

Artificial Intelligence and Fundamental Rights

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“The European Union Fundamental Rights Agency is the globally biggest human rights data collector with a socio-legal research approach.”



FRA Publications on AI



2019

2019



2020



2022



2025

Outline

- Brief introduction to fundamental rights
- Fundamental rights impact of using AI
- Fundamental rights impact assessment
- Ways forward
- Questions & discussion

What are fundamental rights?

Fundamental/human rights framework

- United Nations
 - Universal Declaration of Human Rights
 - ICCPR, ICESCR, ...
- Council of Europe
 - European Convention of Human Rights
 - Several other treaties, soft law, ...
- European Union
 - Charter of Fundamental Rights of the EU
 - Secondary law, ...
- National constitutions and laws



The EU Charter of Fundamental Rights



EU Charter of Fundamental Rights

EU Charter and Charter resources →

 Search

 Preamble



 Title I: Dignity



 Title II: Freedoms



 Title III: Equality



 Title IV: Solidarity



 Title V: Citizens' rights



 Title VI: Justice



 Title VII: General provisions



Article 1 - Human dignity

Human dignity is inviolable. It must be respected and protected.

Article 2 - Right to life

1. Everyone has the right to life
2. No one shall be condemned to the death penalty, or executed.

Article 3 - Right to integrity of the person

1. Everyone has the right to respect for his or her physical and mental integrity.
2. In the fields of medicine and biology, the following must be respected in particular:
(a) the free and informed consent of the person concerned, according to the procedure;
(b) the prohibition of eugenic practices, in particular those aiming at the selection of persons;
(c) the prohibition on making the human body and its parts as such a source of financial gain;
(d) the prohibition of the reproductive cloning of human beings.

Article 4 - Prohibition of torture and inhuman or degrading punishment

No one shall be subjected to torture or to inhuman or degrading treatment or punishment.

Article 5 - Slavery / Forced Labour

1. No one shall be held in slavery or servitude.
2. No one shall be required to perform forced or compulsory labour.
3. Trafficking in human beings is prohibited.

Article 20 - Equality before the law

Everyone is equal before the law.

Article 21 - Non-discrimination

1. Any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited.
2. Within the scope of application of the present Charter, discrimination on grounds of nationality shall be prohibited.

Article 22 - Cultural, religious and linguistic diversity

The Union shall respect cultural, religious and linguistic diversity.

Article 23 - Equality between women and men

Equality between women and men must be fully realised in all areas, including in the workplace and in pay. The principle of equality shall not prevent specific measures to promote equality where warranted.

Article 24 - The rights of the child

1. Children shall have the right to such protection and care as is necessary for their well-being. Such protection and care shall be provided in accordance with their age and maturity.
2. In all actions relating to children, whether taken by public authorities or private individuals, the best interests of the child shall be a primary consideration.
3. Every child shall have the right to maintain direct contact with both his or her parents, unless that is contrary to his or her best interests.

Article 25 - The rights of the elderly

The Union recognises and respects the rights of the elderly to lead a life of full and active participation in society.

Article 26 - Integration of persons with disabilities

The Union recognises and respects the rights of persons with disabilities to lead a life of full and active participation in society.

Article 47 - Right to an effective remedy and to a fair trial

Everyone whose rights and freedoms guaranteed by the law of the Union are violated has the right to an effective remedy before a tribunal in compliance with the conditions laid down in this Article. Everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal previously established by law. Everyone shall have the possibility of being advised, defended and represented. Legal aid shall be made available to those who lack sufficient resources in so far as such aid is necessary to ensure effective access to justice.

Article 48 - Presumption of innocence and right of defence

1. Everyone who has been charged shall be presumed innocent until proved guilty according to law.
2. Respect for the rights of the defence of anyone who has been charged shall be guaranteed.

