

# GETTING THE FUTURE RIGHT

# ARTIFICIAL INTELLIGENCE AND FUNDAMENTAL RIGHTS

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**“AI is a great thing but we must learn to use it.”**

(Private company, Spain)

**“There is a risk of having too much trust in the machine.”**

(Public administration, France)

Artificial intelligence (AI) is increasingly used in the private and public sectors, affecting daily life. Some see AI as the end of human control over machines. Others view it as the technology that will help humanity address some of its most pressing challenges. While neither portrayal may be accurate, concerns about AI’s fundamental rights impact are clearly mounting, meriting scrutiny of its use by human rights actors.

FRA’s report on *Getting the future right – Artificial intelligence and fundamental rights* provides a snapshot of the current use of AI-related technologies in the EU, and analyses its implications on fundamental rights. It focuses on use cases in four core areas – social benefits, predictive policing, health services and targeted advertising.

This summary presents the main insights outlined in the report.

## Defining AI

There is no universally accepted definition of AI. Rather than referring to concrete applications, it reflects recent technological developments that encompass a variety of technologies.

FRA’s research did not apply a strict definition of AI on the use cases it presents in the main report. For the interviews, AI was defined broadly, with reference to the definition provided by the European Commission’s High-Level Expert Group on Artificial Intelligence (AI HLEG):

“Artificial intelligence (AI) refers to systems that display intelligent behaviour by analysing their environment and taking actions – with some degree of autonomy – to achieve specific goals. AI-based systems can be purely software-based, acting in the virtual world (e.g. voice assistants, image analysis software, search engines, speech and face recognition systems) or AI can be embedded in hardware devices (e.g. advanced robots, autonomous cars, drones or Internet of Things applications).”

*This initial definition of AI HLEG was subject to further discussion in the group. See AI HLEG (2019), **A definition of AI: Main capabilities and disciplines.***

## What did the research cover?

FRA conducted fieldwork research in five EU Member States: Estonia, Finland, France, the Netherlands and Spain. It collected information from those involved in designing and using AI systems in key private and public sectors on how they address relevant fundamental rights issues.

The research – based on 91 personal interviews – gathered information on:

- the purpose and practical application of AI technologies;
- the assessments conducted when using AI and the applicable legal framework and oversight mechanisms;
- the awareness of fundamental rights issues and potential safeguards in place; and
- future plans.

In addition, 10 experts involved in monitoring or observing potential fundamental rights violations concerning the use of AI, including civil society, lawyers and oversight bodies, were interviewed.

For a more detailed description of the research methodology and the questions asked in the interviews, see Annex 1 to the main report, available on [FRA's website](#).

**“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.”**

(Public administration, Netherlands)

**“When testing the system, we did not really look at the legal aspects, we looked at whether the system is profitable.”**

(Private company, Estonia)

## FRA's work on AI, big data and fundamental rights

FRA's report on AI and fundamental rights is the main publication stemming from FRA's project on **Artificial intelligence, big data and fundamental rights**. The project aims to assess the positive and negative fundamental rights implications of new technologies, including AI and big data.

The report builds on the findings of a number of earlier papers:

- **Facial recognition technology: fundamental rights considerations in the context of law enforcement** (2019): this paper outlines and analyses fundamental rights challenges triggered when public authorities deploy live FRT for law enforcement purposes. It also briefly presents steps to take to help avoid rights violations.
- **Data quality and artificial intelligence – mitigating bias and error to protect fundamental rights** (2019): this paper highlights the importance of awareness and avoidance of poor data quality.
- **#BigData: Discrimination in data-supported decision making** (2018): this focus paper discusses how such discrimination can occur and suggests possible solutions.

As part of the project, FRA is also exploring the feasibility of studying concrete examples of fundamental rights challenges when using algorithms for decision making through either online experiments or simulation studies.

