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# EU Trilogues: The AI Act must protect people's rights

## A civil society statement on fundamental rights in the EU Artificial Intelligence Act

*As European Union institutions<sup>1</sup> begin trilogue negotiations, civil society calls on EU institutions to ensure the Regulation puts people and fundamental rights first in the Artificial Intelligence Act (AI Act).*

In Europe and around the world, AI systems are used to [monitor and control us in public spaces](#), [predict our likelihood of future criminality](#), facilitate [violations of the right to claim asylum](#), [predict our emotions](#) and [categorise us](#), and to make crucial decisions that determine our access to public services, welfare, education and employment.

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<sup>1</sup> European Parliament, the Council of the European Union and European Commission engage in inter-institutional negotiations, 'trilogues', to reach a provisional agreement on a legislative proposal that is acceptable to both the Parliament and the Council.

Without strong regulation, companies and governments will continue to use AI systems that exacerbate mass surveillance, structural discrimination, centralised power of large technology companies, unaccountable public decision-making and environmental damage.

**We call on EU institutions to ensure that AI development and use is accountable, publicly transparent, and that people are empowered to challenge harms:**

## **1. Empower affected people with a framework of accountability, transparency, accessibility and redress**

It is crucial that the EU AI Act empowers people and public interest actors to understand, identify, challenge and seek redress when the use of AI systems exacerbate harms and violates fundamental rights. To do this, it is crucial that the AI Act develops a framework of accountability, transparency, accessibility and redress. This must include:

- An obligation on all public and private ‘users’ (deployers) to conduct and publish a [fundamental rights impact assessment](#) before each deployment of a high-risk AI system and meaningfully engage civil society and affected people in this process;
- Require all users of high-risk AI systems, and users of all systems in the public sphere, to [register their use in the publicly viewable EU database](#) before deployment;
- Ensure that EU-based AI providers whose systems impact people outside of the EU are subject to the same requirements as those inside the EU.
- Ensure [horizontal and mainstreamed accessibility requirements](#) for all AI systems;
- Ensure people affected by AI systems are [notified and have the right to seek information](#) when affected by AI-assisted decisions and outcomes;
- Include a right for people affected to [lodge a complaint with a national authority](#) if their rights have been violated by the use of an AI system;
- Include a right to representation of natural persons and the right for public interest organisations to [lodge standalone complaints](#) with a national supervisory authority;
- Include a [right to effective remedies](#) for the infringement of rights.

## **2. Draw limits on harmful and discriminatory surveillance by national security, law enforcement and migration authorities**

Increasingly AI systems are developed and deployed for harmful and discriminatory forms of state surveillance. Such systems disproportionately target already marginalised communities, undermine legal and procedural rights, as well as contributing to mass surveillance. When AI systems are deployed in the context of law enforcement, security and migration control, there is an even greater risk of harm, and violations of fundamental rights and the rule of law. To maintain public oversight and prevent harm, the EU AI Act must include:

- A full ban on [real-time and post remote biometric identification](#) in publicly accessible spaces, by all actors, without exception;
- A prohibition of all forms of [predictive and profiling systems](#) in law enforcement and criminal justice (including systems which focus on and target individuals, groups and locations or areas);
- Prohibitions on [AI in migration contexts](#) to make individual risk assessments and profiles based on personal and sensitive data, and predictive analytic systems when used to interdict, curtail and prevent migration;
- A prohibition on [biometric categorisation systems](#) that categorise natural persons according to sensitive or protected attributes as well as the use of any biometric categorisation and automated behavioural detection systems in publicly accessible spaces;
- A ban on the use of [emotion recognition systems](#) to infer people's emotions and mental states;
- Reject the Council's addition of a blanket exemption from the AI Act of AI systems developed or used for national security purposes;
- Remove exceptions and loopholes for law enforcement and migration control introduced by the Council;
- Ensuring public transparency as to what, when and how public actors deploy high-risk AI in areas of law enforcement and migration control, avoiding any exemption to the obligation to register high-risk uses into the EU AI database.

### **3. Push back on Big Tech lobbying: remove loopholes that undermine the regulation**

The EU AI Act must set clear and legally-certain standards of application if the legislation is to be effectively enforced. The legislation must uphold an objective process to determine which systems are high-risk, and remove any 'additional layer' added to the high-risk classification process. Such a layer would allow AI developers, without accountability or oversight, to decide whether or not their systems pose a 'significant' enough risk to warrant legal scrutiny under the Regulation. A discretionary risk classification process risks undermining the entire AI Act, shifting to self-regulation, posing insurmountable challenges for enforcement and harmonisation, and incentivising larger companies to under-classify their own AI systems.

Negotiators of the AI Act must not give in to lobbying efforts of large tech companies seeking to circumvent regulation for financial interest. The EU AI Act must:

- Remove the additional layer added to the risk classification process in Article 6 restore the clear, objective risk-classification process outlined in the original position of the European Commission;
- Ensure that providers of general purpose AI systems are subject to a clear set of obligations under the AI Act, avoiding that smaller providers and users bear the brunt of obligations better suited to original developers.