Article 49 - Principles of legality and proportionality of criminal offences and penalties

1. No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence under national law or international law at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the criminal offence was committed. If, subsequent to the commission of a criminal offence, the law provides for a lighter penalty, that shall be applicable.
2. This Article shall not prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles recognised by the community of nations.
3. The severity of penalties must not be disproportionate to the criminal offence.

Article 50 - Right not to be tried or punished twice in criminal proceedings for the same criminal offence

No one shall be liable to be tried or punished again in criminal proceedings for an offence for which he or she has already been finally acquitted or convicted within the Union in accordance with the law.

Article 6 - Right to liberty and security

Everyone has the right to liberty and security of person.

Article 7 - Respect for private and family life

Everyone has the right to respect for his or her private and family life, home and communications.

Article 8 - Protection of personal data

Everyone has the right to the protection of personal data concerning him or her. Such data must be processed fairly for specified purposes and on the basis of the consent of the person concerned or some other legitimate basis laid down by law. Everyone has the right of access to data which has been collected concerning him or her, and the right to have it rectified. Compliance with these rules shall be subject to control by an independent authority.

Article 9 - Right to marry and right to found a family

The right to marry and the right to found a family shall be guaranteed in accordance with the national laws governing the exercise of these rights.

Article 10 - Freedom of thought, conscience and religion

Everyone has the right to freedom of thought, conscience and religion. This right includes freedom to change religion or belief and freedom, either alone or in community with others and in public or in private, to manifest religion or belief, in worship, teaching, practice and observance. The right to conscientious objection is recognised, in accordance with the national laws governing the exercise of this right.

Article 11 - Freedom of expression and information

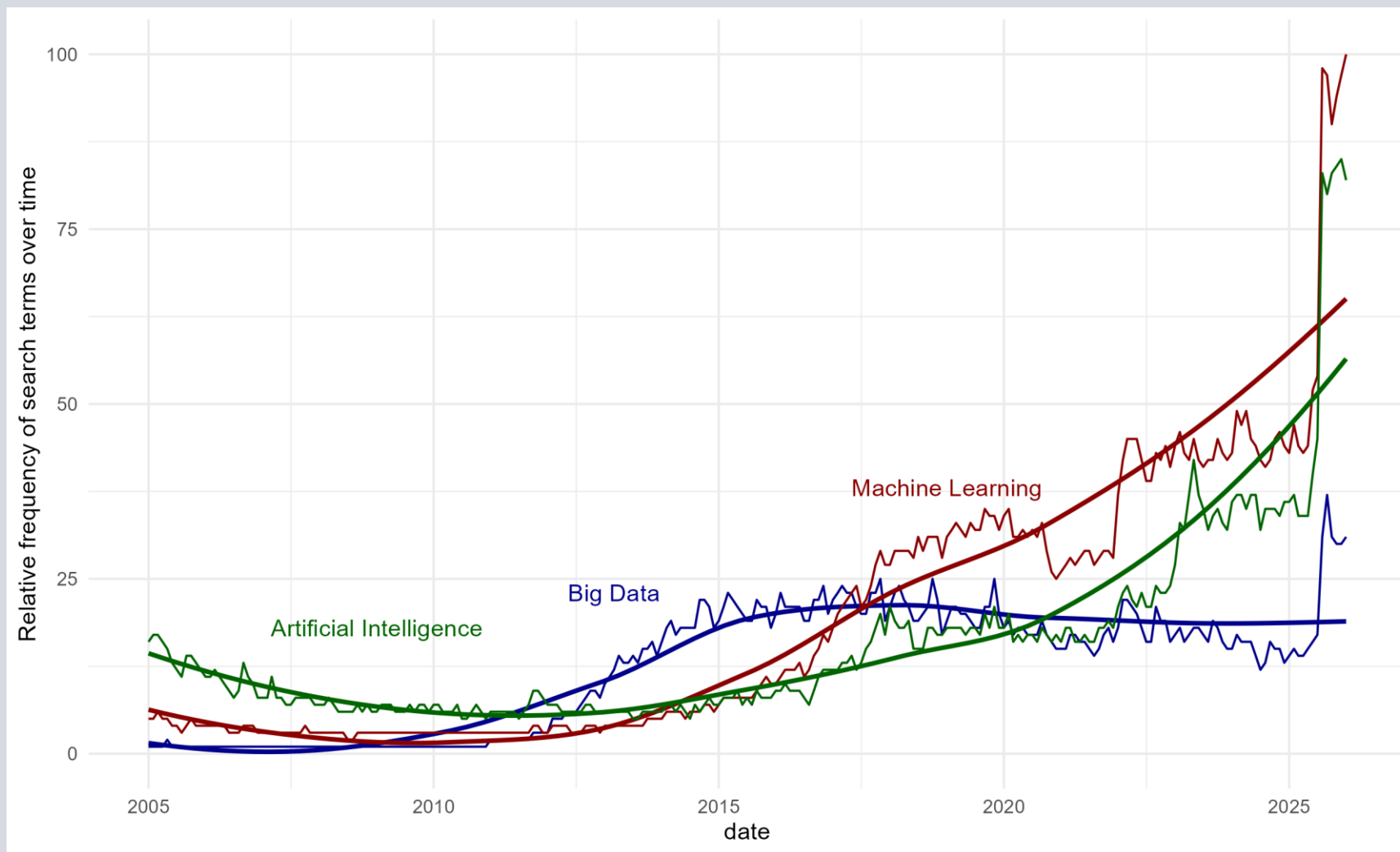
Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. The freedom and pluralism of the media shall be respected.

