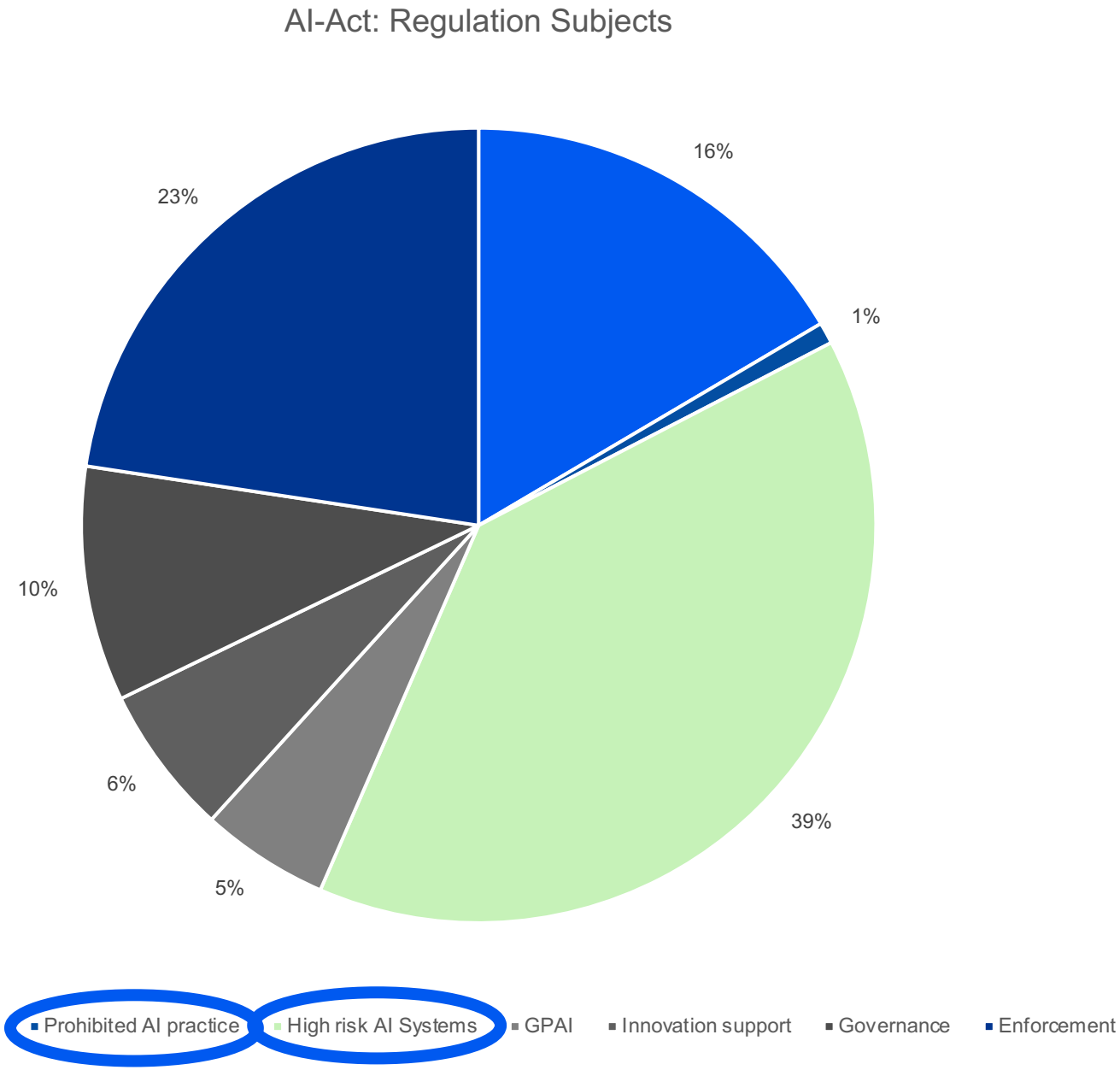
When does the AI-Act apply?



When is the AI-Act not aplicable?

The AI-Act does **not** govern:

- the use of AI for **military/national security purposes**;
- use of AI by third country public authorities/international organisations within **international cooperation** (if fundamental rights are otherwise protected);
- AI systems or AI models, including their output, specifically developed and put into service for the **sole purpose** of **scientific research and development**;
- research, testing or **development** **prior** market placing/putting into service;
- AI systems released under **free and open-source licences**, **unless** they are placed on the market or put into service as high-risk AI systems or as an AI system that is prohibited or an Art 50 AI-Act System;
- the use of AI-Systems by natural persons using AI systems in the course of a **purely personal** non-professional **activity**;


AI-Act: Regulation Subjects
16%
1%
39%
5%
6%
10%
23%
General Rules
Prohibited AI practice
High risk AI Systems
GPAI
Innovation support
Governance
Enforcement

AI-Act Risk Levels

Forbidden: AI with unacceptable risk!

Prohibited AI practices

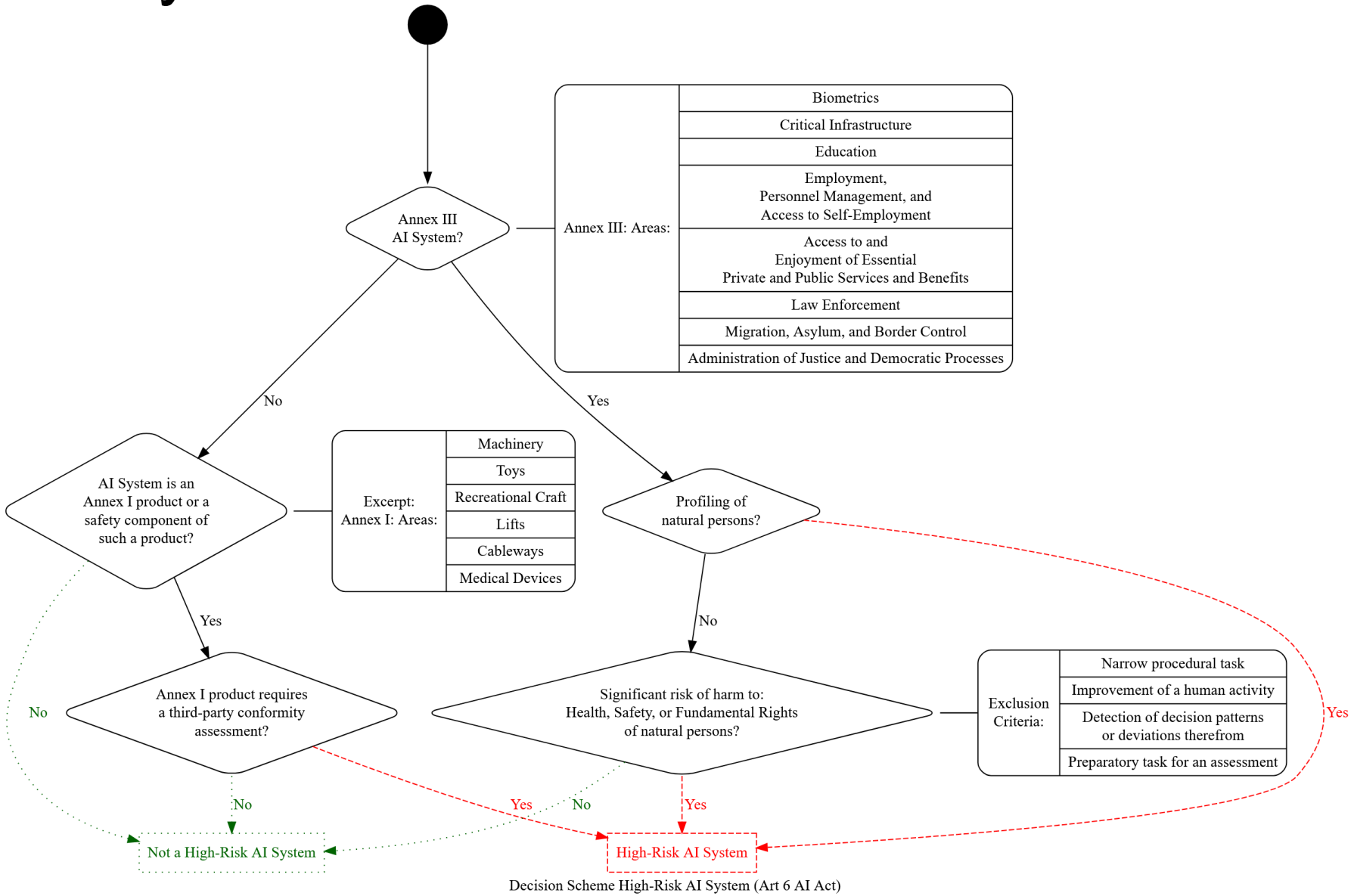
- Subliminal **manipulation** with considerable damage
- **Exploiting** vulnerable groups of people
- **Social** scoring with negative impact
- **Profiling** to assess whether a crime will be committed
- Creation of databases for **facial recognition** from images from the Internet
- **Emotion recognition** in the workplace or in educational institutions
- **Biometric categorization** to obtain sensitive data
- **Remote biometric identification** (with strict exceptions for law enforcement purposes)