## Key findings and FRA opinions

New technologies have profoundly changed how we organise and live our lives. In particular, new data-driven technologies have spurred the development of artificial intelligence (AI), including increased automation of tasks usually carried out by humans. The COVID-19 health crisis has boosted AI adoption and data sharing – creating new opportunities, but also challenges and threats to human and fundamental rights.



Developments in AI have received wide attention by the media, civil society, academia, human rights bodies and policymakers. Much of that attention focuses on its potential to support economic growth. How different technologies can affect fundamental rights has received less attention. To date, we do not yet have a large body of empirical evidence about the wide range of rights AI implicates, or about the safeguards needed to ensure that the use of AI complies with fundamental rights in practice.

On 19 February 2020, the European Commission published a White Paper on Artificial Intelligence – *A European approach to excellence and trust*. It outlines the main principles of a future EU regulatory framework for AI in Europe. The White Paper notes that it is vital that such a framework is grounded in the EU's fundamental values, including respect for human rights – Article 2 of the Treaty on European Union (TEU).

FRA's report on AI and fundamental rights supports that goal by analysing fundamental rights implications when using AI. Based on concrete 'use cases' of AI in selected areas, it focuses on the situation on the ground in terms of fundamental rights challenges and opportunities when using AI.

The report is based on 91 interviews with officials in public administration and staff in private companies, in selected EU Member States. They were asked about their use of AI, their awareness of fundamental rights issues involved, and practices in terms of assessing and mitigating risks linked to the use of AI.

Moreover, 10 interviews were conducted with experts who deal, in various ways, with the potential fundamental rights challenges of AI. This group included public bodies (such as supervisory and oversight authorities), non-governmental organisations and lawyers.



## Legal framework

The overarching fundamental rights framework\* that applies to the use of AI in the EU consists of the Charter of Fundamental Rights of the EU (the Charter) as well as the European Convention on Human Rights.

Multiple other Council of Europe and international human rights instruments are relevant. These include the 1948 Universal Declaration of Human Rights and the major UN human rights conventions.\*\*

In addition, sector-specific secondary EU law, notably the EU data protection *acquis* and EU non-discrimination legislation, helps safeguard fundamental rights in the context of AI. Finally, the national laws of EU Member States also apply.

\* For more, see FRA (2012), **Bringing rights to life: The fundamental rights landscape of the European Union**, Luxembourg, Publications Office of the European Union.

\*\* These major conventions include: the 1966 International Covenant on Civil and Political Rights; the 1966 International Covenant on Economic, Social and Cultural Rights; the 1965 International Convention on the Elimination of All Forms of Racial Discrimination; the 1979 Convention on the Elimination of All Forms of Discrimination against Women; the 1984 Convention against Torture; the 1989 Convention on the Rights of the Child; the 2006 Convention on the Rights of Persons with Disabilities; and the 2006 International Convention for the Protection of All Persons from Enforced Disappearance.

For more on the universal international human rights law framework, including their enforcement mechanisms, see e.g. De Schutter, O. (2015), *International Human Rights Law: Cases, Materials, Commentary*, Cambridge, Cambridge University Press, 2nd edition.



## SAFEGUARDING FUNDAMENTAL RIGHTS – SCOPE, IMPACT ASSESSMENTS AND ACCOUNTABILITY

### Considering the full scope of fundamental rights with respect to AI

**Using AI systems engages a wide range of fundamental rights, regardless of the field of application. These include – but also go beyond – privacy, data protection, non-discrimination and access to justice.**

The EU Charter of Fundamental Rights (the Charter) became legally binding in December 2009 and has the same legal value as the EU treaties. It brings together civil, political, economic and social rights in a single text. Pursuant to Article 51 (1) of the Charter, the institutions, bodies, offices and agencies of the Union have to respect all the rights as embodied in the Charter. EU Member States have to do so when they are implementing Union law. This applies equally to AI as to any other field.

