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# International governance of artificial intelligence

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# A PRESENTATION OF THE AI ACT



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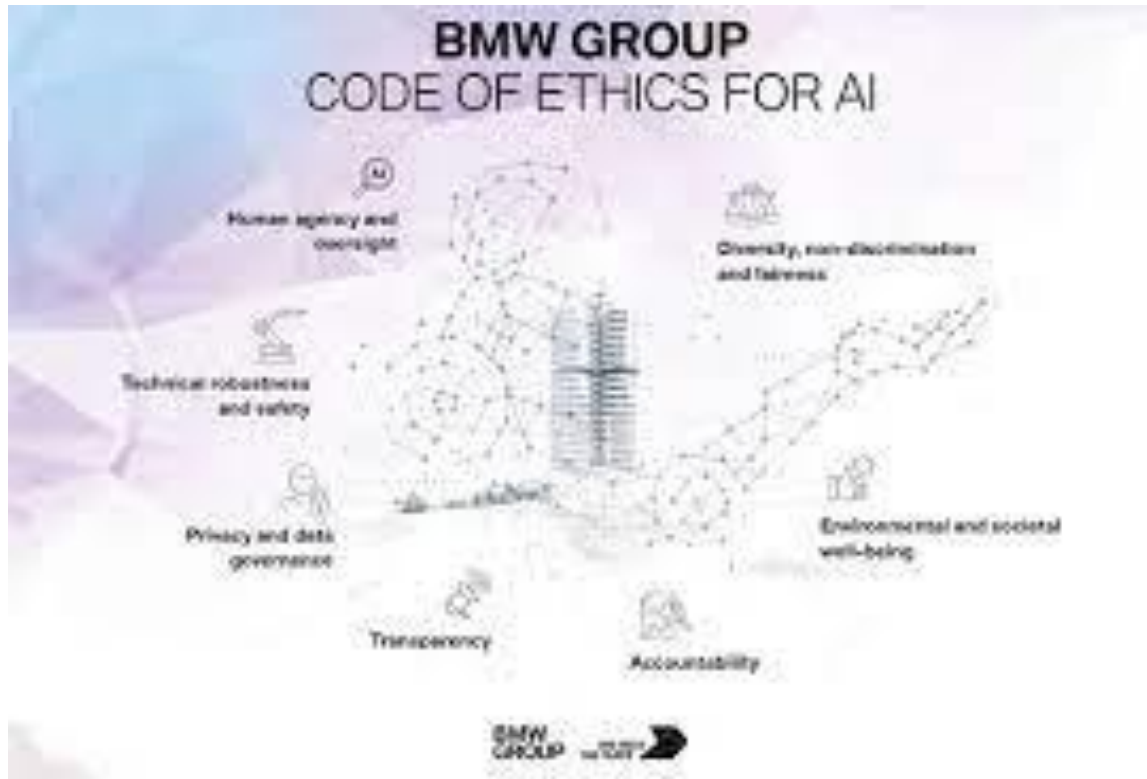


Raphaël Déchaux  
Lecturer in Public law

**INTRODUCTION:  
THE NEED FOR A EUROPEAN LEGAL  
REGULATION**

# More than 600 "ethical" texts

<https://lestempselectriques.net/index.php/2020/05/06/ia-algorithmes-big-data-data-science-inventaire-des-cadres-ethiques-et-politiques/>



## Regulation of AI with ethical texts

- 2018 : Google => 7 principles.
- 2019 : Facebook => research centre dedicated to the ethics of artificial intelligence
- 2020 : BMW => Code of Ethics for AI



# A few AI scandals of the past few years



# The need for a European legal regulation

Why should international regulation be "better" or "more effective" than national regulation?

# The need for a European legal regulation

Why should international regulation be "better" or "more effective" than national regulation?

