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How to detect and address discrimination in the context of AI?

# EQUALITY, ARTIFICIAL INTELLIGENCE, ALGORITHMS AND AUTOMATED DECISIONS

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ERA

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## OVERVIEW

- 1 Regulation of AI in employment
  - 2 Detecting and addressing discrimination in the context of AI
  - 3 Concluding remarks
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## REGULATION OF AI IN EMPLOYMENT

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### ANNEX III AI ACT

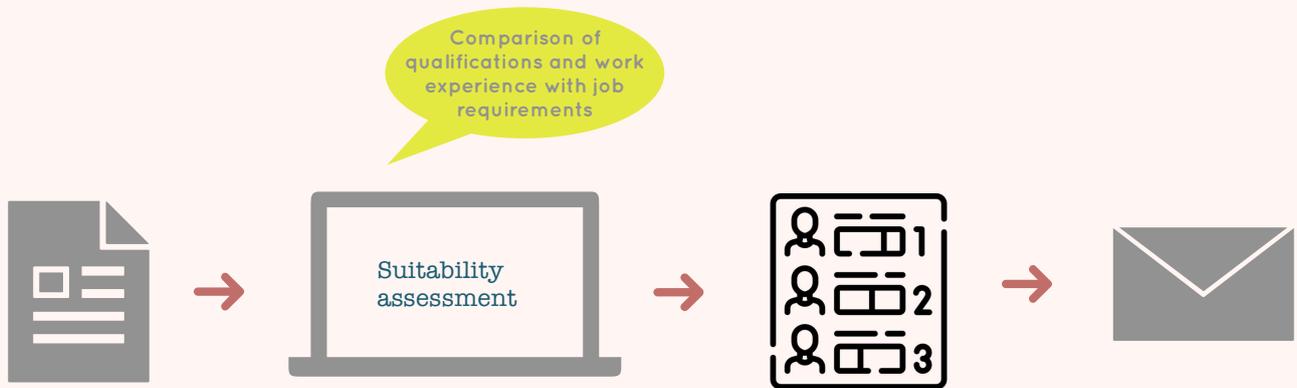
Recruitment and  
selection of new  
potential employees

Monitoring and evaluation  
of employees' performance  
and behaviour

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## AUTOMATED CV SCREENING SYSTEM



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## PERFORMANCE EVALUATION

- Number of completed calls
- Customer satisfaction scores
- Call duration
- Transcripts of conversations
- Absence or login data



- Recommendations/decisions:
- Training orientation training
  - Coaching

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Veilige en betrouwbare AI-toepassingen die Europese waarden respecteren

Een certificeringsmodel voor AI

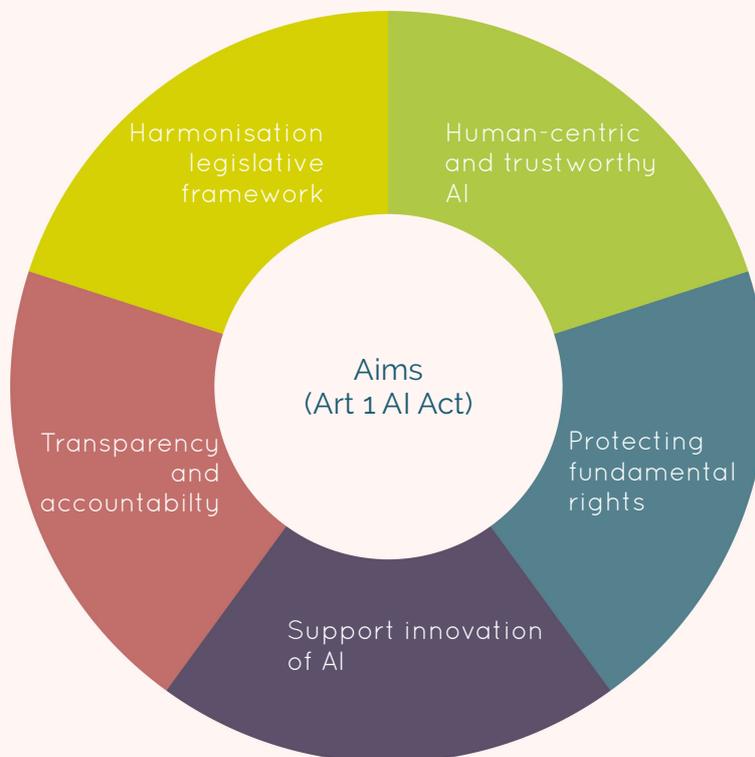
Verordeningen Digitaalendiensten, Digitale markten en Datagovernance