The fieldwork of this research shows that a large variety of systems are used under the heading of AI. The technologies analysed entail different levels of automation and complexity. They also vary in terms of the scale and potential impact on people.

FRA's findings show that using AI systems implicate a wide spectrum of fundamental rights, regardless of the field of application. These include, but also go beyond, privacy and data protection, non-discrimination and access to justice. Yet, when addressing the impact of AI with respect to fundamental rights, the interviews show, the scope is often delimited to specific rights.

A wider range of rights need to be considered when using AI, depending on the technology and area of use. In addition to rights concerning privacy and data protection, equality and non-discrimination, and access to justice, other rights could be considered. These include, for example, human dignity, the right to social security and social assistance, the right to good administration (mostly relevant for the public sector) and consumer protection (particularly important for businesses). Depending on the context of the AI use, any other right protected in the Charter needs consideration.



### FRA OPINION 1

When introducing new policies and adopting new legislation on AI, the EU legislator and the Member States, acting within the scope of EU law, must ensure that respect for the full spectrum of fundamental rights, as enshrined in the Charter and the EU Treaties, is taken into account. Specific fundamental rights safeguards need to accompany relevant policies and laws.

In doing so, the EU and its Member States should rely on robust evidence concerning AI's impact on fundamental rights to ensure that any restrictions of certain fundamental rights respect the principles of necessity and proportionality.

Relevant safeguards need to be provided for by law to effectively protect against arbitrary interference with fundamental rights and to give legal certainty to both AI developers and users. Voluntary schemes for observing and safeguarding fundamental rights in the development and use of AI can further help mitigate rights violations. In line with the minimum requirements of legal clarity – as a basic principle of the rule of law and a prerequisite for securing fundamental rights – the legislator has to take due care when defining the scope of any such AI law.

Given the variety of technology subsumed under the term AI and the lack of knowledge about the full scope of its potential fundamental rights impact, the legal definition of AI-related terms might need to be assessed on a regular basis.

## FRA OPINION 2

The EU legislator should consider making mandatory impact assessments that cover the full spectrum of fundamental rights. These should cover the private and public sectors, and be applied before any AI-system is used. The impact assessments should take into account the varying nature and scope of AI technologies, including the level of automation and complexity, as well as the potential harm. They should include basic screening requirements that can also serve to raise awareness of potential fundamental rights implications.

Impact assessments should draw on established good practice from other fields and be regularly repeated during deployment, where appropriate. These assessments should be conducted in a transparent manner. Their outcomes and recommendations should be in the public domain, to the extent possible. To aid the impact assessment process, companies and public administration should be required to collect the information needed for thoroughly assessing the potential fundamental rights impact.

The EU and Member States should consider targeted actions to support those developing, using or planning to use AI systems, to ensure effective compliance with their fundamental rights impact assessment obligations. Such actions could include funding, guidelines, training or awareness raising. They should particularly – but not exclusively – target the private sector.

The EU and Member States should consider using existing tools, such as checklists or self-evaluation tools, developed at European and international level. These include those developed by the EU High-Level Group on Artificial Intelligence.

## Using effective impact assessments to prevent negative effects

**Prior impact assessments mainly focus on technical issues. They rarely address potential effects on fundamental rights. This is because knowledge on how AI affects such rights is lacking.**

Deploying AI systems engages a wide spectrum of fundamental rights, regardless of the field of application. Pursuant to Article 51 (1) of the Charter, EU Member States must respect all rights embodied in the Charter when they are implementing Union law. In line with existing international standards – notably the United National Guiding Principles on Business and Human Rights (UNGPs) – businesses should have in place “a human rights due diligence process to identify, prevent, mitigate and account for how they address their impacts on human rights” (Principles 15 and 17). This is irrespective of their size and sector, and encompasses businesses working with AI.