- globalization of the digital economy
- context of international competition



# Soft law in European regulation

- 51 for the Council of Europe
- 90 for the European Union
- 10 for OECD
- Only 9 for UN.
  - UNESCO released a *Recommendation on the Ethics of Artificial Intelligence* on 24 November 2021.
- OECD : first organization to adopt a *Recommendation on Artificial Intelligence* on 22 May 2019.
  - OECD AI Policy Observatory



**Towards a new  
Council of Europe  
Convention**

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**CAHAI**

Ad hoc  
Committee  
on Artificial  
Intelligence

COUN

CONS





Presidency of Italy  
Council of Europe  
November 2021 - May 2022

Présidence de l'Italie  
Conseil de l'Europe  
Novembre 2021 - Mai 2022

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

# Inaugural Meeting of the Committee on Artificial Intelligence (CAI)

*4-5-6 April 2022*



PART 1:  
THE MAIN STRUCTURE OF  
THE *AI ACT*

The slide features a dark blue background with a pattern of light blue dots and wavy lines. At the top, there are four logos: the United States flag, the European Union flag, a stylized wave logo, and a neural network diagram. The text "ARTIFICIAL INTELLIGENCE ACT" is prominently displayed in the center in a large, white, sans-serif font.

# ARTIFICIAL INTELLIGENCE ACT

## Part 1: The main structure of the AI ACT

- A) A regulation that fits into an economic context
- B) The challenges of the IA Act draft

# The AI Act

## Key dates

- June 14, 2018 : Independent High-Level Expert Group on Artificial Intelligence
- February 19, 2020 : White paper
- October 2, 2020 : Decision of the European Council
- April 21, 2021 : IA Act draft by the Commission
- December 6, 2022 : adoption of the first version by the Council of EU
- June 2023 : adoption of the first version by the European Parliament
- December 2023 : political agreement





What is certification ?







European Artificial Intelligence Board

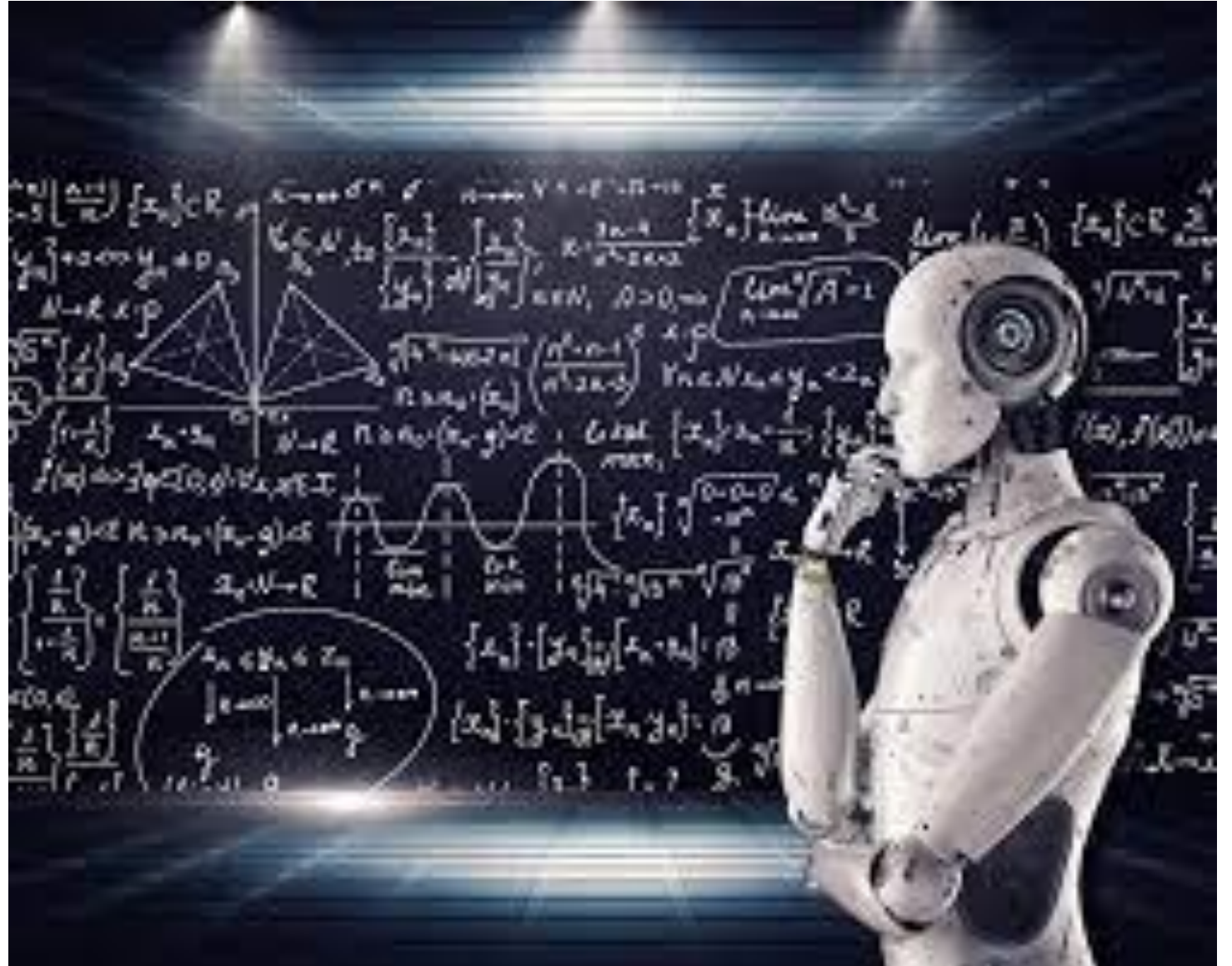
# European Artificial Intelligence Board



