

# EQUALITY, AI, ALGORITHMS AND AUTOMATED DECISIONS: HOW TO DETECT AND ADDRESS DISCRIMINATION IN THE CONTEXT OF AI?

APPLYING EU ANTI-DISCRIMINATION LAW,  
DUBLIN, 3-4 April 2025  
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## 1. BIASES AND STEREOTYPES

- Gender, racial and class biases and stereotypes in AI
- Diversity crisis in AI industry
- Corporate innovations



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## 2. ALGORITHMIC DISCRIMINATION

- Algorithmic biases:
  - Variables
    - Deliveroo's algorithm: *Tribunale Ordinario di Bologna* of 27.11.2020
  - Data set
    - Amazon's recruitment tool
    - Facial recognition systems



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## 2. ALGORITHMIC DISCRIMINATION

- Algorithmic biases:
  - Proxy variables or correlations identified by the algorithm
    - Gild's algorithm
- Algorithms don't live up to the promise of mathematically objective bias-free decisions

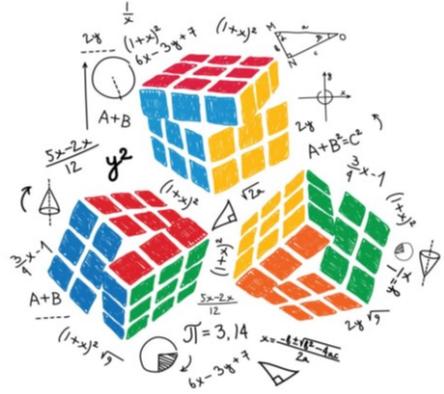


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### 3. NEW COMPLEXITIES

#### Is this novel?

- Systematization and magnification of existing discriminations
- Scalability of its impact
- "New" opportunities for discrimination
- Silent discrimination
- Accountability
- Algorithmic opacity



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### 4. LEGAL TREATMENT

- **No new legal categories**
- Current antidiscrimination law
  - Direct discrimination
  - Indirect discrimination
    - Importance statistical evidence
    - Shift of the burden of proof



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## 4. LEGAL TREATMENT

### New legal challenges:

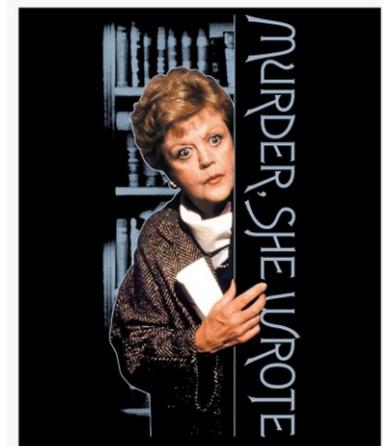
- How to detect and assess algorithmic discrimination in the case of...?
  - Black box algorithms



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## 4. LEGAL TREATMENT

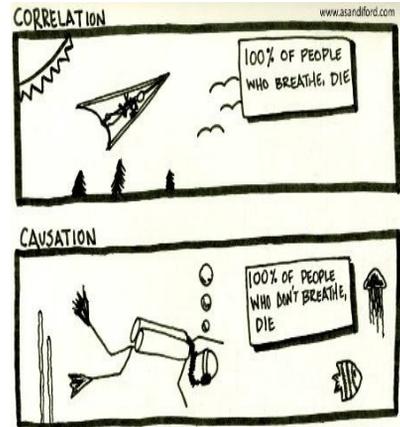
- What statistical evidence can act as prima facie evidence of indirect discrimination?
  - Impact decision
  - Predictive models: false positives and negatives
  - Biased data set



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## 4. LEGAL TREATMENT

- What is an objective justification of a legitimate, appropriate and necessary aim in proxy discrimination?
  - Correlation as justification?
  - Correlation vs. causation



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## 5. ALGORITHMIC OPACITY

- Lack of transparency
  - Corporate interest not to disclose information
  - Complex machine learning techniques
- No or limited access to statistical evidence
  - ↓
  - Reduced opportunities to detect and address discrimination in the context of AI**



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## 6. INFORMATION RIGHTS

### • Current regulation:

- Prohibition fully automated decisions with legal or similar effects (article 22 GDPR)
- Exceptions
- Right to information (articles 13, 14 and 15 GDPR):
  - Meaningful information about the logic and consequences

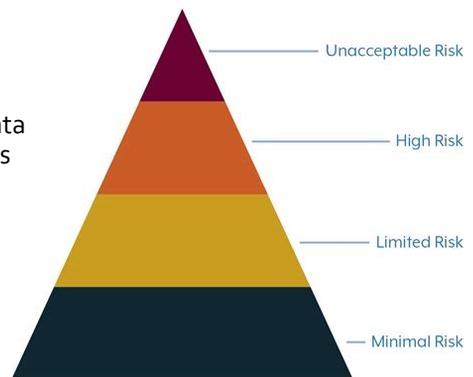


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## 6. INFORMATION RIGHTS

### AI Act:

- High-risk (Annex III): profiling = automated processing of personal data to assess personal aspects
- Obligations to providers and deployers:
  - Fundamental rights impact assessment
  - Information use AI



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## 6. INFORMATION RIGHTS

- **Limitations that hinder the detection and assessment of algorithmic discrimination:**
  - Internal impact assessment
  - No information regarding the effects of the decision, fairness metrics or training data set



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## 6. INFORMATION RIGHTS

### **Increase transparency and accountability in high-risk AI systems:**

- Algorithmic audits of high-risk AI systems and information regarding the results of such audit.
  - Specific regulations for specific areas



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**THANKYOU  
VERY MUCH!**



Project DigitalWORK  
Funded by FEDER UE - Ministerio de Ciencia, Innovación y  
Universidades – Agencia Estatal de Investigación  
Project PID2023-146944NB-100