While pursuing its commitments to the UNGPs, the EU has adopted several legislative acts addressing sector-specific instruments, in particular in the context of due diligence-related obligations for human rights. Discussions are currently underway on proposing new EU secondary law. Such law would require businesses to carry out due diligence of the potential human rights and environmental impacts of their operations and supply chains. Such law would likely be cross-sectoral and provide for sanctions for non-compliance – which should encompass the use of AI. See FRA’s recent report on ***Business and Human rights – access to remedy***, which calls for improved horizontal human rights diligence rules for EU-based companies.

Impact assessments are an important tool for businesses and public administration alike to mitigate the potential negative impact of their activities on fundamental rights. EU law in specific sectors requires some forms of impact assessments, such as Data Protection Impact Assessments under the General Data Protection Regulation (GDPR). Many interviewees

reported that a data protection impact assessment, as required by law, was conducted. However, these took different forms. Moreover, prior assessments, when conducted, focus mainly on technical aspects. They rarely address potential impacts on fundamental rights. According to some interviewees, fundamental rights impact assessments are not carried out when an AI system does not, or appears not to, affect fundamental rights negatively.



The research shows that the interviewees' knowledge on fundamental rights – other than data protection and, to some extent, non-discrimination – is limited. The majority acknowledge, however, that the use of AI has an impact on fundamental rights. Some interviewees indicate that their systems do not affect fundamental rights, which is to some extent linked to the tasks the AI systems are used for.

All respondents are aware of data protection issues. Most respondents also realise that discrimination could – generally – be a problem when AI is used. However, the exact meaning and applicability of rights related to data protection and non-discrimination remains unclear to many respondents.

The research findings show differences between the private and public sector. Interviewees from the private sector are often less aware of the wider range of fundamental rights that could be affected. Data protection issues are known to the private sector. However, other rights, such as non-discrimination or access to justice-related rights, are less well known among business representatives who work with AI. Some were fully aware of potential problems. But others said that the responsibility for checking fundamental rights issues lies with their clients.



### FRA OPINION 3

The EU and Member States should ensure that effective accountability systems are in place to monitor and, where needed, effectively address any negative impact of AI systems on fundamental rights. They should consider, in addition to fundamental rights impact assessments (see FRA opinion 2), introducing specific safeguards to ensure that the accountability regime is effective. This could include a legal requirement to make available enough information to allow for an assessment of the fundamental rights impact of AI systems. This would enable external monitoring and human rights oversight by competent bodies.

The EU and Member States should also make better use of existing oversight expert structures to protect fundamental rights when using AI. These include data protection authorities, equality bodies, national human rights institutions, ombuds institutions and consumer protection bodies.

Additional resources should be earmarked to establish effective accountability systems by 'upskilling' and diversifying staff working for oversight bodies. This would allow them to deal with complex issues linked to developing and using AI.

Similarly, the appropriate bodies should be equipped with sufficient resources, powers and – importantly – expertise to prevent and assess fundamental rights violations and effectively support those whose fundamental rights are affected by AI.

Facilitating cooperation between appropriate bodies at national and European level can help share expertise and experience. Engaging with other actors with relevant expertise – such as specialist civil society organisations – can also help. When implementing such actions at national level, Member States should consider using available EU funding mechanisms.

institutions and ombuds institutions. The research shows that those using or planning to use AI often contacted different bodies about their use of AI, such as consumer protection bodies.

### Ensuring effective oversight and overall accountability

**Businesses and public administrations that are developing and using AI are in contact with various bodies that are responsible for overseeing AI-related systems within their respective mandates and sectors. These bodies include data protection authorities. But those using AI are not always sure which bodies are responsible for overseeing AI systems.**

In line with well-established international human rights standards – for example, Article 1 of the European Convention on Human Rights (ECHR) and Article 51 of the Charter – states are obliged to secure people's rights and freedoms. To effectively comply, states have to – among others – put in place effective monitoring and enforcement mechanisms. This applies equally with respect to AI.