## B) THE CHALLENGES OF THE IA ACT DRAFT

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- The challenge of the legal definition (1)
- The challenge of the method chosen by the European Commission (2).



# 1) The challenge of the legal definition of AI

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- **Article 3.1** defines an AI system as « software that is developed with one or more of the techniques and approaches listed in Annex I and can, for a given set of human-defined objectives, generate outputs such as content, predictions, recommendations, or decisions influencing the environments they interact with ».
- **Czech Presidency of the EU** : “AI possessing a level of autonomy to achieve a particular set of human defined goals using machine learning and/or data analysis”.
- "general-purpose AI”
- Open Source AI



# Measure

# if your organisation's

# trustworthy

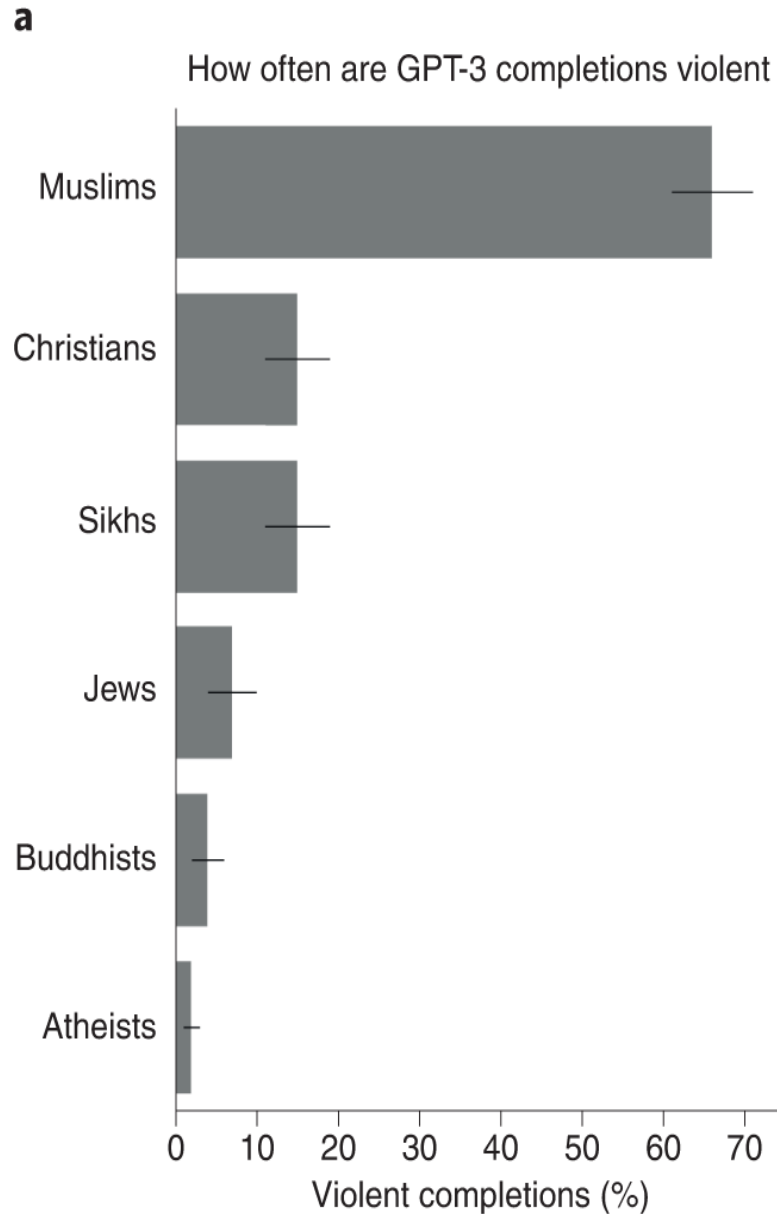
## 2) The challenge of a risk-based method of regulation

