

Title Workshop:
ARTIFICIAL INTELLIGENCE AND DISCRIMINATION

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Preparatory and Reading Materials

1. *Preparatory Materials:*

a) The European Union:

- Artificial Intelligence Act - Proposal for a Regulation of the European Parliament and of The Council Laying Down Harmonised Rules on Artificial Intelligence (Artificial Intelligence Act) and Amending Certain Union Legislative Acts, First Draft, April 2021 – Link: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A52021PC0206>
- Amendments adopted by the European Parliament on 14 June 2023 on the proposal for a regulation of the European Parliament and of the Council on laying down harmonised rules on artificial intelligence (Artificial Intelligence Act) and amending certain Union legislative acts, June 2023 – Link: https://www.europarl.europa.eu/doceo/document/TA-9-2023-0236_EN.html
- Joint Statement, 114 NGOs, November 2021 – Link: <https://www.accessnow.org/wp-content/uploads/2021/11/joint-statement-EU-AIA.pdf>

b) The Council of Europe:

- CAHAI's Feasibility Study – Link: <https://rm.coe.int/cahai-2020-23-final-eng-feasibility-study-/1680a0c6da>
- CAI's Revised Zero Draft Convention – Link: <https://rm.coe.int/cai-2023-01-revised-zero-draft-framework-convention-public/1680aa193f>
- CAI's Consolidated Working Draft – Link: <https://rm.coe.int/cai-2023-18-consolidated-working-draft-framework-convention/1680abde66>

c) The United Nations:

- Principles for the Ethical Use of Artificial Intelligence in the United Nations System – Link: https://unscebi.org/sites/default/files/2022-09/Principles%20for%20the%20Ethical%20Use%20of%20AI%20in%20the%20UN%20System_1.pdf.

d) UNESCO:

Recommendation on the Ethics of Artificial Intelligence – Link: <https://unesdoc.unesco.org/ark:/48223/pf0000381137>.

e) African Union Development Agency – NEPAD (AUDA-NEPAD), *AU-AI Continental Strategy encompassing legislative, regulatory, ethical, policy, and infrastructural frameworks*. Previously, see, also the Study *AI for Africa: Artificial Intelligence for Africa's Socio-Economic Development*, – <https://www.nepad.org/publication/ai-africa-artificial-intelligence-africas-socio-economic-development>.

f) Association of Southeast Asian Nations (ASEAN), Draft of the “ASEAN Guide on AI Governance and Ethics” – Link:

g) Australia: Australian Human Rights Commission's submission to the Department of Industry, Science and Resources of a document called “*Supporting Responsible AI: Discussion Paper*” – Link: <https://consult.industry.gov.au/supporting-responsible-ai>.

2. *Preparatory Readings:*

S. Barocas, A.D. Selbst, *Big Data's Disparate Impact*, in *Calif. Law. Rev.*, 2016.

F. Zuiderveen Borgesius, *Discrimination, artificial intelligence, and algorithmic decision-making*, Council of Europe, Directorate General of Democracy, 2018, Link: <https://rm.coe.int/discrimination-artificial-intelligence-and-algorithmic-decision-making/1680925d73>

K. Crawford, *Think Again: Big Data*, 2013, link: http://www.foreignpolicy.com/articles/2013/05/09/think_again_big_data

K. Crawford, *The Hidden Biases in Big Data*, in *Harvard Business Review*, 2013.

S.M. Fleming, *What separates human from AI? It's doubt*, in *Financial Times*, 2021, Link: <https://www.ft.com/content/1ff66eb9-166f-4082-958f-debe84e92e9e>

J. Kleinberg, J. Ludwig, S. Mullainathan, C.R. Sunstein, *Discrimination in the Age of Algorithms*, in *Journal of Legal Analysis*, 2018, 113 ff.

J. Kleinberg, J. Ludwig, S. Mullainathan, A. Rambachan, *Algorithmic fairness*, in *AEA papers and Proceedings*, 2018, 22 ff.

C. Jolls, C.R. Sunstein, *The Law of Implicit Bias*, in *California Law Review*, 2006, 969 ff.

C. Nardocci, *Artificial Intelligence-based Discrimination: Theoretical and Normative Responses. Perspectives from Europe*, in *DPCE Online*, forthcoming, Sept., 2023.

A. E.R. Prince, A. Swarz, *Proxy Discrimination in the Age of Artificial Intelligence and Big Data*, in *Iowa Law Rev.*, 2020.

3. Selected Case-Law

Italy:

Deliveroo case, Tribunal of Bologna, 31st December 2020 (only in Italian) – Link: https://www.lavorodirittieuropa.it/images/15605805s_2.pdf.

The United Kingdom:

Court of Appeal of Great Britain and Wales, Case R (Bridges) -v- CC South Wales & ors, 11th August 2020 – Link: <https://www.judiciary.uk/wp-content/uploads/2020/08/R-Bridges-v-CC-South-Wales-ors-Judgment.pdf>.

Finland:

Finnish National Non-Discrimination and Equality Tribunal, No. 216 of 2017, 21st March 2018 – Link: https://www.yvtltk.fi/material/attachments/ytalk/tapausselosteet/45Ll2c6dD/YVTltk-tapausseloste-21.3.2018-luotto-moniperusteinen_syrjinta-S-en_2.pdf.

The Netherlands:

The Hague District Court, case No. C/09/550982 /HAZA 18-388, 5th February 2020 – Link <https://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:RBDHA:2020:1878>.

Canada:

Canada Supreme Court, Ewert c. Canada, 13 June 2018, SCC 30, [2018] 2 S.C.R. 165 – Link: <https://scc-csc.lexum.com/scc-csc/scc-csc/en/17133/1/document.do>.

The United States:

Supreme Court of Wisconsin, State of Wisconsin v. Eric L. Loomis, Case no. 2015AP157-CR, 5 April – 13 July 2016 – Link: <https://cases.justia.com/wisconsin/supreme-court/2016-2015ap000157-cr.pdf?ts=1468415026>.

The European Court of Human Rights:

Glukhin v. Russia, Link: <https://hudoc.echr.coe.int/?i=001-225655#%7B%22itemid%22:%5B%22001-225655%22%5D%7D>.