Art 5 AI-Act.

AI-Act Risk Levels

High risk: Main subject of the AI-Act.

High-risk AI systems



Decision Scheme High-Risk AI System (Art 6 AI Act)

Art 6 AI-Act.

AI-Act Risk Levels

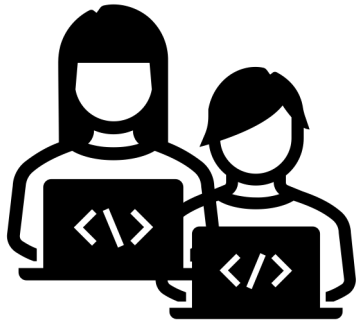
Limited risk: Transparency obligations.

- AI Systems designed for direct interaction with natural persons
- AI Systems generating synthetic content/deep fakes
- Emotion recognition systems / biometric categorisation systems

AI-Act Risk Levels

Minimal or no risk: No specific obligations.

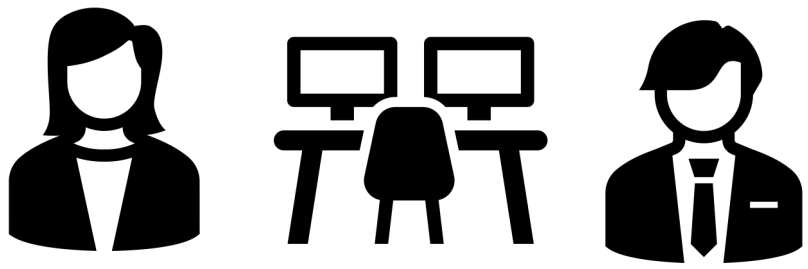
AI-Act Operators



Provider
develops an AI system (general-purpose AI model) **and**
places it on the market / puts the AI system into service

Art 3 Sec 3 AI-Act.

AI-Act Operators



Deployer
using an AI system under its authority

Art 3 Sec 4 AI-Act.

Types of AI

General-purpose AI Model:

- trained with a **large amount of data**,
- displays significant **generality**,
- is capable of performing a **wide range of tasks** and
- can be integrated into a variety of applications

(**except** AI models that are used for research, development or prototyping activities before they are placed on the market)

≠

Generative AI:

- capable of **computing or assembling**
- **synthetic content based on input data**
- such as **text, images, audio, or video**
- mimics human creativity

Art 3 Sec 63 AI-Act.

Lucchi/Hunter, Generative AI and Copyright, 07.2025.

Types of AI

General-purpose AI Models

- **indicative** criterion:
- training compute is greater than10^23 floating-point operations (FLOP) and
- can generate language (text, audio, text-to-image, text-to-video)

(significant generality and performing of wide range of tasks are still necessary – but mostly fulfilled)

(at the moment)

Large Generative AI Models:

- flexible generation of content (text, audio, images, video),
- accommodate a wide range of tasks
- usually trained using large computing power

EC, Guidelines on the scope of the obligations for general-purpose AI models established by Regulation (EU) 2024/1689 (AI Act), 18.07.2025, Recital 99 AI-Act.

