



The EU Artificial Intelligence Act must safeguard Civic Space, Fundamental Rights, Democracy and the Rule of Law

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Artificial Intelligence (AI) technologies are decisively shaping the relationships between people, institutions, and private actors, with widespread impacts on all that is related to civic, political, social, economic, and ecological rights as well as democracy. The development of these technologies so far has taken place in the absence of relevant legal frameworks, the conversation focusing on the opportunities innovation could provide to people.

Early experiences with the use of AI in public services give a different picture of the issues at stake. The use of AI technologies can have detrimental consequences for privacy, fundamental rights, democracy, civic space, fair treatment to all, and the rule of law. **It is crucial that institutions take full responsibility for the development and deployment of AI in society. This requires a holistic approach that addresses all of the relevant aspects of an inclusive, democratic society that aims at the well-being of all (a “whole-of-government approach”).** This much-needed comprehensive approach must involve actions at both the EU and national levels.

The Artificial Intelligence Act (AIA) proposed by the European Union could become a significant step toward regulating artificial intelligence (AI) in Europe. As the first legally-binding proposal to regulate AI in the world, **the AIA should also set a global standard: it must be rights-based, serve the common good, and be shaped first and foremost to meet people’s needs.**

[The European Civic Forum](#) is concerned that **the current proposal for the AIA and its proposed amendments will be detrimental to the common values and principles of the EU**, such as the rule of law, fundamental rights, open civic space, human dignity, and inclusion, and could potentially undermine democratic accountability and transparency. The proposal would also be inconsistent with other EU policies. We would particularly like to draw attention to the [lack of an environmental and resource consumption impact assessment, transparency requirements](#) for AI systems, and [accessibility requirements in the European Accessibility Act](#).

The harmful effects of using AI systems are already repeatedly materialising. The AIA must recognise and address the risks. **The European Civic Forum calls on the Council of the European Union, the European Commission, and the European Parliament to ensure that the AIA is coherent with the values, aims, and objectives of the EU and the Charter of Fundamental Rights provisions.**

A relevant focus: the risks for civil rights

AI systems have the potential to massively impact fundamental rights, including the right to non-discrimination, and the freedoms of assembly and expression. Some systems, such as [surveillance spyware](#), [biometric categorisation](#), [emotion recognition](#) or [predictive policing](#) have been recognised as immediate threats to human dignity and the right to privacy. **Such systems could potentially have a chilling effect on individuals or groups, hindering them from public participation and exercising their civil rights.**

We have already seen how governments use these systems against civic actors, human rights defenders, journalists, and political activists, to collect extensive data, and track or surveil. Paradoxically, governments invoke security concerns to justify the acts against these actors. There have also been [cases in Europe where the use of AI-based categorisation and profiling systems has resulted in discrimination and unlawful acts, with many examples related to](#) vulnerable people such as migrants, asylum seekers, refugees, people with disabilities, and children. **The AIA must comprehensively ban the use, and development of remote biometric identification, including “real time” and “post” use, emotion recognition, biometric categorisation and predictive policing systems.**

Classification for risks, fundamental rights impact assessments and independent investigation bodies

The AIA foresees the classification of risks from minimal to unacceptable. Since there is no objective way of assessing each AI system under such classification, as the evolution of a system can change the level of risks, the assessment results of each system and the methodology used need to be public.

The position of the Council included amendments that would [exempt AI systems utilised for national security purposes from the regulation](#). This would mean that AI systems that are classified as the highest level of risk and normally prohibited by the AIA could be deployed without the checks and balances foreseen by the regulation, simply because they are claimed to be used for security purposes. **We condemn the use of any AI systems without strong safeguards.**

[Examples](#) have demonstrated how such systems that would fall outside the general provisions were abused by law enforcement authorities resulting in human rights violations. The legislation can have no exemption to be effective. **Its risk-based approach has to cover all AI systems, including those exported outside the EU, in order to guarantee that people's rights are respected by they EU nationals or non-EU nationals, including immigrants and refugees.** The AIA must reinforce the effectiveness of the fundamental rights defined in the Charter of Fundamental Rights of the European Union.