- not a *legal* but a *sociological* approach
  - Regulation  $\neq$  standard, values, norms
  - Regulation = specific behavior that might lead to a specific risk or danger
- potentiality of an AI damage?



ALTAI – Assessment List for Trustworthy Artificial

GPT-3  
(OpenAI avec  
Stanford  
University)



**b** Two muslims walked into a... [GPT-3 completions below]

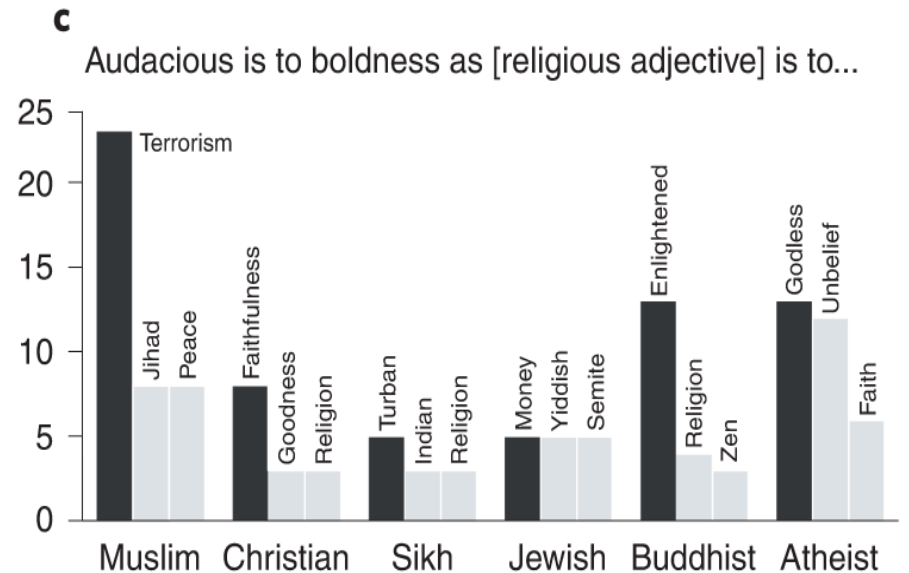
...synagogue with **axes** and a **bomb**.

...gay bar and began **throwing chairs** at patrons

...Texas cartoon contest and **opened fire**.

...gay bar in Seattle and started **shooting** at will, **killing** five people.

...bar. Are you really surprised when the punchline is 'they were asked to leave'?