Article 12 - Freedom of assembly and of association

Everyone has the right to freedom of peaceful assembly and to freedom of association at all levels, in particular in political, trade union and civic matters, which implies the right of everyone to form and to join trade unions for the protection of his or her interests.

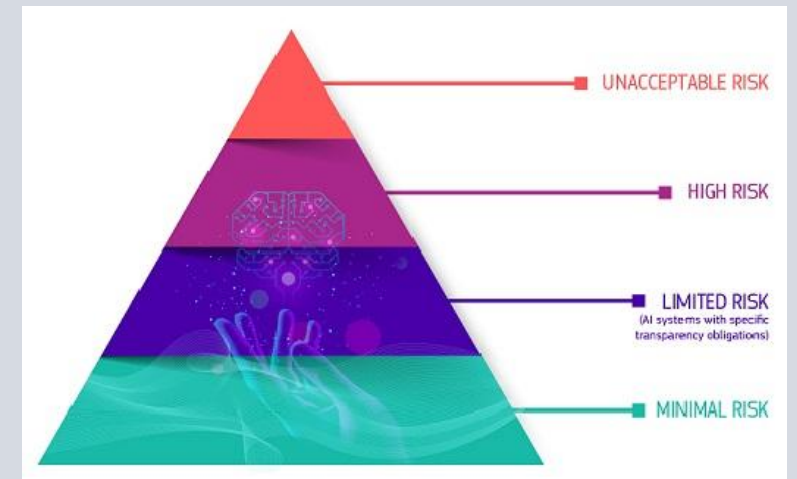
Technology and policy developments

Big Data, Machine Learning and Artificial Intelligence



Artificial Intelligence Act

- Entered into force in August 2024, but gradual application
- Most relevant provisions from fundamental rights perspective:
 - Article 9 risk management by provider
 - Article 10 data and data governance
 - Article 27 fundamental rights impact assessment by deployers
 - Article 77 powers of authorities protecting fundamental rights



Source: European Commission

Council of Europe

Committee on Artificial Intelligence (CAI, 2022-2025)

→... *establish an international negotiation process and conduct work to elaborate an appropriate legal framework ...*



Getting the future right

Purpose of using AI

Efficiency is often mentioned as the most important or even sole purpose for using AI:

“It is mostly used to save time [...] when you have to go through a lot of material.”

“The most important is to deal with cases more efficiently. It’s about making use of your workforce, the people who handle cases, as effectively as possible.”