Provider and Deployer obligations

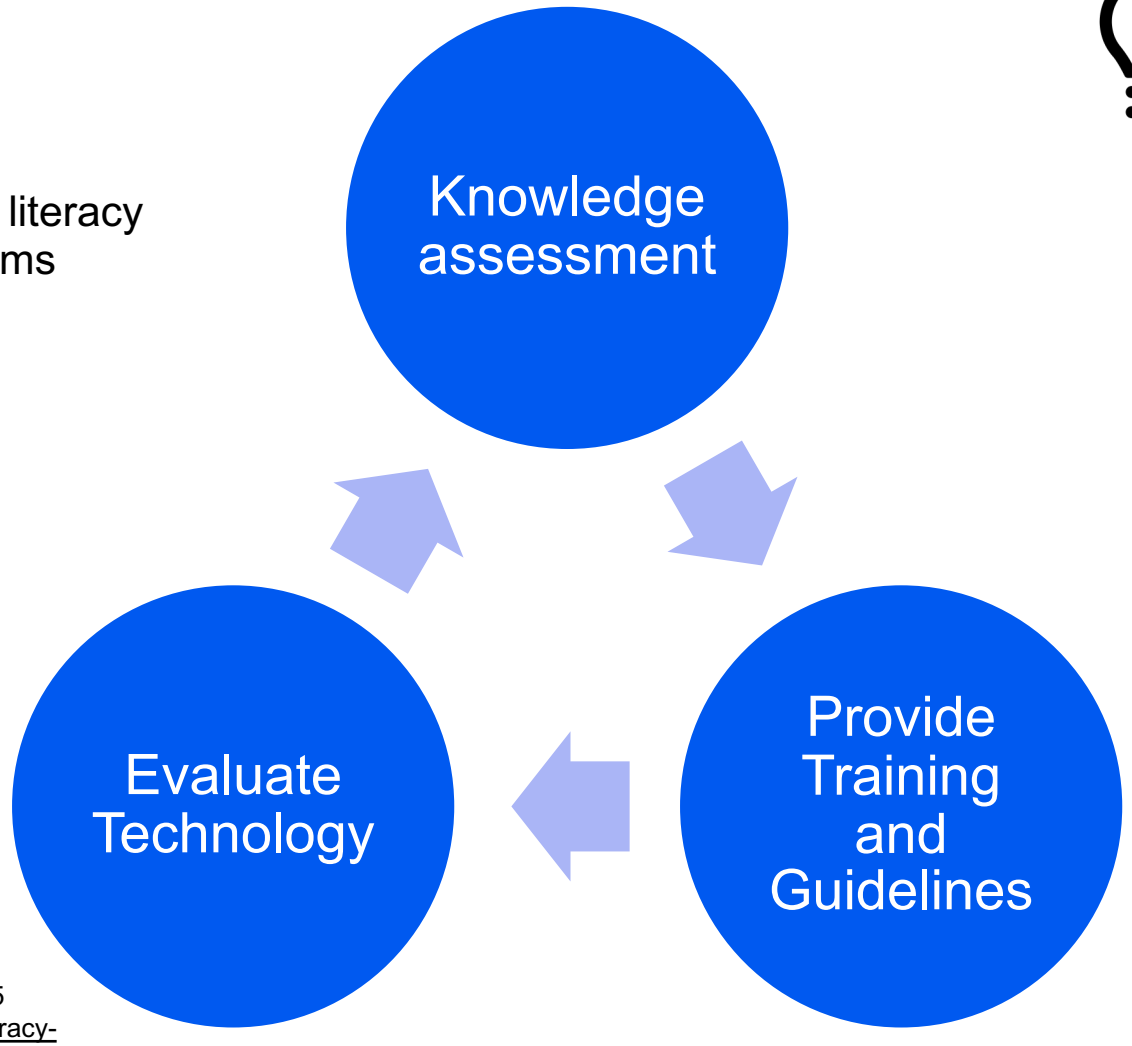
AI literacy

Rundfunk und Telekom Regulierungs-GmbH (RTR-GmbH), Provider obligations in the AI Act, <https://www.rtr.at/rtr/service/ki-servicestelle/ai-act/Provider_obligations.en.html>.

Rundfunk und Telekom Regulierungs-GmbH (RTR-GmbH), AI Act: Deployer Obligations, <https://www.rtr.at/rtr/service/ki-servicestelle/ai-act/Deployer_obligations.en.html>.

AI literacy – Providers and Deployers

- Ensure a sufficient level of AI literacy of persons operating AI systems
- Consider
  - technical knowledge,
  - experience,
  - education and
  - training.



See:
Living Repository of AI Literacy Practices for examples[1]

- Purpose and limitations of the System;
- How to use it (how to prompt);
- Do's and Dont's;
- Ethics
- awareness about risks / possible harm

EC, AI Literacy - Questions & Answers, 18.08.2025 <https://digital-strategy.ec.europa.eu/en/faqs/ai-literacy-questions-answers>.

1: *EC*, Living repository to foster learning and exchange on AI literacy, <https://digital-strategy.ec.europa.eu/en/library/living-repository-foster-learning-and-exchange-ai-literacy>.
Rappenglück/Vonthien, RDi 2025, 398.

Art 3 Num 56 , Art 4 AI-Act.

Provider and Deployer obligations

Transparency

Rundfunk und Telekom Regulierungs-GmbH (RTR-GmbH), Provider obligations in the AI Act, <https://www.rtr.at/rtr/service/ki-servicestelle/ai-act/Provider_obligations.en.html>.

Rundfunk und Telekom Regulierungs-GmbH (RTR-GmbH), AI Act: Deployer Obligations, <https://www.rtr.at/rtr/service/ki-servicestelle/ai-act/Deployer_obligations.en.html>.

Transparency – Providers and Deployers

See: Guidelines and Code of Practice on transparent AI systems of the European Commission

Providers:

- **Inform** about interaction with AI
- Generated audio, image, video or text must be **marked** as generated by AI

Deployers:

- **inform** about operation of emotion recognition system / biometric categorisation system
- **disclose** deep fakes
- **disclose** if text is generated by AI if it shall inform the public about matters of public interest

Art 50 AI-Act.

European Commission (EC), Guidelines and Code of Practice on transparent AI systems, <https://digital-strategy.ec.europa.eu/en/faqs/guidelines-and-code-practice-transparent-ai-systems>.

Provider and Deployer obligations

Human oversight

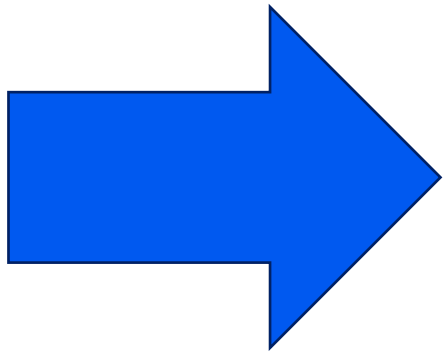
Rundfunk und Telekom Regulierungs-GmbH (RTR-GmbH), Provider obligations in the AI Act, <https://www.rtr.at/rtr/service/ki-servicestelle/ai-act/Provider_obligations.en.html>.

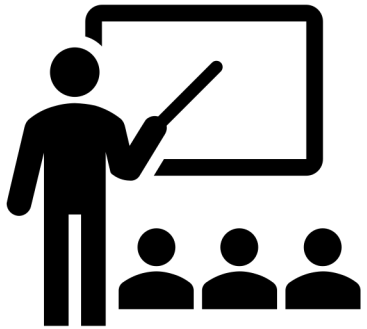
Rundfunk und Telekom Regulierungs-GmbH (RTR-GmbH), AI Act: Deployer Obligations, <https://www.rtr.at/rtr/service/ki-servicestelle/ai-act/Deployer_obligations.en.html>.

Human oversight – Providers and Deployers (high-risk)

Humans:

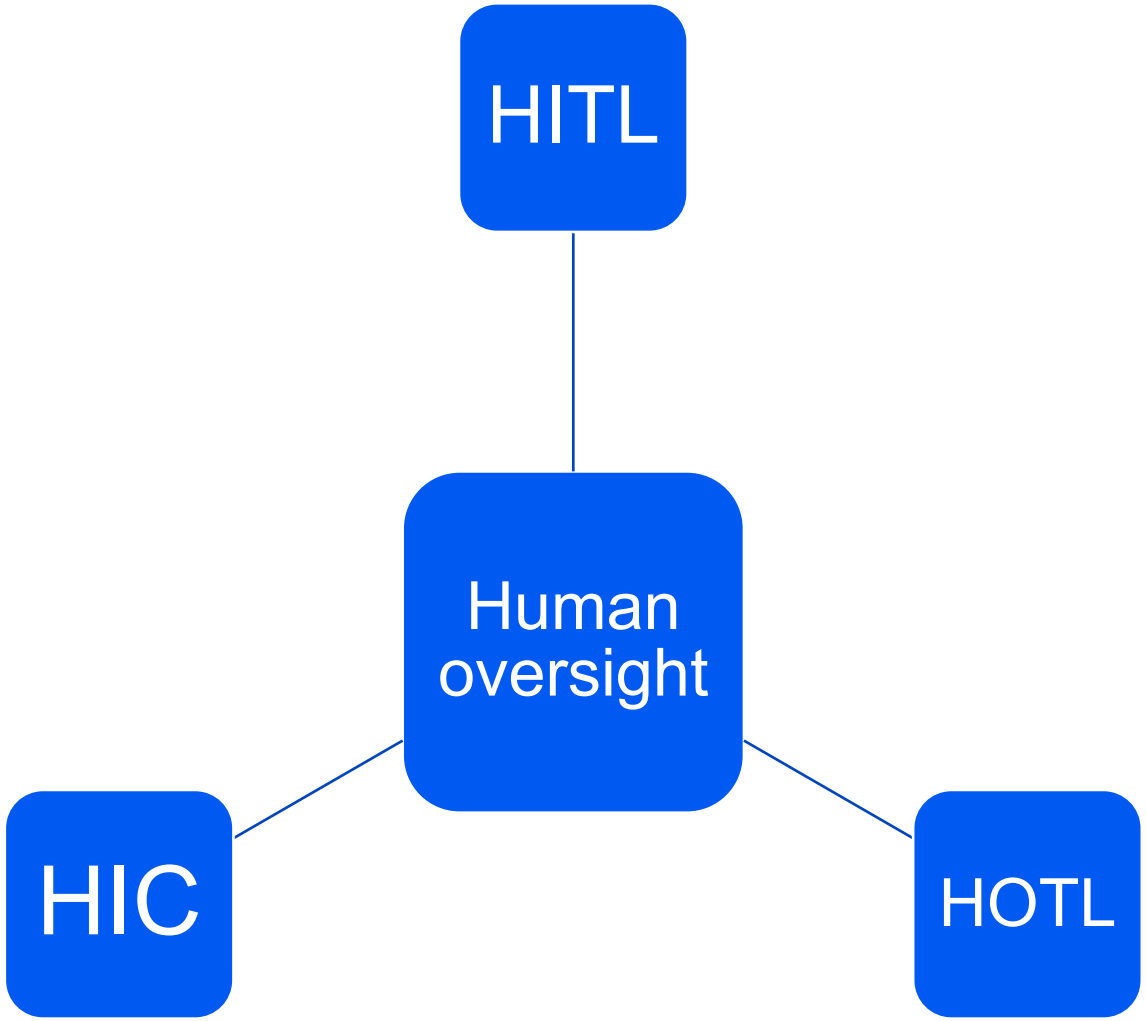
- are aware of **automation bias**,
- correctly **interpret output,**
- **can decide** not to use AI System,
- interviene with/**stop** the AI System.





