

Equality, artificial intelligence, algorithms and automated decisions: how to detect and address discrimination in the context of AI

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» ERA, Cracow – September 2, 2025

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Artificial intelligence

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

Article 3, Artificial Intelligence Act, March 13, 2024

«A test for intelligence in a computer, requiring that a human being should be unable to distinguish the machine from another human being by using the replies to questions put to both»

Turing test, the *Imitation Game*, Alan M. Turing, 1950

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AI Act - Structure and key points

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Provide clear requirements and obligations for specific uses of AI: categorizing AI unacceptable, high, or low/minimal risk.



Address the risks created by AI applications and highlight high-risk applications, ensuring that those placed on the EU market are safe.



Propose a series of conformity assessments, transparency requirements, and a governance structure at the European and national level.

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The Italian job

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Italian Data Protection Authority and technology

- «From this perspective, the AI Act and the Union data protection legislation (notably, GDPR, EUDPR and LED, as well as the Privacy Directive) need to be, in principle, considered (and coherently interpreted) as complementary and mutually reinforcing instruments»*

Chat GPT:



- Email as working tools/Not anymore → Metadata vs Italian authority

*EDPB, Statement 3/2024

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The Italian Job - Draft of the Italian Law on AI

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«Research, experimentation, development, adoption, application and use of artificial intelligence systems and models shall be carried out in compliance with the fundamental rights and freedoms provided for by the Constitution, European Union law and the principles of [...] non-discrimination, gender equality and sustainability»

Draft of Law 1146/2024

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AI Act - Gender equality: a right to be protected

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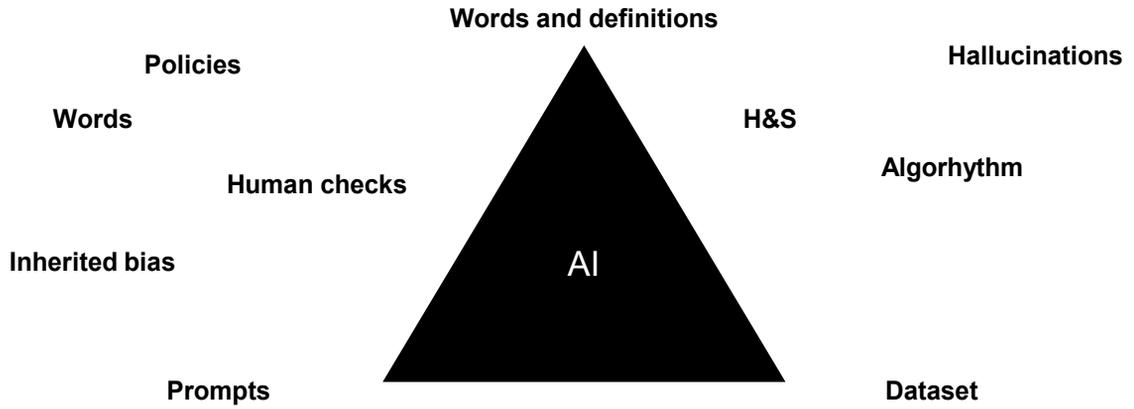
«The extent of the adverse impact caused by the AI system on the fundamental rights protected by the Charter is of particular relevance when classifying an AI system as high risk. Those rights include [...] gender equality»

Recital 48, Artificial Intelligence Act, March 13, 2024

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Can AI discriminate?

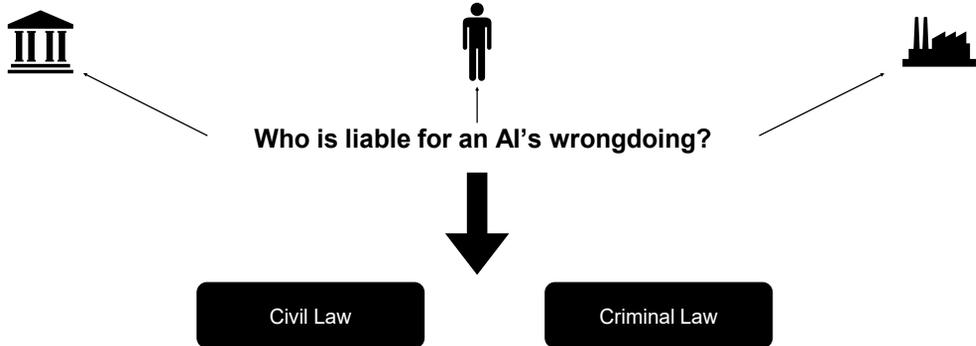
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Liability