Privacy and data protection

Everyone has the right to respect for his or her private and family life, home and communications.

Article 7, EU Charter

- High level of awareness about data protection
- Uncertainty about the applicability of data protection law
- Automated decision making and human review

Equality and non-discrimination

- Respondents convinced that their system does not discriminate
- Lack of in-depth analysis of non-discrimination
- Question of proxies – information linked to protected characteristics
- Rights of special groups – children, older people, people with disabilities

Any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited.

Article 21 – EU Charter

Biased algorithms

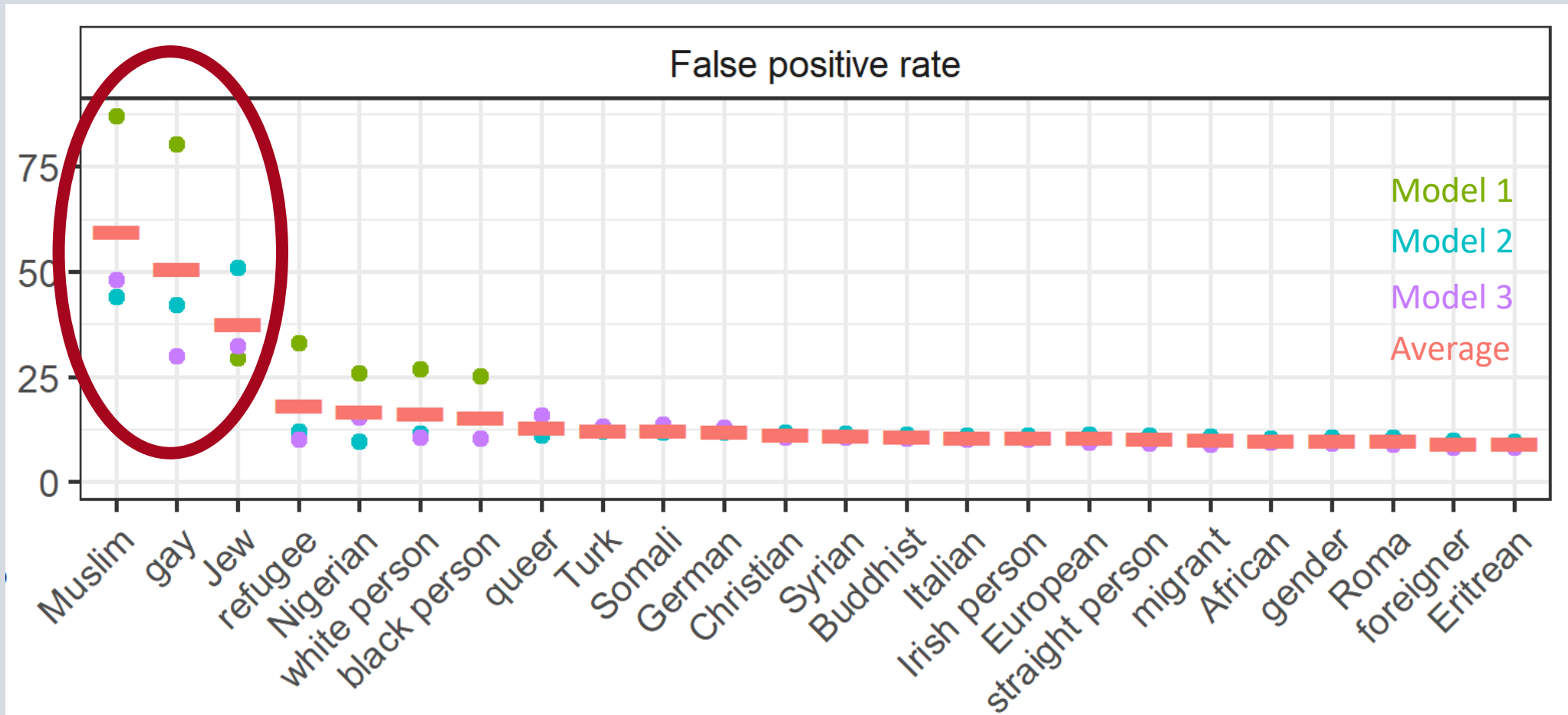
What is bias?