AI Literacy!

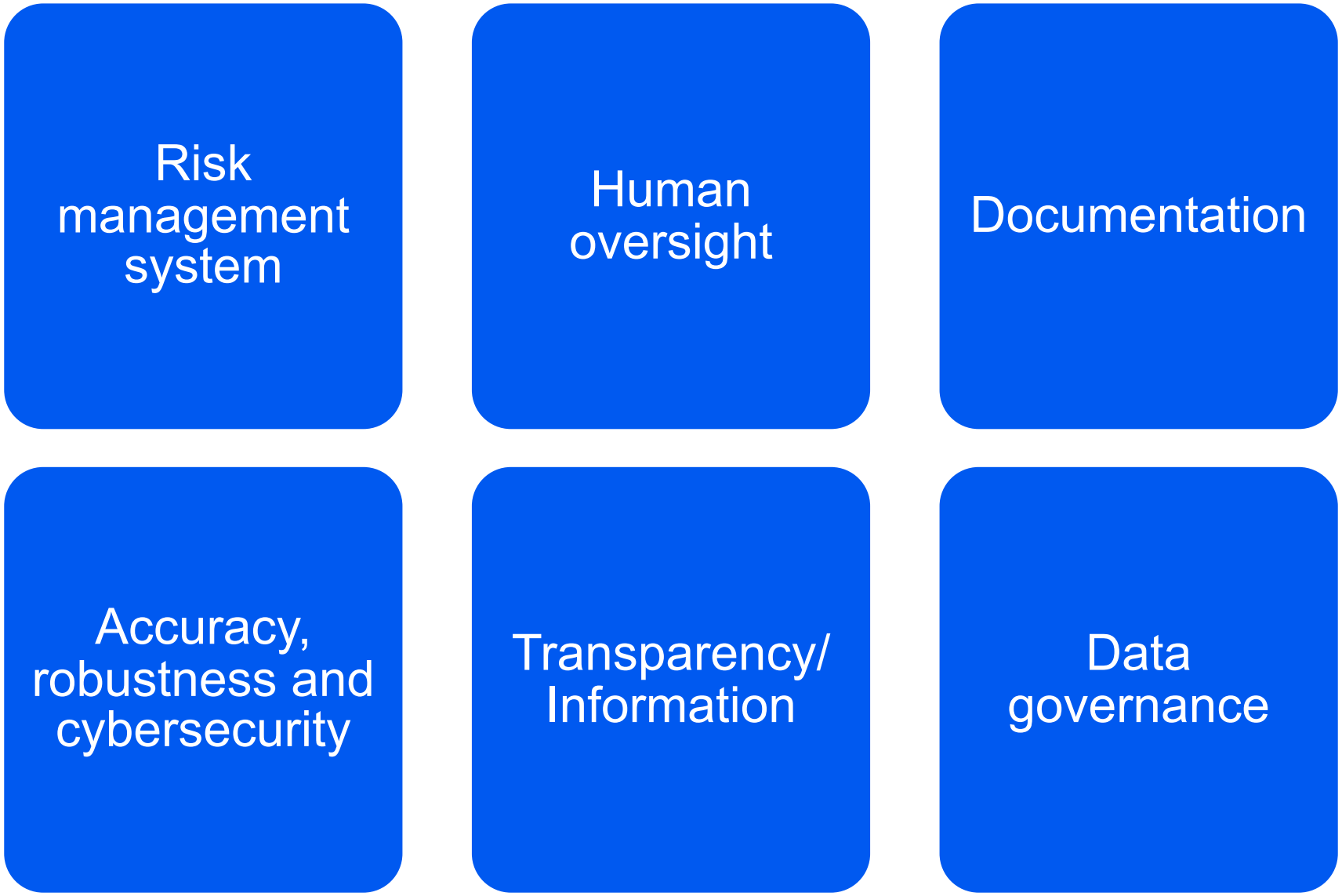
Human oversight – Providers and Deployers (high-risk)



- Human-in-the-loop (**HITL**): capability for human intervention in every decision cycle of the system
- human-on-the-loop (**HOTL**): capability for human intervention during the design cycle of the system and monitoring the system's operation
-
- human-in-command (**HIC**): capability to oversee the overall activity of the AI system and the ability to decide when and how to use the system in any situation

High-Level Expert Group on Artificial Intelligence (HLEG), Ethics guidelines for trustworthy AI, 08.04.2019.

Requirements for high-risk AI systems



Art 8 - 15 AI-Act.

AI and Privacy

General Data Protection Regulation **applies** to personal data processed in connection with AI!

AI-Act:	Data governance	Documentation	Transparency/ Information	Human oversight	[…]
GDPR:	Processing principles	Documentation	Transparency/ Information	Data protection officer	[…]

Bausewein, Synergiepotenziale zwischen DSGVO und KI-VO für KI-System-Betreiber, Datenschutz und Datensicherheit - DuD 2025, 293–296.

AI and Privacy

Processing shall be **lawful only** if:

- consent is provided

- processing is necessary for :
  - performance of a contract,
  - compliance with a legal obligation,
  - protect vital interests,
  - performance of a task carried out in the public interest/exercise of official authority,

- based on legitimate interests

Legitimate interests are **not** eligible, if special categories of data (e.g. health data) are processed!

In that case ?

- data made public **by data subjects** (how to validate?),
- scientific research – if there is a Union or Member State **law**.

AI and Privacy

Accountability: The controller must be able to demonstrate GDPR-compliance.