*AIV IN A NUTSHELL*

Strenge handhaving met hoge boetes

AVG en consumentenbescherming

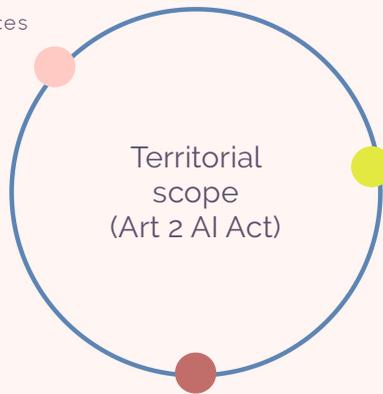
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**PROVIDERS WHO PLACE AI SYSTEMS ON THE EU MARKET**

*(not relevant whether provider is established inside/outside the EU)*

Example: Canadian company places an AI system on the market in the Netherlands



**USERS OF AI SYSTEMS ESTABLISHED WITHIN THE EU**

Example: Dutch company purchases an AI system from a Japanese provider and uses the system for internal operations in the Netherlands

**PROVIDERS AND USERS OF AI SYSTEMS OUTSIDE THE EU WHOSE OUTPUT IS USED WITHIN THE EU**

Example: American company uses an AI system to filter CVs and sends the filtered results to its Dutch subsidiary, which uses the AI system's output

**Level of protection**

📌 Member States may provide greater protection (Art 2(11) AI Act)

📌 Workers → “affected persons that are located in the Union” (Art 2(2)(g) AI Act)

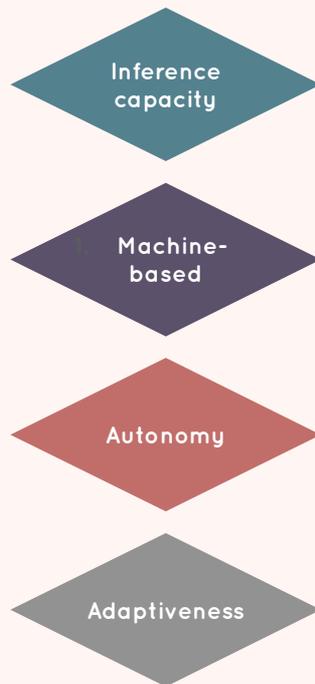
📌 AI Act must not prejudice national law (recital 9 AI Act)

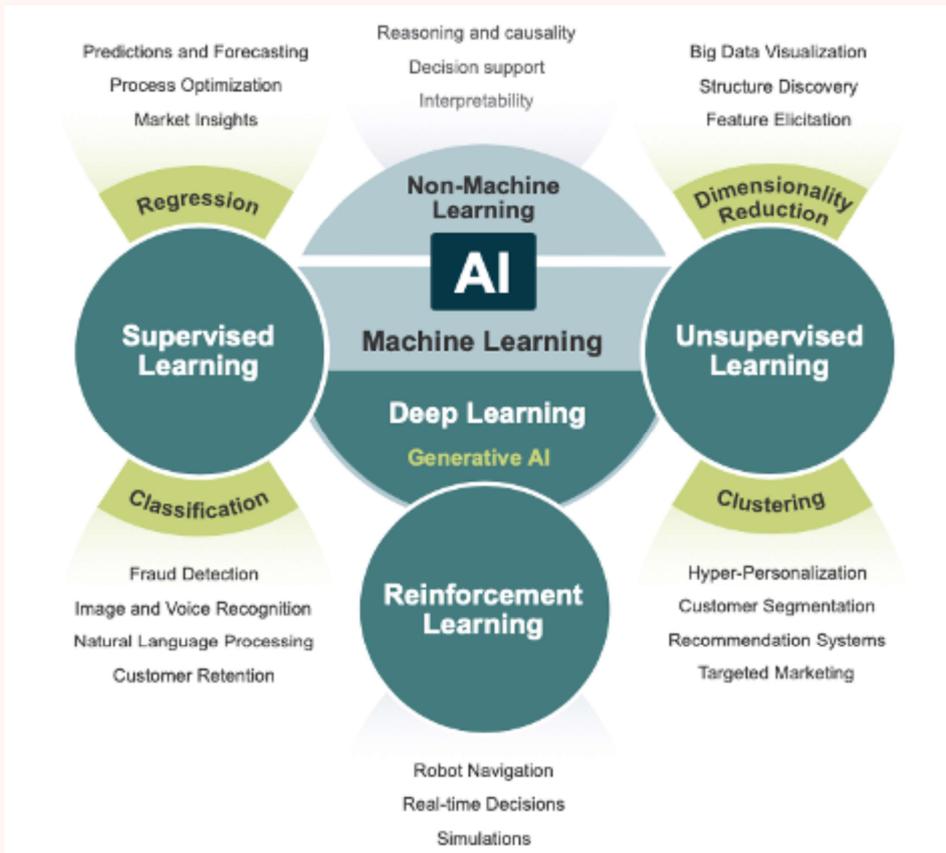
## OPERATOR (ART 3(8) AI ACT)