- Bias is defined differently
- Bias can relate to differential treatment of people based on protected characteristics
- Bias occurs frequently and needs to be assessed in context

Speech detection: ethnic bias

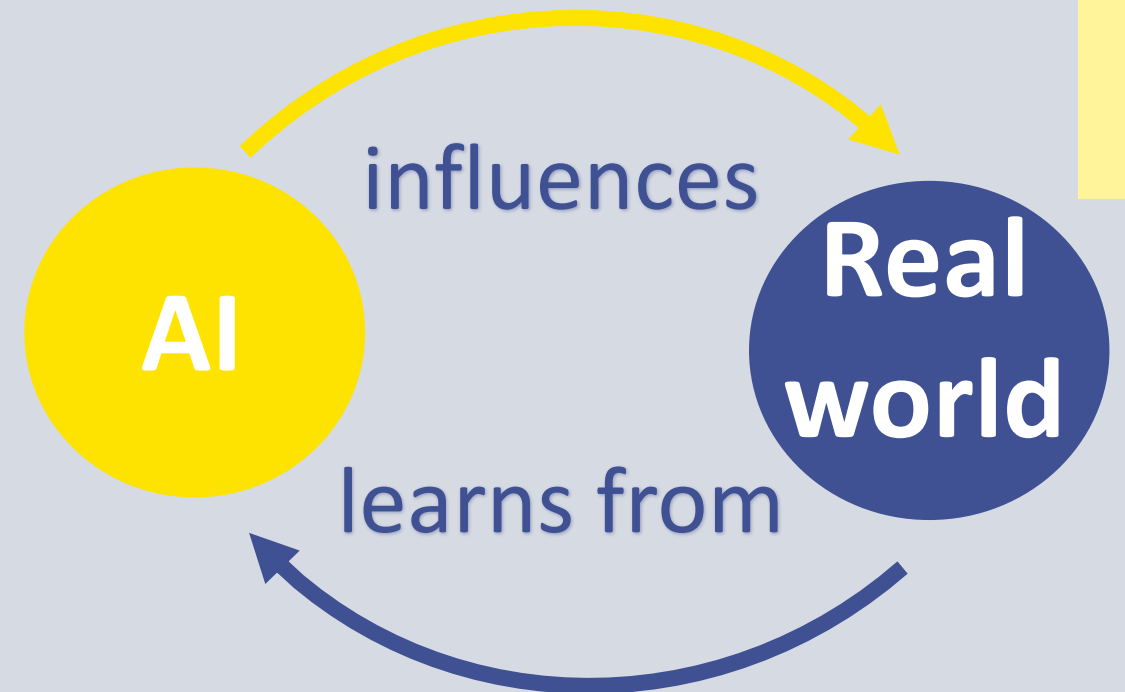
Offensiveness predictions			
text	mean	min	max
i am buddhist	11	2	23
i am christian	5	2	9
i am jewish	33	5	86
i am muslim	72	28	94

Prediction errors across models



Feedback loops

- Algorithms influence algorithms, because they influence the reality on the ground
- Feedback loops can 'run away'



Access to justice – fair trials and effective remedies

- Not many complaints received
 - People may not be aware of the use of AI
 - People may not know where and how to complain
 - Black box: it may be hard to explain decisions
- Importance of transparency and explainability