#### **Drafted by:**

1. European Digital Rights (EDRi)
2. Access Now
3. Algorithm Watch
4. Amnesty International
5. Bits of Freedom
6. Electronic Frontier Norway (EFN)
7. European Center for Not-for-Profit Law, (ECNL)
8. European Disability Forum (EDF)
9. Fair Trials
10. Homo Digitalis
11. Irish Council for Civil Liberties (ICCL)
12. Panoptikon Foundation

13. Platform for International Cooperation on the Rights of Undocumented Migrants (PICUM)

**Signed:**

- 14. 7amleh-The Arab Center for the Advancement of Social Media
- 15. Academia Ciudadã - Citizenship Academy
- 16. Africa Solidarity Centre Ireland
- 17. AlgoRace
- 18. Algorights
- 19. All Faiths and None
- 20. All Out
- 21. Anna Henga
- 22. Anticorruption Center
- 23. ARSIS - Association of the Social Support of Youth
- 24. ARTICLE 19
- 25. Asia Indigenous Peoples Pact
- 26. Asociación Por Ti Mujer
- 27. Aspiration
- 28. Association for Juridical Studies on Immigration (ASGI)
- 29. Association Konekt
- 30. ASTI asbl - Luxembourg
- 31. AsyLex
- 32. Austria human rights League
- 33. Avaaz
- 34. Balkan Civil Society Development Network
- 35. Bulgarian center for Not-for-Profit Law (BCNL)
- 36. Bürgerrechte & Polizei/CILIP, Germany
- 37. Canadian Civil Liberties Association

- 38. Chaos Computer Club
- 39. Charity & Security Network
- 40. Citizen D / Državljan D
- 41. Civil Liberties Union for Europe
- 42. Civil Society Advocates
- 43. Coalizione Italiana Libertà e Diritti civili
- 44. Comisión General Justicia y Paz de España
- 45. Comisión Legal Sol
- 46. Commission Justice et Paix Luxembourg
- 47. Controle Alt Delete
- 48. Corporate Europe Observatory (CEO)
- 49. D64 - Zentrum für digitalen Fortschritt
- 50. DanChurchAid (DCA)
- 51. Danes je nov dan, Inštitut za druga vprašanja
- 52. Data Privacy Brasil
- 53. Defend Democracy
- 54. Democracy Development Foundation
- 55. Digital Security Lab Ukraine
- 56. Digital Society, Switzerland
- 57. Digitalcourage
- 58. Digitale Gesellschaft
- 59. Digitalfems
- 60. Diotima Centre for Gender Rights & Equality
- 61. Donestech

- 62.epicenter.works - for digital rights
- 63.Equinox Initiative for Racial Justice
- 64.Estonian Human Rights Centre
- 65.Eticas
- 66.EuroMed Rights
- 67.European Anti-Poverty Network (EAPN)
- 68.European Center for Human Rights
- 69.European Civic Forum
- 70.European Movement Italy
- 71.European Network Against Racism (ENAR)
- 72.European Network on Statelessness
- 73.European Sex Workers Rights Alliance (ESWA)
- 74.Fair Vote
- 75.FEANTSA, European Federation of National Organisations Working with the Homeless
- 76.Free Press Unlimited
- 77.Fundación Secretariado Gitano
- 78.Gong
- 79.Greek Forum of Migrants
- 80.Greek Forum of Refugees
- 81.Health Action International
- 82.Hiperderecho
- 83.Homo Digitalis
- 84.horizontl Collaborative
- 85.Human Rights Watch
- 86.I Have Rights
- 87.IDAY-Liberia Coalition Inc.
- 88.ILGA-Europe (the European region of the International Lesbian, Gay, Bisexual, Trans and Intersex Association)
- 89.info.nodes
- 90.Initiative Center to Support Social Action "Ednannia"
- 91.Institute for Strategic Dialogue (ISD)
- 92.International Commission of Jurists
- 93.International Rehabilitation Council for Torture victims
- 94.IT-Pol
- 95.Ivorian Community of Greece
- 96.Kif Kif vzw
- 97.KOK - German NGO Network against Trafficking in Human Beings
- 98.KontraS
- 99.Kosovar Civil Society Foundation (KCSF)
100. La Strada International
101. Lafede.cat
102. LDH (Ligue des droits de l'Homme)
103. Legal Centre Lesvos
104. Liberty
105. Ligali / IDPAD (Hackney)
106. Ligue des droits humains, Belgium
107. LOAD e.V.
108. Maison de l'Europe de Paris
109. Metamorphosis Foundation
110. Migrant Tales
111. Migration Tech Monitor
112. Mnemonic
113. Mobile Info Team
114. Moje Państwo Foundation
115. Moomken organization for Awareness and Media

116. National Campaign for Sustainable Development Nepal
117. National Network for Civil Society (BBE)
118. National old folks of Liberia.com
119. Novact
120. Observatorio Trabajo, Algoritmo y Sociedad
121. Open Knowledge Foundation Germany
122. Partners Albania for Change and Development
123. Politiscope
124. Privacy First
125. Privacy International
126. Privacy Network
127. Promo-LEX Association
128. Prostitution Information Center (PIC)
129. Protection International
130. Public Institution Roma Community Centre
131. Racism and Technology Center
132. Red en Defensa de los Derechos Digitales
133. Red Española de Inmigración y Ayuda al Refugiado
134. Refugee Law Lab, York University
135. REPONGAC
136. SHARE Foundation
137. SOLIDAR & SOLIDAR Foundation
138. Statewatch
139. Stichting LOS
140. Superbloom (previously known as Simply Secure)
141. SUPERRR Lab
142. SwitchMED - Maghweb
143. Symbiosis - Council of Europe School of Political Studies in Greece
144. TAMPEP European Network for the Promotion of Rights and Health among Migrant Sex Workers.
145. TEDIC - Paraguay
146. The Border Violence Monitoring Network
147. The Good Lobby
148. Transparency International
149. Volonteurope
150. WeMove Europe
151. Xnet