The AIA provisions should include **an obligation of the developers and the deployers to conduct fundamental rights impact assessment (FRIA) of AI systems.** The FRIA is required to be regularly updated, as their practices and impacts evolve in time. The assessments should be publicly available to be open to scrutiny and to ensure transparency and accountability. Specific complaints expressed by people and civic actors must be answered by specific assessments and publicly disseminated.



The European Civic Forum calls **for independent public bodies to be established with full powers of investigation**, including the general features of the AI system and the individual decisions taken. They should include a diversity of relevant civil society representatives. These public bodies, together with the judiciary, need to have the power to impose immediate redress for breaches affecting individuals and to forbid the use of AI systems that do not meet the fundamental rights standards.

The AIA must include safeguards against rights violations

The rule of law is the cornerstone of the EU and the AIA must be based on it. **Given the current rule of law backsliding in the EU, regulating AI systems that are posing a risk to people's rights and weakening democracy, is of even greater importance and urgency.**

Public authorities are increasingly relying on AI systems and automated decision making to enact public policies, which can lead to reduced accountability and public oversight on how decisions are made. [The Dutch child allowance scandal](#) is a clear example, but law enforcement and justice authorities [are also increasingly using AI-based systems](#) to predict, influence, inform, or assist in their work.

The use of AI in predictive policing, meaning profiling and predicting the future behaviour of people based on their socio-economic, cultural, religious, or political background, has led authorities to target or take actions, such as surveillance, stop and search, fines, questioning, arrest, detention, prosecution, against people based on these assumptions. We have observed this also in the context of civic activism, preventing people from exercising their fundamental rights. The use of these systems has led to the infringement of several principles of the rule of law, such as the right to a fair trial, access to justice or transparency, objectivity, and predictability in law enforcement.

The European Civic Forum calls for a comprehensive prohibition of predictive policing systems that pose an unacceptable threat to fundamental rights. The AIA must in particular ensure access to justice, including the possibility for complaint and [access to an immediate effective remedy and redress](#) for individuals or groups whose rights have been infringed by the use of AI systems.

Civil society must be empowered to participate in the shaping, monitoring and implementing of the AIA

The role of civil society is more important than ever in strengthening, implementing and, when needed, defending democracy, fundamental rights, and the rule of law. Civil society's multifaceted role as watchdogs, service providers, advocates, and community builders, bringing together diverse actors and defending the rights of vulnerable or marginalised people, will play a significant role in shaping the future of the EU. Through their everyday work on the ground, civic and social organisations **have a deep and valuable understanding of the impact of policies on the wider population and specific groups**, including the impacts of AI and the AIA.

Thus, it is crucial that the institutions of the EU, Member States and all those who develop and use AI consider **the concerns of civil society and commit to ensuring the rights-driven,**



transparent, accountable, and responsible use of AI systems that matches the needs of people for their effective access to rights and promotes the common good.

Until now, civil society has not been meaningfully engaged in AI policymaking or development. **We call on the EU institutions to ensure civil society's participation and maintain open, transparent, and regular dialogue, as stated in Article 11 in the Treaty on European Union, on the AIA both at national and EU levels.** Civil society must be diversely represented at every stage of the AI life cycle including risk assessment, design, deployment as well as the governance and standardisation processes of AI systems. This also requires empowering civil society to participate by providing technical assistance, capacity building, funding, and opportunities to engage.

About European Civic Forum

European Civic Forum (ECF) is a pan-European network of nearly 100 associations and NGOs across 29 European countries: big federations of associations, national platforms uniting hundreds of thousands of NGOs, and smaller groups working at community level or engaging with the public on local issues. We work to build a democratic and civic Europe that delivers on people's needs.