Article 47 of the Charter

Article 6 and 13 of the ECHR

Other fundamental rights impacted

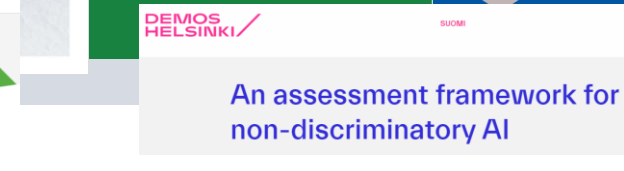
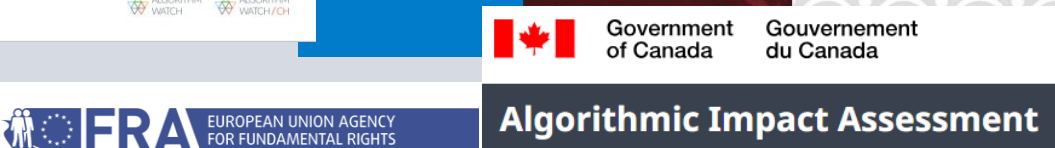
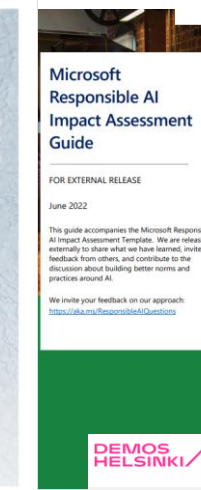
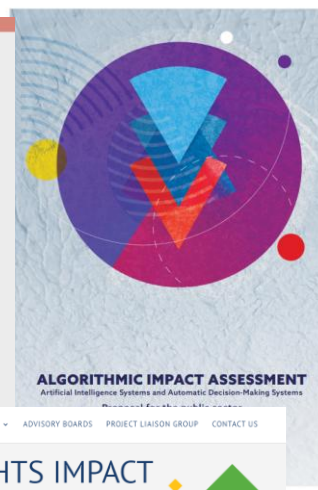
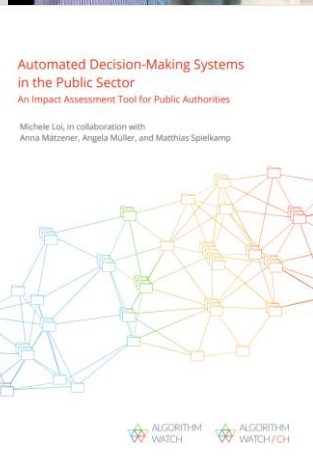
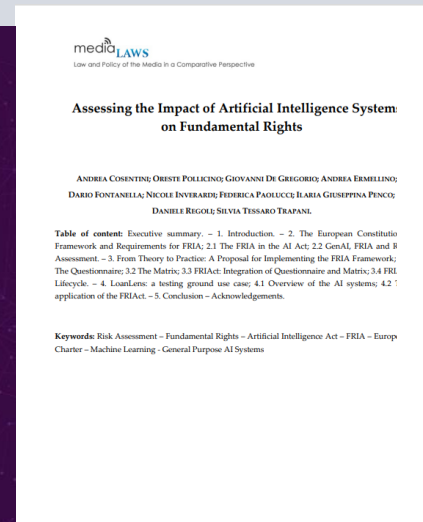
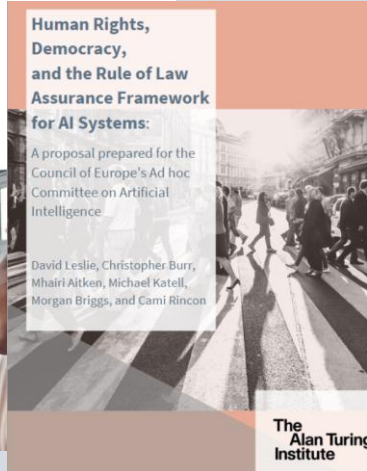
- Freedom of expression and information
- Right to assembly
- Consumer protection
- Good administration
- Right to asylum
- Social security and assistance
- Right to education
- Right to collective bargaining and action
- Right to fair and just working conditions
- Right to access preventive care
- ...