### AI value chain



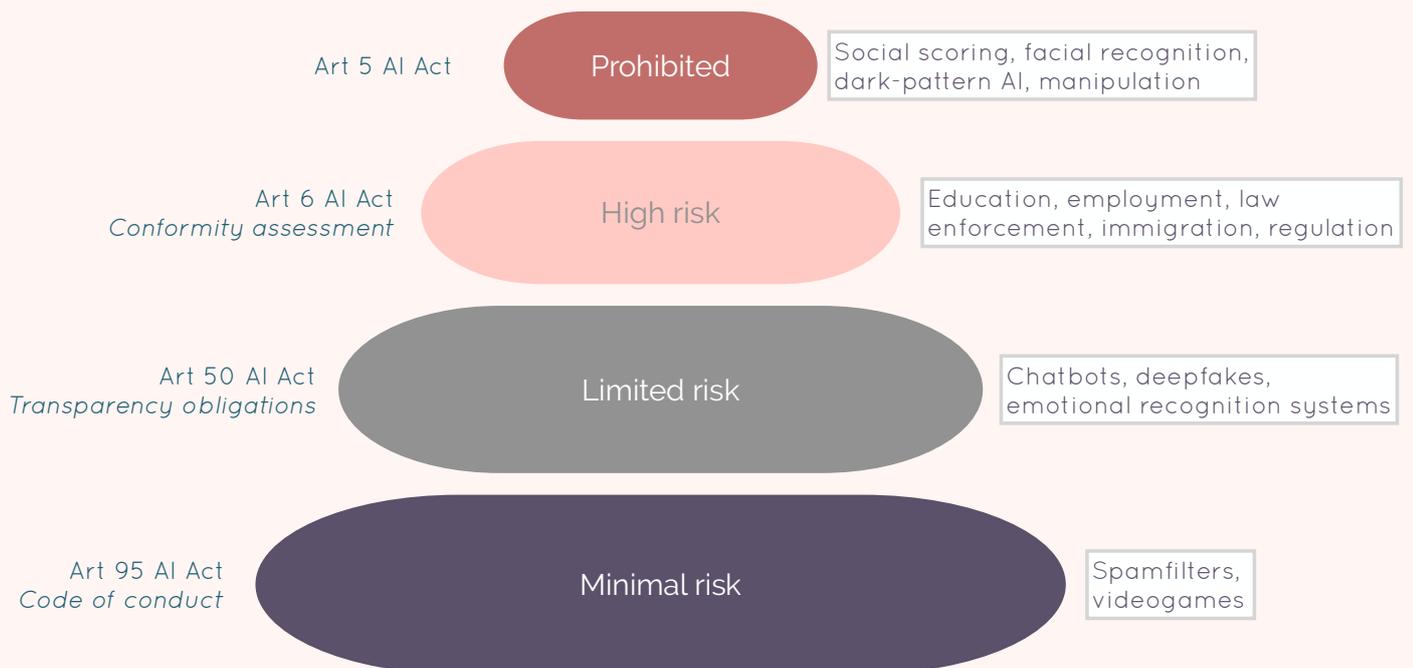
## AI SYSTEM (ART 3(1) AI ACT)