Art 5 Sec 2 GDPR.

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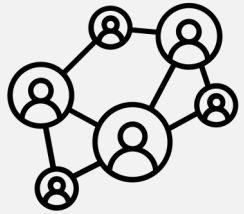
Sovereignty

Ethics and Trustworthiness



Connecting the Ecosystem

Intellectual Property Rights - Basic concepts

- IPR typically refer to ©, patents, trademarks, industrial designs and geographical indications
- ‘property’
  - ownership
  - utilization – economic value
- subject of IPR is the ‘work’, the ‘creation’
- entitlement to the ‘author’, to the ‘creator’

Expression vs. Ideas

- © protects
- not the ideas,
- nor their style,
- nor their content, but
- ***form of expression***

Common Law - © Vs civil law - authors' rights

- Authors' rights - part of copyright law (French term droit d'auteur, German Urheberrecht)
- XVIII. century – both copyright (common law systems) and authors' rights (civil law systems) aimed to address the inequality in relations between authors and publishers, thus provide for a monopoly right granted to the author for a limited term
- both systems require certain level of creativity (US Feist v. Rural case; French and German copyright laws protect "works of the mind" („oeuvres de l'esprit"; „geistige Schöpfungen")
- civil law: strong link between the rights and the person of the author (but: software, advertisements) while protecting the moral rights of authors as an integral part of their personality
- common law jurisdictions: accept corporate ownership of copyright; the employer owns the copyright in work created by employees (while in civil law – employer was only granted an exclusive licence to the economic rights in work created by employees)

Relevance: AI providers typically NOT under civil law jurisdiction

‚Work' under © protection

"literary and artistic works" including *every production* in the literary, scientific and artistic domain, *whatever may be the mode or form of its expression* (Berne Convention Article 2 (1))

All literary, scientific and artistic creations that are

- **of individual and original nature**
- **derived from the intellectual activity of the author**

no regard for their quantitative, qualitative, or aesthetic characteristics or any judgment regarding the standard of creation.

Not protected are typically official texts of a legislative, administrative and legal nature and official translations of such texts.

Certain © protection is provided for diligence during the creation of a work - e.g. database rights – (neither creativity, nor originality is required – limited protection)

Copyright protection is obtained automatically without the need for registration or other formalities (voluntary registration of works – in many countries, these systems can help solve disputes over ownership or the creation of registration certificates

What kind of ‘rights’ does © provide?

Economic rights

- to authorize or prevent uses of the work
  - reproduction;
  - public performance;
  - recording;
  - broadcasting;
  - communication to the public (i.e. transmission via broadband networks);
  - translation; and
  - adaptation
- to receive remuneration for the use of the work

Moral rights - the non-economic interests of the author

- the right to claim authorship of a work – the right of paternity
- the right to oppose changes to a work that could harm the creator's reputation – the right integrity

The term of copyright protection

- Copyright
  - Economic rights: > 50 years after the creator's death – EU, US, etc.: 70 years
  - Moral rights: in Europe perpetual - not possible for authors to assign or waive their moral rights
- Related rights
  - 50 years after the performer's death
  - limited scope

International Legal Context: Copyright Treaties

WIPO World Intellectual Property Organization of the UN) administers 26 treaties including the WIPO Convention (1967)

- Paris Convention (1883)
- Berne Convention (1886)
- Brussels Convention
- Madrid Agreement (Indications of Source)
- Marrakesh VIP Treaty
- Nairobi Treaty
- Beijing Treaty on Audiovisual Performances

- Patent Law Treaty
- Phonograms Convention
- Rome Convention
- Singapore Treaty on the Law of Trademarks
- Trademark Law Treaty
- Washington Treaty
- WIPO Copyright Treaty (WCT)
- WIPO Performances and Phonograms Treaty (WPPT)

The EU copyright legislation

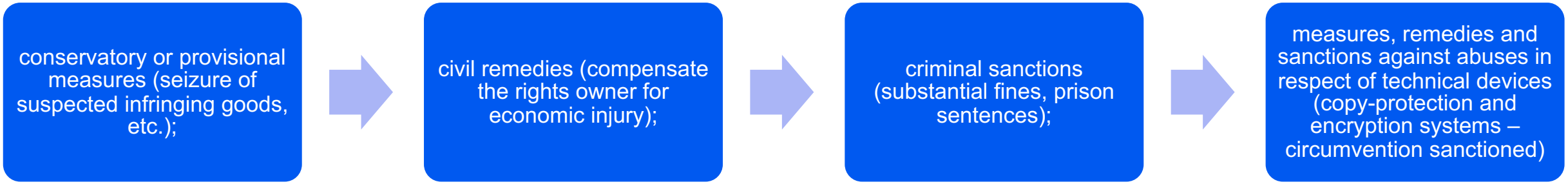
THE EU COPYRIGHT LAW CONSISTS OF 13 DIRECTIVES AND 2 REGULATIONS, HARMONISING THE ESSENTIAL RIGHTS OF AUTHORS, PERFORMERS, PRODUCERS AND BROADCASTERS

1. **Copyright in the Digital Single Market (DSM Directive) (2019)**
2. Directive on television and radio programmes (2019)
3. Regulation on cross-border portability of online content services (2017)
4. Management of Copyright and Related Rights (2014)
5. Orphan works (2012)
6. Rental and lending rights (2006)
7. Term of Protection (2011)
8. **Infosoc Directive (2011)**
9. Satellite and Cable (1993)
10. Resale right (2001)
11. Protection of Computer Programs (2009)
12. Protection of Databases (1966)
13. **E-Commerce** (2000)
14. Enforcement (2004)
15. Conditional Access Directive (1998)

Copyright Enforcement - Collective Management Organizations (CMOs)