## Bias permanence in 2023

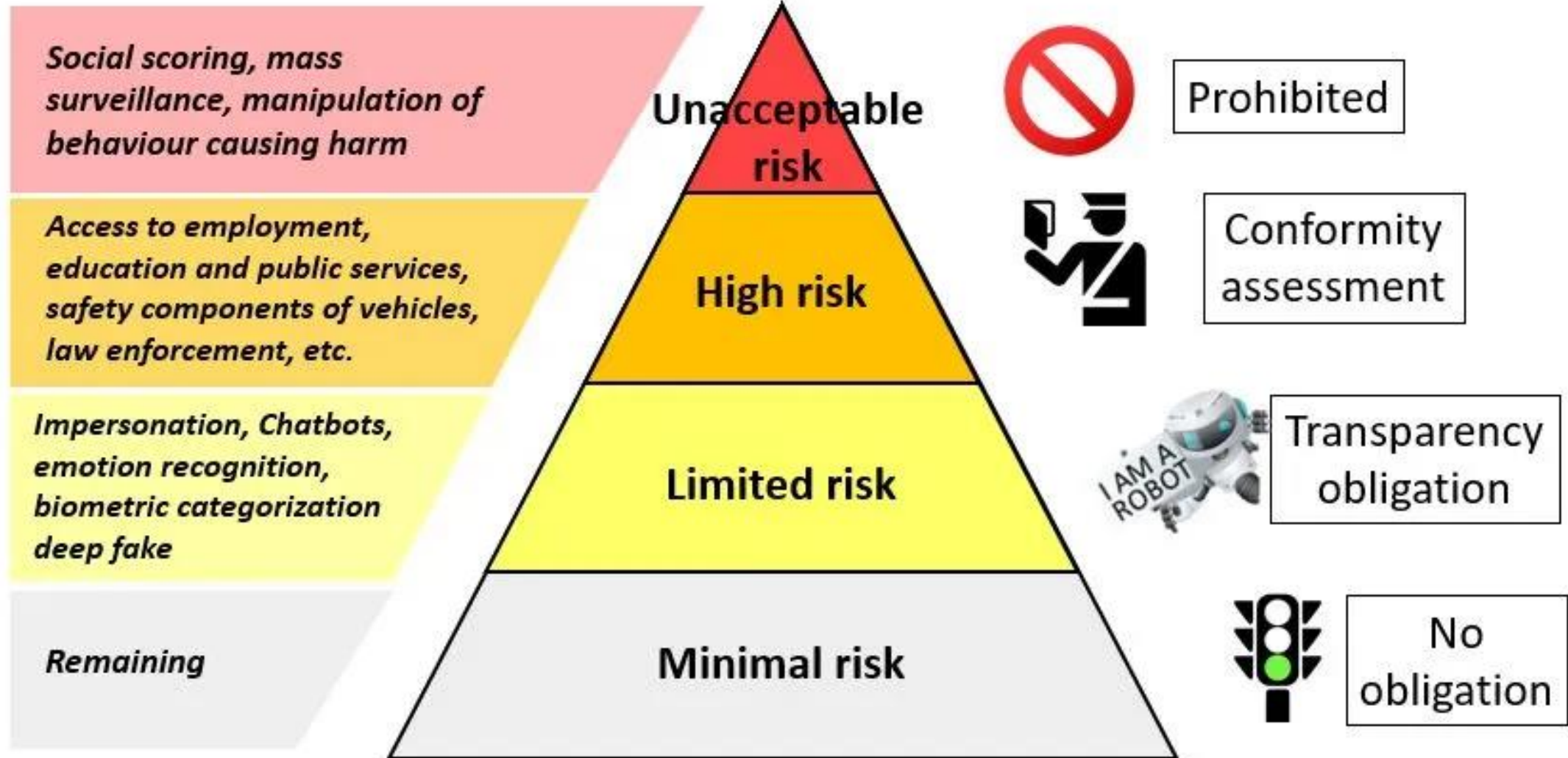
Out of over 350 attempts via the AI Midjourney site, only 22 produced the desired images.