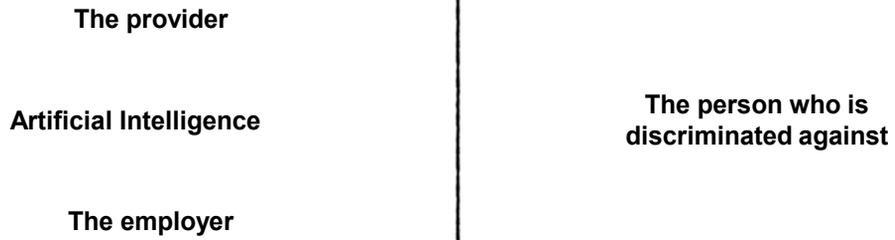
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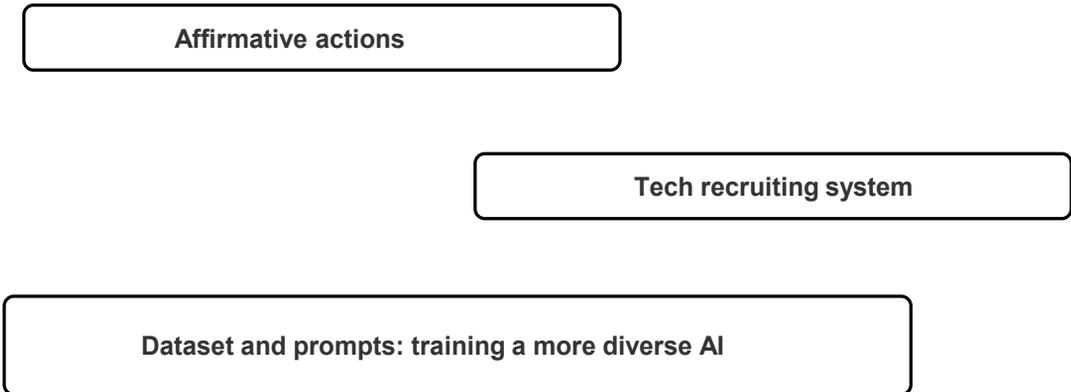
The robot did it

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Gender, race and AI

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Remedies

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Collective actions. Unions, associations and class actions

Internal review and policies

Litigation. Algorithm as an employer

Data protection

**Institutional supervision
(Sandbox)**

Authorities. Investigations, orders and fines

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The future of the future

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AI Act, GDPR, Supply Chain and Working Conditions: the framework is there



Company and individuals: personal AI, policies and health and safety



Doing nothing is not an option

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Both sides of the legal ocean

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USA

The use of algorithmic screening tools by hiring platforms, which determine candidates' access or exclusion from employment opportunities, may constitute algorithmic discrimination, as such platforms - acting as agents of employers - are subject to the same non-discrimination obligations as employers.

Mobley vs Workday 2024

UE

The algorithmic management system adopted by a food delivery platform is discriminatory since, through automated performance evaluation criteria based on the number of deliveries, availability during holidays and weekends and absence from pre-booked slots, it produces indirect discrimination against employees exposed to risk factors related to age, disability, family responsibilities, religious faith, or trade union activity. The use of such apparently neutral parameters results in unfavorable treatment that violates the principle of equal access to and conditions of work.

Court of Palermo 2023

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The AI precedent: intelligent lawyers

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«The AI would therefore have generated wrong results that can be involved in the phenomenon of so-called AI hallucinations, which occurs when the AI invents nonexistent results that are re-confirmed as true by the AI through a second check with the AI itself. In this case, the AI tool invented false reference to decisions of the Supreme Court [...]. The lawyer that made the mistake, while acknowledging the failure to check the data thus obtained, requested the removal of such references [...].»

Court of Florence 2025

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Thank you!

Q&A

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