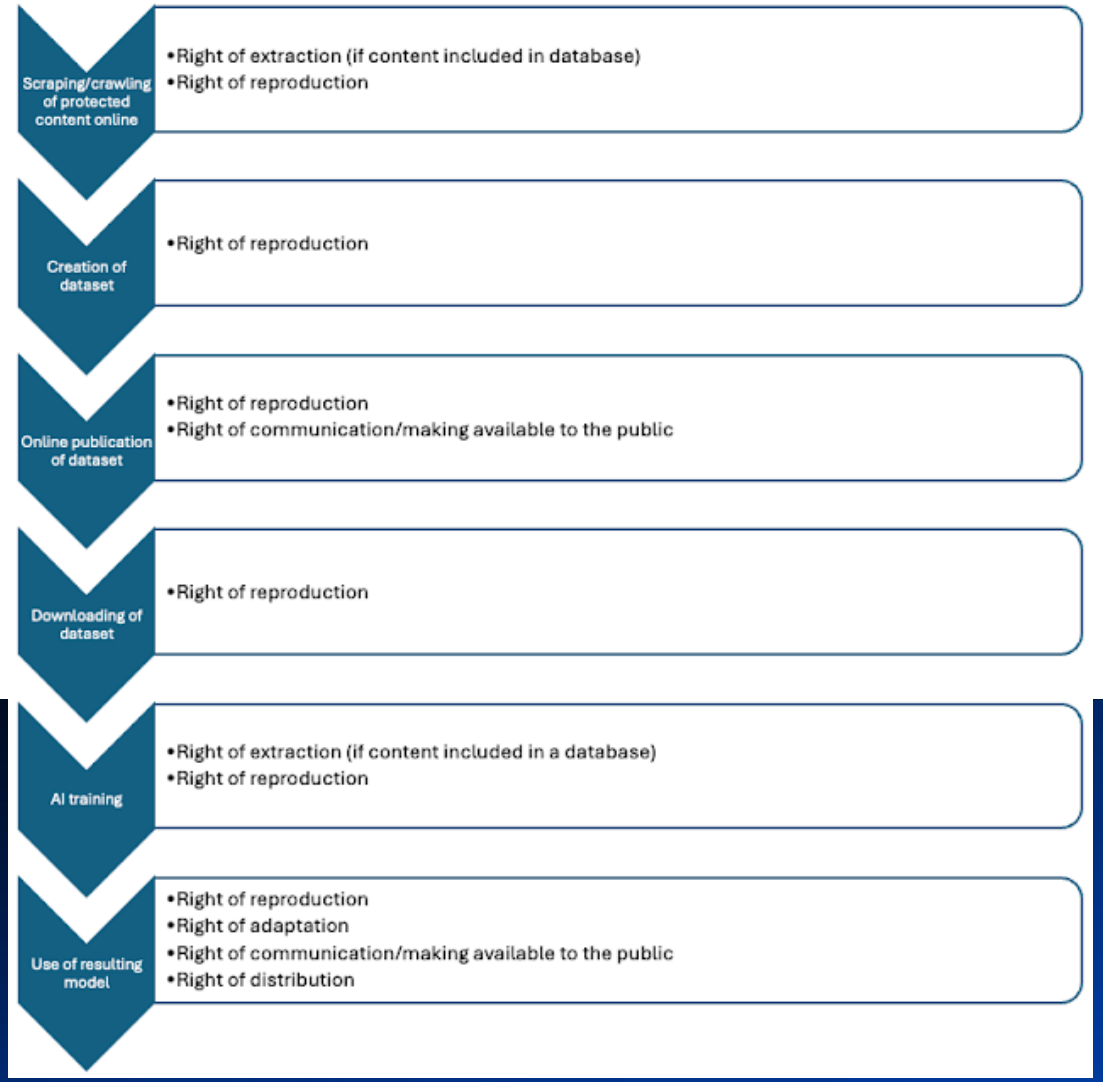
CMOs (on behalf of authors and other rightsholders) monitor uses of works+negotiating licenses +collecting remuneration+distributing to creators/copyright holders (typical: musical and literary works

Enforcement measures and sanctions



AI & Copyright – acts of use

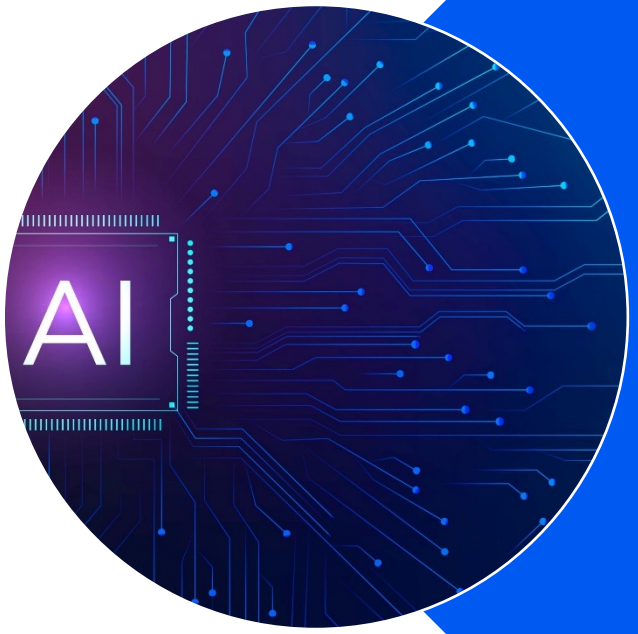
(Rosati 2025)



AI & Copyright: Main issues under EU law

USING COPYRIGHT-PROTECTED WORKS TO TRAIN GENERATIVE AI (INPUT SIDE): Training of general-purpose AI	GenAI developers copy and store vast datasets CDSM Directive's text and data mining (TDM) exceptions are misaligned with GenAI Rightsholders received no compensation
LEGAL STATUS OF AI-GENERATED OUTPUTS (OUTPUT SIDE)	Human Authorship AI-Assisted vs. AI-Generated Creative Control Is the Threshold

AI & Input data

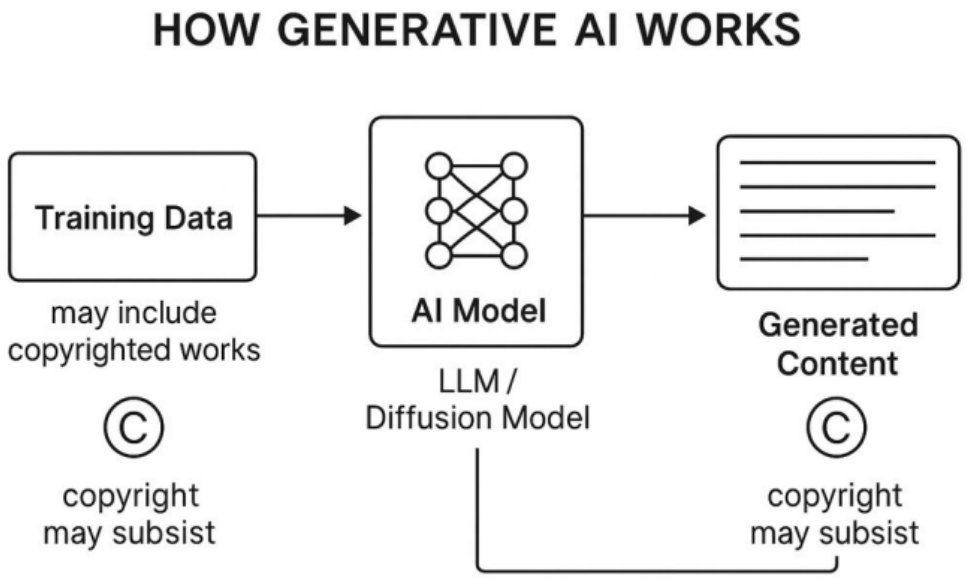


"Utilizing data for training purposes encompasses a comprehensive procedure of assimilating various forms of information, such as texts, images, and additional content, sourced from accessible platforms."

"This process may involve copying content, potentially violating copyright law's exclusive reproduction rights."

(Lucchi 2024)

Generative AI & Copyright



(EP Study 2025, p. 20)

Data Mining

Data mining is the process, whereby software algorithms and statistical methods are utilized to spot trends and patterns within vast amounts of data, going beyond simple analysis.