At the level of monitoring, the findings point to the important role of specialised bodies established in specific sectors that are also responsible for AI oversight within their mandates. These include, for example, oversight in the area of banking, or data protection authorities. A variety of such bodies are potentially relevant to the oversight of AI from a fundamental rights perspective. However, the responsibilities of bodies concerning the oversight of AI remains unclear to many of those interviewed from the private and the public sector.

Public administrations' use of AI is sometimes audited, as part of their regular audits. Private companies in specific sectors also have specialised oversight bodies, for example in the area of health or financial services. These also check the use of AI and related technologies, for example as part of their certification schemes. Private sector interviewees expressed a wish for bodies that could provide expert advice on the possibilities and legality of potential AI uses.

In the EU, there is a well-developed set of independent bodies with a mandate to protect and promote fundamental rights. These include data protection authorities, equality bodies, national human rights

Most often, users of AI contacted data protection authorities to seek guidance, input or approval where personal data processing was involved. Interviewed experts highlight the relevance of data protection authorities for overseeing AI systems with respect to the use of personal data. However, they also note that data protection authorities are under-resourced for this task and lack specific expertise on AI issues.

Experts, including those working for oversight bodies such as equality bodies and data protection authorities, agree that the expertise of existing oversight bodies needs to be strengthened to allow them to provide effective oversight of AI related issues. According to the experts, this can be challenging given that these bodies' resources are already stretched. They also highlighted the important role of relevant civil society organisations specialised in the fields of technology, digital rights and algorithms. They can enhance accountability in the use of AI systems.





## NON-DISCRIMINATION, DATA PROTECTION AND ACCESS TO JUSTICE: THREE HORIZONTAL THEMES

The research shows that the use of AI affects various fundamental rights. Apart from context-related specific aspects that affect different rights to a varying extent, the fundamental rights topics which emerged in the research to repeatedly apply to most AI cases include: the need to ensure non-discriminatory use of AI (right not to be discriminated); the requirement to process data legally (right to personal data protection); and the possibility to complain about AI-based decisions and seek redress (right to an effective remedy and to a fair trial).

The two main fundamental rights highlighted in the interviews are data protection and non-discrimination. In addition, effective ways to complain about the use of AI came up repeatedly, linked to the right to a fair trial and effective remedy. The following three FRA opinions, which reflect these findings, should be read alongside the other opinions, which call for a more comprehensive recognition of, and response to, the full range of fundamental rights affected by AI.

### FRA OPINION 4

EU Member States should consider encouraging companies and public administration to assess any potentially discriminatory outcomes when using AI systems.

The European Commission and Member States should consider providing funding for targeted research on potentially discriminatory impacts of the use of AI and algorithms. Such research would benefit from the adaptation of established research methodologies, from the social sciences, that are employed to identify potential discrimination in different areas – ranging from recruitment to customer profiling.

Building on the results of such research, guidance and tools to support those using AI to detect possible discriminatory outcomes should be developed.

### Specific safeguards to ensure non-discrimination when using AI

**Interviewees rarely mentioned carrying out detailed assessments of potential discrimination when using AI. This suggests a lack of in-depth assessments of such discrimination in automated decision making.**

The obligation to respect the principle of non-discrimination is enshrined in Article 2 of the TEU, Article 10 of the TFEU (requiring the Union to combat discrimination on a number of grounds), and Articles 20 and 21 of the Charter (equality before the law and non-discrimination on a range of grounds). More specific and detailed provisions in several EU directives also enshrine this principle, with varying scopes of application.

Automation and the use of AI can greatly increase the efficiency of services and can scale up tasks that humans would not be able to undertake. However,

it is necessary to ensure that services and decisions based on AI are not discriminatory. Recognising this, the European Commission recently highlighted the need for additional legislation to safeguard non-discrimination when using AI in the **EU anti-racism action plan 2020-2025**.