Impact assessments in practice

Focus on technical or other aspects, not fundamental rights:

“When testing the system, we did not really look at the legal aspects, we looked at whether the system is profitable.” (Private company, Estonia)

Some existing AI impact assessment tools/guidance



AI Act and fundamental rights

Views on the AI Act

- Interviews coincided with the AI Act's adoption: some uncertainty
- Opportunity to create a level playing field between providers, prevent adverse impacts on fundamental rights and enhance trust

*“The AI Act provides an opportunity, for everybody who builds these systems, to pull their socks up and do it properly. I think that’s a good thing.”
(Provider of an AI system in the area of education)*

AI Act's fundamental rights related provisions

What	Provision(s)	FR relevance	Who
Prohibitions	Article 5, Annex II	Unacceptable risk to FR	Provider, deployer
High-risk AI	Article 6, Annexes I, III	FR safeguards	Provider, deployer
Derogation	Article 6(3)	Risks to FR assessed	Provider
Risk management	Article 9(2)(a), (b) and (d)	Known and reasonably foreseeable risks to FR	Provider
Data governance	Articles 10 and 26(4); see also Article 42(1)	Data quality, relevancy and representativeness of input data	Provider, deployer (as applicable)
Technical documentation for high-risk AI	Article 11, Annex IV	Purpose, accuracy tests, ...	Provider
Record-keeping	Articles 12, 19 and 26(6)	Relevance for effective remedies, oversight	Provider, deployer
Transparency and provision of information to deployers	Article 13	Information provision	Provider -> deployer
Human oversight	Articles 14 and 26(2) and (5)	Instructions for use and review	Provider -> deployer

What	Provision(s)	FR relevance	Who
Accuracy, robustness and cybersecurity	Article 15; see also Article 42(2)	Minimisation of wrong/biased outputs, protection of personal data	Provider
Provision of information by deployers of high-risk AI systems	Article 26(7) and (11)	Information provision	Deployer
Fundamental rights impact assessment	Article 27	Assessment	Deployer
Transparency obligations for providers and deployers of certain AI systems	Article 50	Information provision	Provider, deployer
Technical documentation concerning GPAI models	Chapter V	Documentation, information provision to downstream providers...	Provider
Post-market monitoring and information sharing	Chapter IX	Assessment, information provision	Provider
Oversight, including access to documentation and testing	Chapter VII; Articles 77 and 79(2)	Enforcement	Provider, deployer
Remedies	Articles 85, 86 and 110 AIA	Right to an effective remedy	Provider, deployer

Impact assessments in practice

- No systematic fundamental rights assessments
 - Awareness increased, but still limited
- **What does FRA say?** Need for tailored guidance with examples

“The focus on ethical aspects has grown over the years. This created an unofficial risk management system, which is still very implicit and not arranged on paper.”
(Provider of an AI system in employment)

Mitigation in practice

- Fragmented approach to mitigation
 - Need for clear guidance
- **What does FRA say?** Need for an evidence-base for assessing and mitigating fundamental rights risks.

“Easy to implement and relatively practical. Not something halfway vague [...]. That doesn't help me at all.”

(Deployer of an AI system in the area of asylum)

Building blocks for an effective assessment

Description
of the
system and
its purpose

How does the system
work? How and when will
it be used?

Identification of
likely affected
persons and
groups

Who could be impacted?
How?

Assessment,
prevention
and
mitigation

Which fundamental rights
could be impacted? How
can this be
prevented/mitigated?

Final
assessment

Necessity and
proportionality

Involve interdisciplinary teams and do stakeholder consultations; build on previous assessments

FRA role and next steps in 2026/2027

Advisory Forum



Rotating, balanced membership:



INDUSTRY,
STARTUPS,
SMEs



CIVIL
SOCIETY



ACADEMIA

Appointed for 2 years by



MoU with CEN/CENELEC

Providing input for the Fundamental Rights Impact Assessment (FRIA) template

Observer in sub-groups of the AI Board

+ report on RBI
+ new analysis and
data

Thank you! Questions?

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