„any automated analytical technique aimed at analysing text and data in digital form in order to generate information which includes but is not limited to patterns, trends and correlations”
(Art. 2 Directive on Copyright in the Digital Single Market [**DSM**] (2019/790)

- very broad definition
- covers all sorts of Natural Language Processing (NLP) applications

DSM includes 2 provisions allowing for **text and data mining (TDM) exceptions**

- **TDM for research (art. 3)**
- **TDM for other purposes (art. 4)**

TDM for scientific research (mandatory exception) - Art. 3 DSM

Beneficiaries

- research organisations
- cultural heritage institutions
- NO → institutions controlled by commercial undertakings

Purposes

- research on a non-profit basis
- public-interest mission
- public-private research partnerships

Permitted acts of use

- reproductions of copyright-protected works
- reproductions of subject matter of related rights
- extractions from databases

Requirement: "lawful access" to data source material

General TDM Exception (mandatory exception) – Art. 4 DSM

Beneficiaries: everyone (without restrictions)

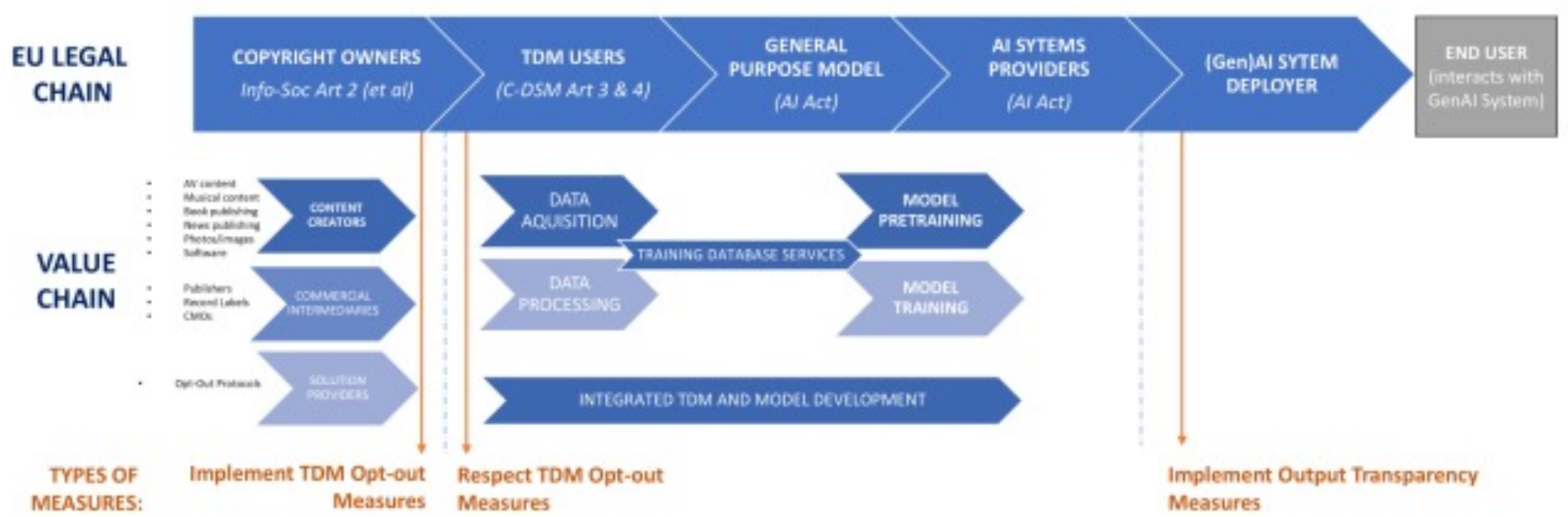
Permitted acts:

- reproductions of copyright-protected works
- reproductions of subject matter of related rights
- extractions from databases

Purpose: for any kind of purpose

Requirement: lawful access

Condition: *Mining allowed unless explicitly denied by rights holders (opt-out)*



EU Legal Chain

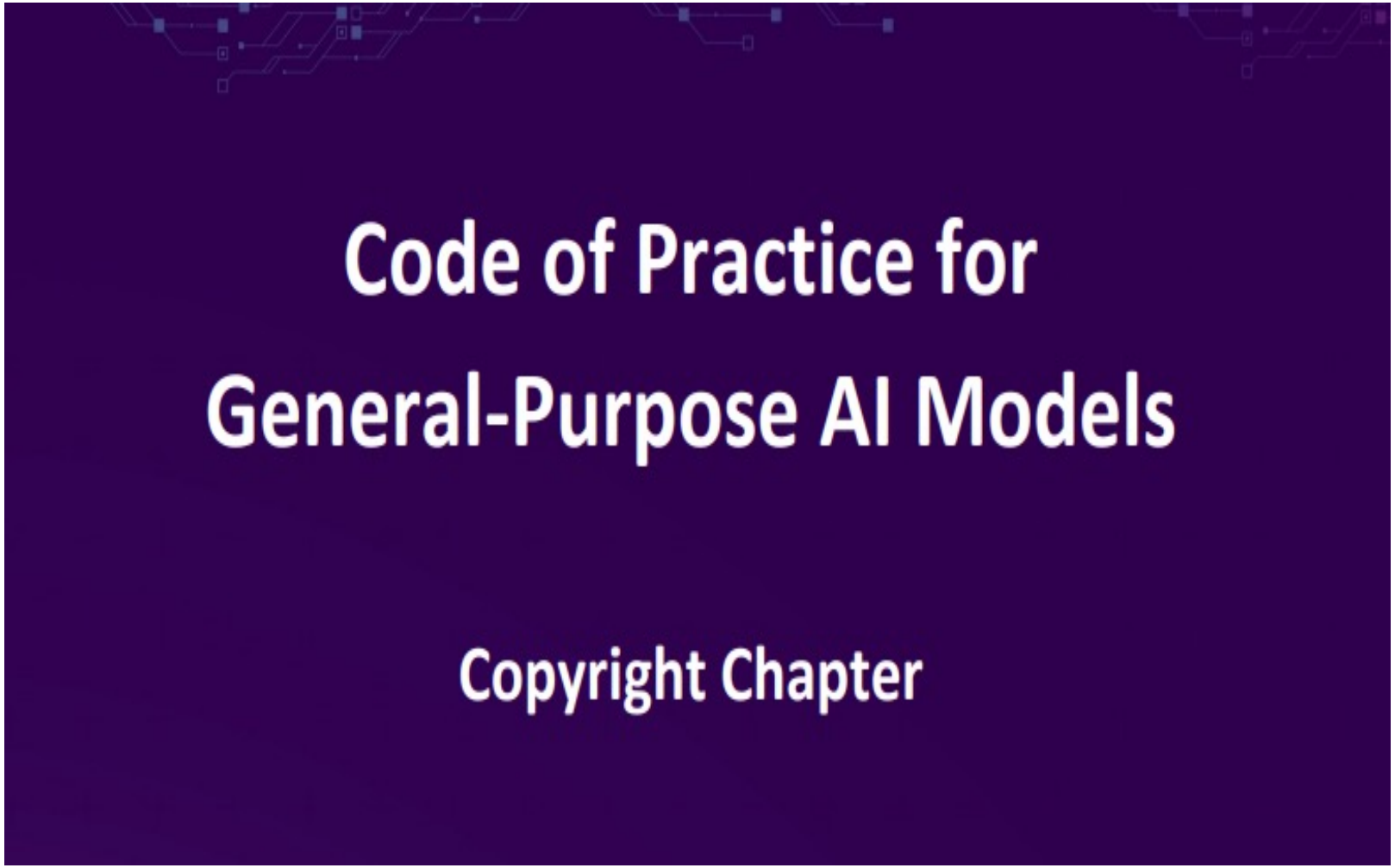
(European Union Intellectual Property Office, 2025)

AI ACT & TDM

Obligations for providers of general-purpose AI models (Art. 53 1. (c), (d) AIA)

(c) put in place a policy to comply with Union law on copyright and related rights, and in particular to identify and comply with, including through state-of-the-art technologies, a reservation of rights expressed pursuant to Article 4(3) of Directive (EU) 2019/790;

(d) draw up and make publicly available a sufficiently detailed summary about the content used for training of the general-purpose AI model, according to a template provided by the AI Office.