Most interviewees are in principle aware that discrimination might happen. Yet, they rarely raised this issue themselves. Only few believe their systems could actually discriminate.

Interviewees also rarely mentioned detailed assessments of potential discrimination, meaning that there is a lack of in-depth assessment of potential discrimination.

A common perception is that omitting information about protected attributes, such as gender, age or ethnic origin, can guarantee that an AI system does not discriminate. This is not necessarily true, however. Information potentially indicating protected characteristics (proxies), which can often be found in datasets, could lead to discrimination.

In certain cases, AI systems can also be used to test for and detect discriminatory behaviour, which can be encoded in datasets. However, very few interviewees mentioned the possibility of collecting such information about disadvantaged groups to detect potential discrimination. In the absence of in-depth analysis of potential discrimination in the actual use of AI systems, there is also almost no discussion and analysis of the potential positive effect of using algorithms to make decisions fairer. Moreover, none of the interviewees working on AI mentioned using AI to detect possible discrimination as a positive outcome, in the sense that discrimination can be better detected when data are analysed for potential bias.

Since detecting potential discrimination through the use of AI and algorithms remains challenging, and interviewees only briefly addressed the issue, different measures are needed to address this. These include the requirement to consider issues linked to discrimination when assessing the use of AI, and investment into further studies of potential discrimination that use a diverse range of methodologies.

This could involve, for example, discrimination testing. This could build on similar established methodologies for testing bias in everyday life, such as with respect to job applications, where the applicant's name is changed to (indirectly) identify ethnicity. In relation to AI applications, such tests could involve the possible creation of fake profiles for online tools, which only differ with respect to protected attributes. In this way, the outcomes can be checked with respect to potential discrimination. Research could also benefit from advanced statistical analysis to detect differences in datasets concerning protected groups, and therefore can be used as a basis for exploring potential discrimination.

Finally, some research interviews underscored that results from complex machine learning algorithms are often very difficult to understand and explain. Thus, further research to better understand and explain such results (so-called 'explainable AI') can also help to better detect discrimination when using AI.



## FRA OPINION 5

The European Data Protection Board (EDPB) and the European Data Protection Supervisor (EDPS) should consider providing further guidance and support to effectively implement GDPR provisions that directly apply to the use of AI for safeguarding fundamental rights, in particular as regards the meaning of personal data and its use in AI, including in AI training datasets.

There is a high level of uncertainty concerning the meaning of automated decision making and the right to human review linked to the use of AI and automated decision making. Thus, the EDPB and the EDPS should also consider further clarifying the concepts of 'automated decision making' and 'human review', where they are mentioned in EU law.

In addition, national data protection bodies should provide practical guidance on how data protection provisions apply to the use of AI. Such guidance could include recommendations and checklists, based on concrete use cases of AI, to support compliance with data protection provisions.

## More guidance on data protection

### More clarity is needed on the scope and meaning of legal provisions regarding automated decision making.

Data protection is critical in the development and use of AI. Article 8 (1) of the Charter and Article 16 (1) of the TFEU provide that everyone has the right to the protection of their personal data. The GDPR and the Law Enforcement Directive (Directive (EU) 2016/680) further elaborate on this right, and include many provisions applicable to the use of AI.

The interviewees indicated that most of the AI systems they employ use personal data, meaning data protection is affected in many different ways. However, a few applications – according to the interviewees – do not use personal data, or only use anonymised data, and hence data protection law would not apply. If personal data are used, all data protection related principles and provisions apply.

This report highlights an important issue linked to data protection, which is also relevant for other fundamental rights with respect to automated decision making. According to a Eurobarometer survey, only 40 % of Europeans know that they can have a say when decisions are automated. Knowledge about this right

is considerably higher among those working with AI – the majority of interviewees raised this issue. However, many of the interviewees, including experts, argued that more clarity is needed on the scope and meaning of legal provisions on automated decision making.

