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

Lublin 2026, Radim Polčák

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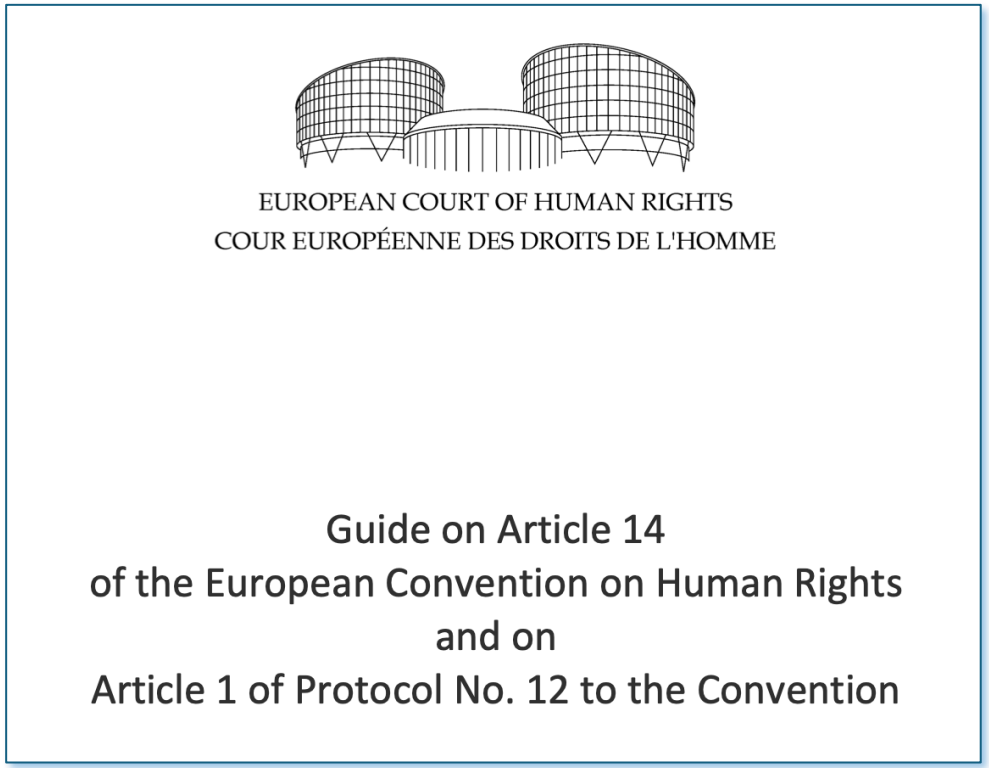
MUNI

questions of **Law**,

questions of **Facts**



scope or
thin lines in substance
(not specifically
problematic)

attribution, fault
(perhaps a bit
problematic, but
mostly legally
irrelevant)

proof of function (logic) of the algorithm

availability (IP, trade secrets, jurisdictional issues etc.)
explainability – even if the algorithm is available – namely in AI (machine learning-based algorithms are by nature unexplainable

all solved in EU law
(even before the AI Act)*

Right to information regarding (Art. 14 to 15 GDPR): “the existence of automated decision-making, including profiling, and (…), at least in those cases, **meaningful information about the logic involved**, as well as the significance and the envisaged consequences of such processing for the data subject

TITLE III

EQUALITY

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 Treaties and without prejudice to any of their specific provisions, any discrimination on grounds of nationality shall be prohibited.

+ GDPR Recital, Art. 63: “That right should not adversely affect the rights or freedoms of others, including trade secrets or intellectual property and in particular the copyright protecting the software. However, the result of those considerations **should not be a refusal to provide all information to the data subject**.

*but really?

(perhaps not) all solved in EU law

+ AI Act – compliance (certification)
+ Product Liability Directive – burden of proof – but not relevant for regular cases like credit scoring



almost no real cases

C-634/21 Shufa - sort of – automated decisions
C-203/22 – Stadt Wien – only to date on point

pending:
C-159/25, Rowicz
C-806/24, YETTEL

questions of **Law**,

questions of **Facts**

questions of **Motivation**