## RISK-BASED APPROACH

Commission Guidelines on prohibited artificial intelligence practices established by Regulation (EU) 2024/1689 (AI Act), C(2025) 884 final (4 February 2025)



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## EXCEPTIONS TO PROHIBITED AI SYSTEMS

Medical or safety purposes

Eg, detecting fatigue or concentration problems in pilots or truck drivers

Consequence:  
Qualification as high risk

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## EXCEPTIONS TO HIGH-RISK AI-SYSTEMS

No significant risk of harm to the health, safety, or fundamental rights of natural persons (Art 6(3) AI Act)

- › Performing a limited procedural/administrative task
- › Only improving (the outcome of) a previously performed human action
- › Detecting anomalous patterns in previously made human decisions; no replacement or influence on independent human judgment
- › Only assessment relevant for applications listed in Annex III

For classification as a high-risk AI system, relevant factors are: (1) the function of the AI system and (2) its intended purpose

- › If the purpose of the AI system is, for example, to calculate the amount of a bonus, but it does not evaluate performance as such
  - › Reasonably foreseeable misuse (Art 3(13) AI Act)
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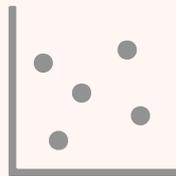
## DETECTING AND ADDRESSING DISCRIMINATION IN THE CONTEXT OF AI