In the area of social benefits, interviewees mentioned only one example of fully automated, rule-based decisions. All other applications they mentioned are reviewed by humans. Interviewees in public administration stressed the importance of human review of any decisions. However, they rarely described what such human review actually involves and how other information was used when reviewing output from AI systems.

While interviewees disagree as to whether or not the existing legislation is sufficient, many called for more concrete interpretation of the existing data protection rules with respect to automated decision making, as enshrined in Article 22 of the GDPR.



## Effective access to justice in cases involving AI-based decisions

**To effectively contest decisions based on the use of AI, people need to know that AI is used, and how and where to complain. Organisations using AI need to be able to explain their AI system and decisions based on AI.**

Access to justice is both a process and a goal, and is crucial for individuals seeking to benefit from other procedural and substantive rights. It encompasses a number of core human rights. These include the right to a fair trial and to an effective remedy under Article 6 and 13 of the ECHR and Article 47 of the EU Charter of Fundamental Rights. Accordingly, the notion of access to justice obliges states to guarantee each individual's right to go to court – or, in some circumstances, an alternative dispute resolution body – to obtain a remedy if it is found that the individual's rights have been violated.

In accordance with these standards, a victim of a human rights violation arising from the development or use of an AI system by a public or private entity has to be provided with access to remedy before a national authority. In line with relevant case law under Article 47 of the Charter and Article 13 of the ECHR, the remedy must be “effective in practice as well as in law”.

The research findings identify the following preconditions for the remedy to be effective in practice in cases involving AI systems and their impact on fundamental rights: everyone needs to be aware when AI is used and informed of how and where to complain. Organisations using AI must ensure that the public is informed about their AI system and the decisions based on them.

The findings show that explaining AI systems and how they make decisions in layman terms can be challenging. Intellectual property rights can hamper the provision of detailed information about how an algorithm works. In addition, certain AI systems are complex. This makes it difficult to provide meaningful information about the way a system works, and on related decisions.

To tackle this problem, some companies interviewed avoid using complex methods for certain decision making altogether, because they would not be able to explain the decisions. Alternatively, they use simpler data analysis methods for the same problem to obtain some understanding about the main factors influencing certain outcomes. Some of the private sector interviewees pointed to efforts made to gradually improve their understanding of AI technology.

## FRA OPINION 6

The EU legislator and Member States should ensure effective access to justice for individuals in cases involving AI-based decisions.

To ensure that available remedies are accessible in practice, the EU legislator and Member States could consider introducing a legal duty for public administration and private companies using AI systems to provide those seeking redress information about the operation of their AI systems. This includes information on how these AI systems arrive at automated decisions. This obligation would help achieve equality of arms in cases of individuals seeking justice. It would also support the effectiveness of external monitoring and human rights oversight of AI systems (see FRA opinion 3).

In view of the difficulty of explaining complex AI systems, the EU, jointly with the Member States, should consider developing guidelines to support transparency efforts in this area. In so doing, they should draw on the expertise of national human rights bodies and civil society organisations active in this field.









This summary presents the main findings from FRA's report on *Getting the future right – Artificial intelligence and fundamental rights*. The main report is available on FRA's website.



# PROMOTING AND PROTECTING YOUR FUNDAMENTAL RIGHTS ACROSS THE EU

FRA's report on artificial intelligence and fundamental rights presents concrete examples of how companies and public administrations in the EU are using, or trying to use, AI. It focuses on four core areas – social benefits, predictive policing, health services and targeted advertising. The report discusses the potential implications for fundamental rights and analyses how such rights are taken into account when using or developing AI applications.

This summary presents the main insights from the report. These can inform EU and national policymaking efforts to regulate the use of AI tools in compliance with human and fundamental rights.



FRA – EUROPEAN UNION AGENCY FOR FUNDAMENTAL RIGHTS  
Schwarzenbergplatz 11 – 1040 Vienna – Austria  
T +43 158030-0 – F +43 158030-699

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