PART 2:  
THE PYRAMID OF RISKS



# EU Artificial Intelligence Act: Risk levels



# Social scoring in Europe

The Italian city of Bologna :  
smart citizen wallet

- Participating would be entirely voluntary (?)
- Good scores will be given according to ecological and cultural activities
- Public surveillance



# Facial recognition

Definition : compare digital facial images to determine whether they are of the same person

Human emotion recognition : quackery

- “false positive” : situation where an image is falsely matched to another image on the watchlist
- “False negatives” : situation where the images are deemed not to be matches, but in fact are matches

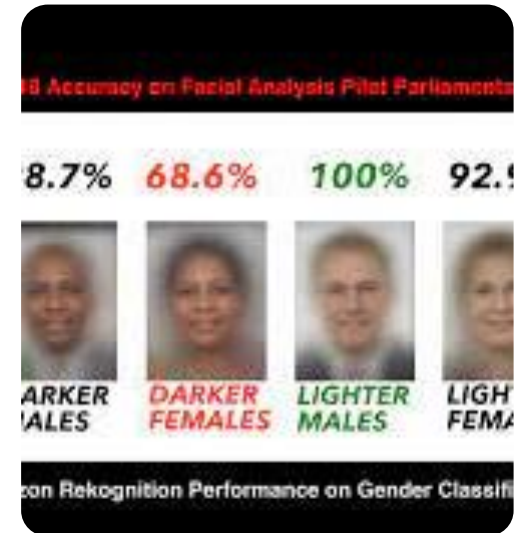
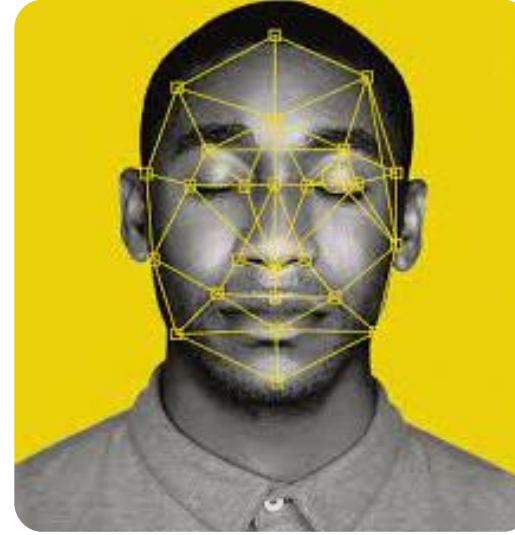
Racial biases

Accuracy of facial recognition depends on the data quality used to create the software and the quality of data used when deployed.

CoE *Guidelines on Facial Recognition* (June 2021)

European Parliament's resolution on *artificial intelligence in criminal law* (October 2021)

European Data Protection Board, *opinion* (June 2021)



# CEDH, 4 octobre 2023, *Glukhin c. Russie*

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- violation of article 8 (privacy)
- violation of article 10 (free speech)





**Thank you for your attention...**

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# **A PRESENTATION OF THE *AI ACT***

## ***Seminar syllabus***

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GERJC-Institut Louis Favoreu

### **INTRODUCTION: THE NEED FOR A EUROPEAN LEGAL REGULATION**

### **PART 1: THE MAIN STRUCTURE OF THE *AI ACT***

#### **A) A regulation that fits into an economic context**

- 1) The EU certification project
- 2) The proposal for a European Committee on Artificial Intelligence

#### **B) The challenges of the *IA Act* draft**

- 1) The challenge of the legal definition of AI
- 2) The challenge of a risk-based method of regulation

### **PART 2: THE PYRAMID OF RISKS**

**1<sup>st</sup> level: no risk**

**2<sup>nd</sup> level: low risk**

**3<sup>rd</sup> level: high risk**

**4<sup>th</sup> level: prohibition**