### DISCRIMINATION BY AI-SYSTEMS

Bias in training data



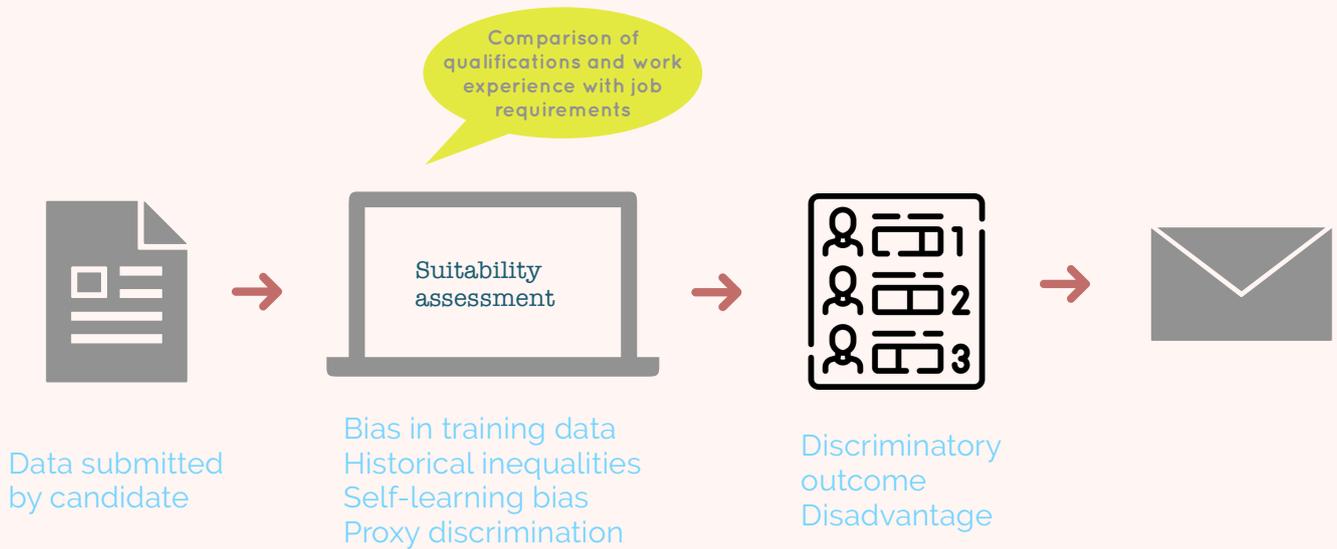
Proxy discrimination



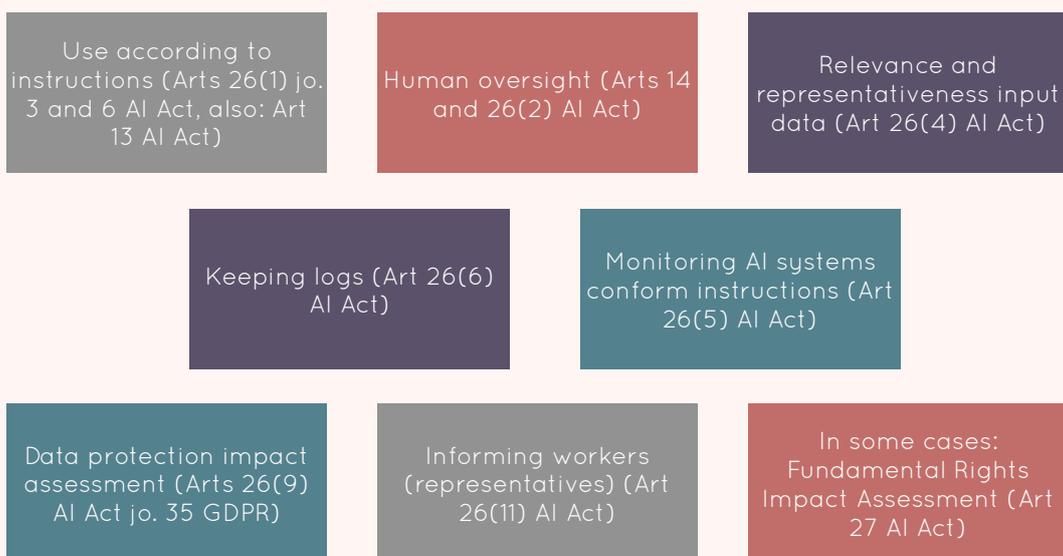
Self-learning bias



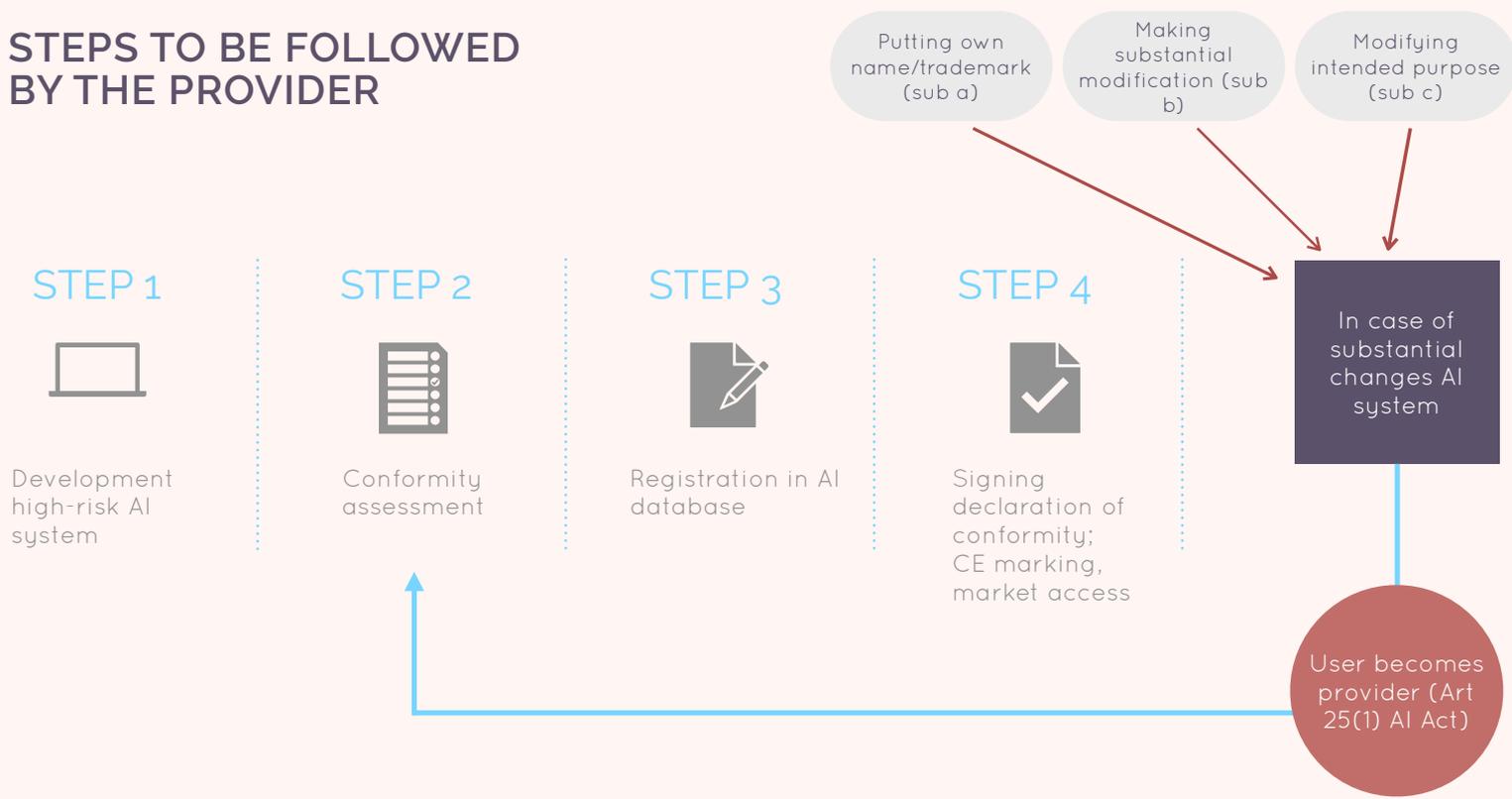
## AUTOMATED CV SCREENING SYSTEM



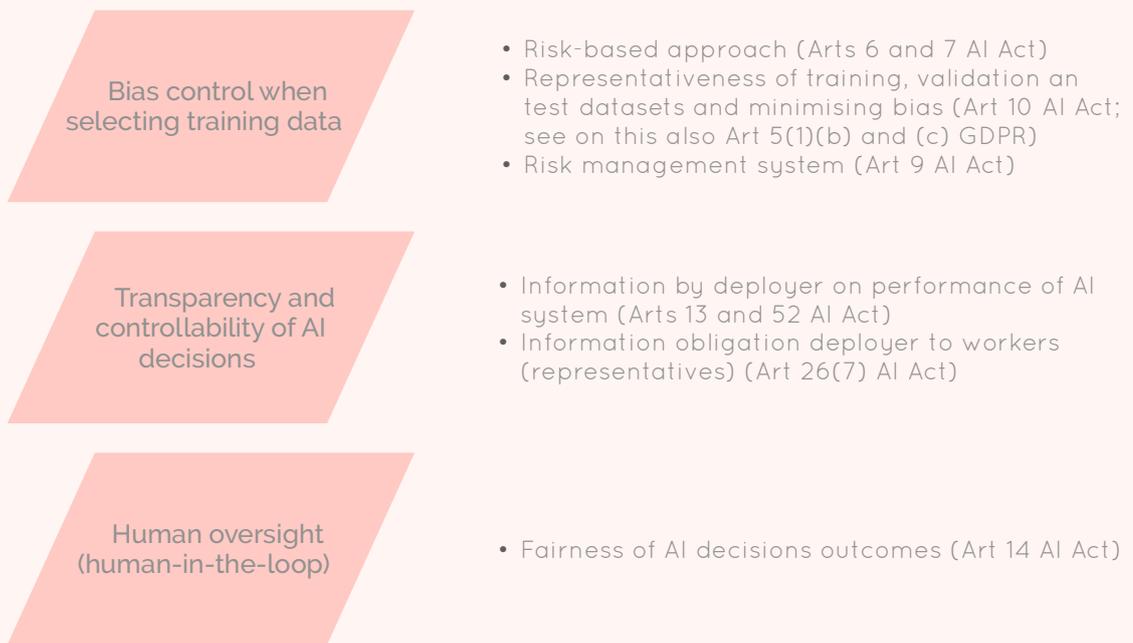
## OBLIGATIONS OF USERS (EMPLOYING ENTITIES)



## STEPS TO BE FOLLOWED BY THE PROVIDER



## WAYS TO (TRY TO) PREVENT DISCRIMINATION



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## WAYS TO PROVE DISCRIMINATION

Technical documentation and registration (Arts 11 and 12 AI Act)

Traceability of decision-making (Art 26(6) AI Act)

Market supervision and right to complain (Art 65ff AI Act)

Human oversight (Arts 14 and 26(2) AI Act)

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## CONCLUDING REMARKS & DISCUSSION

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