Signatories of Code of Practice

- Accexible
- AI Alignment Solutions
- Aleph Alpha
- Almawave
- Amazon
- Anthropic
- Bria AI
- Cohere
- Cyber Institute
- Domyn
- Dweve
- Euc Inovação Portugal
- Fastweb
- Google
- Humane Technology
- IBM
- Lawise
- LINAGORA
- Microsoft
- Mistral AI
- Open Hippo
- OpenAI
- Pleias
- re-inventa
- ServiceNow
- Virtuo Turing
- WRITER

Commitment 1 Copyright policy

Signatories commit to drawing up, keeping up-to-date and implementing such a copyright policy.

Measure 1.1 Draw up, keep up-to-date and implement a copyright policy

Measure 1.2 Reproduce and extract only lawfully accessible copyright-protected content when crawling the World Wide Web

Measure 1.3 Identify and comply with rights reservations when crawling the World Wide Web

Measure 1.4 Mitigate the risk of copyright-infringing outputs

Measure 1.5 Designate a point of contact and enable the lodging of complaints

Opt-out from AI training use

- **Technical means:** e.g. Robots Exclusion Protocol (REP), TDMRep, digital watermarks, metadata standards such as C2PA or ISCC
- **Legal measures:** e.g. explicit terms of use on websites or license models with AI developers
- **Combination solutions:** Many rely on a mixture of technical and legal protection strategies

Evolving market for opt-out solutions

(See: European Commission Call for tenders EC-CNECT/2025/OP/0002 - Study to assess the feasibility of a central registry of Text and Data Mining opt-out expressed by rightsholders (2025))

Legal disputes & Litigations (ongoing)

OPENAI SORA UPDATE LAUNCH (OCT 2025)

US COPYRIGHT CLASS ACTION AGAINST OPENAI (2023) (TREMBLAY P. AND AWAD M TREMBLAY P. AND AWAD M. V. . V. OPENAI INC. ET AL OPENAI INC. ET AL,, NO. 3:23-CV-03223) NO. 3:23-CV-03223

LIKE COMPANY V. GOOGLE IRELAND (CJEU CASE C-250/25)

DISNEY AND UNIVERSAL V. MIDJOURNEY (US DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA)

WARNER BROS. DISCOVERY V. MIDJOURNEY

Conclusion

EU TDM Rules Limitations

- Less freedom than anticipated
- For-profit TDM activities require content owner permission due to Article 4's opt-out clause

Impact on European Innovators

- Puts EU AI creators, journalists, and researchers at a disadvantage
- Comparison with the US, where for-profit TDM is often considered fair use

Need for Reevaluation

- Potential reconsideration of TDM rules to foster innovation and competitiveness in the EU?

(EP Study 2025)

Generative Artificial Intelligence Output

- Human Authorship is Central
- AI-Assisted vs. AI-Generated
- No Copyright for Prompts Alone
- No Legal Recognition of AI as Author
- Creative Control Is the Threshold
- Style Is Not Protected, But Risks Remain
- No General Exception for AI Outputs infridgements

(Lucchi 2025)

The Human Element as the Legal Bedrock

- the extent of human control over generation;
- the presence of creative choices in editing, structuring, or curation;
- the use of judgment in selecting or combining generated material;
- the degree of revision or refinement applied

AI Coypright & Ethics – cross-cutting issues

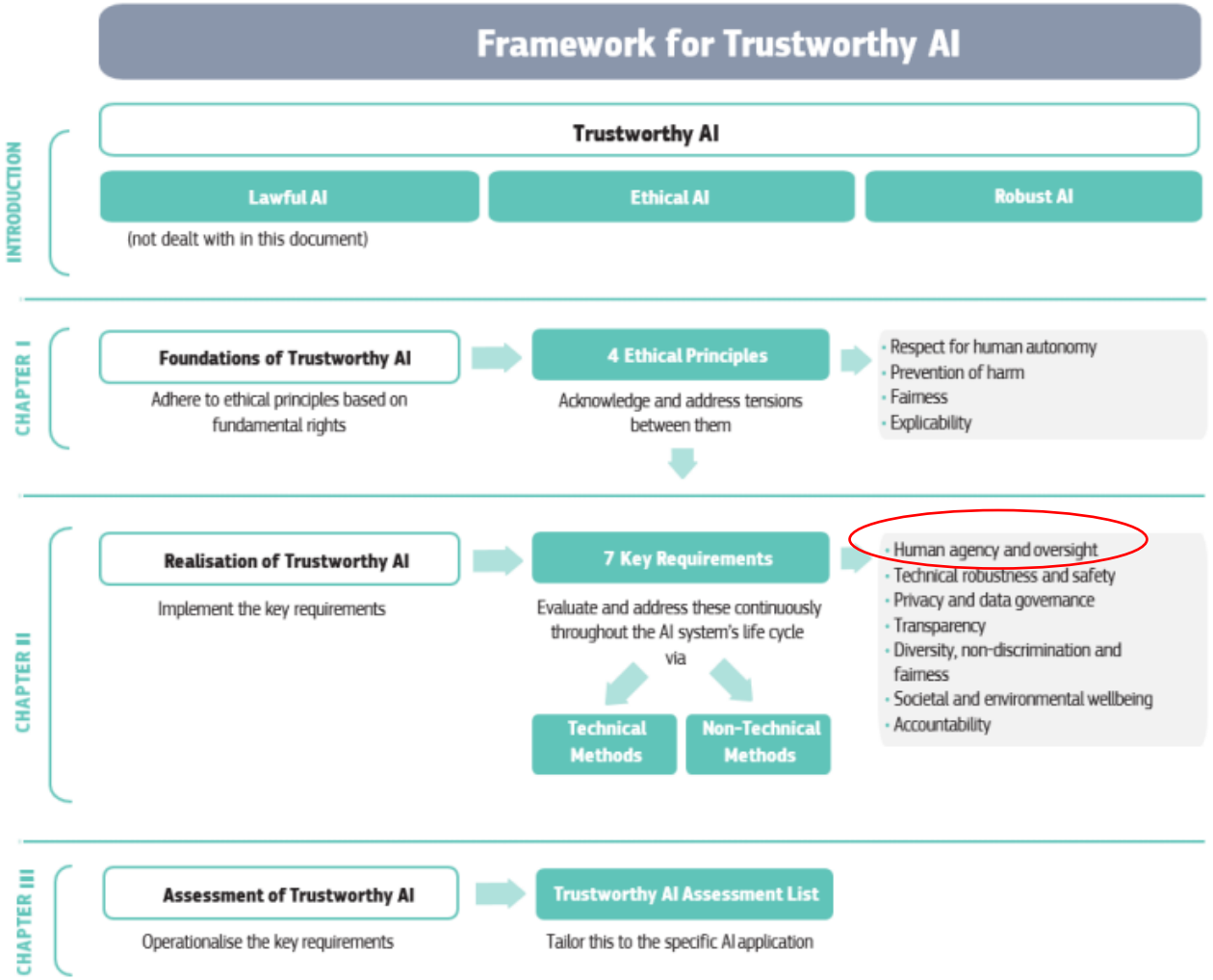


Figure 1: The Guidelines as a framework for Trustworthy AI

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Q & A

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