UNIVERSITÄT DES SAARLANDES

INSTITUTE OF LEGAL INFORMATICS

The legal framework for AI in the European Union

Protection of Personal Data (and Identity) in the AI-Driven Society | Tokyo, 15 September, 2025

Prof. Dr. Georg Borges

- Chair of Civil Law, Legal Informatics, German and International Business Law and Legal Theory, Saarland University
- Director of Institute of Legal Informatics, Saarland University
- Judge, Oberlandesgericht Hamm [higher regional court] (2012-2015)
- Member of the Hörst-Görtz Institute for IT Security (HGI) (2005–2015)
- Member of the Board, EDV-Gerichtstag e.V. [German Association for eJustice]
- Member of the Board, Stiftung Datenschutz [Data Protection Foundation]
- Member, EU Commission Expert Group on “Liability and new technologies, New technologies formation“ (2018-2020)
- Member, EU Commission „Expert Group on B2B Data Sharing” (2022-2025)
- Distinguished Visiting Professor, University of Johannesburg (since 2023)
- Visiting Professor, Keio University, Tokyo (since 2024)

Institute of Legal Informatics – Fields of Research

- AI / Autonomous Systems
- Data Protection
- IT-Security
- Industry 4.0 / Cloud Computing
- Legal Informatics / Legal Tech
- Big Data
- eJustice / eGovernment

- **www.rechtsinformatik.saarland**

Explainable Intelligent Systems

ExamAI

KI WISSEN
Automotive AI Powered by Knowledge

INITIATIVE
Intelligente Mensch-Technik-Kommunikation im gemischten Verkehr

Amtsgericht 4.0

A-DigiKomp

DESIGNETZ
VERBUNDEN MIT KREATIVER ENERGIE

KITT

RECHT-TESTBED

EuroDaT
The European Data Trustee

EVAREST

MONTAGSPOST

Institute of Legal Informatics – Education and outreach

- **Education**
  - Master‘s degree „IT and Law“ (LL.M.)
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  - Summer School „IT Law and Legal Informatics“
  - Certificate „IT Law and Legal Informatics“
- **Events**
  - Symposia/Workshops/Seminars
  - E.g. GDPR! Data protection in practice.
- **Services for the public**
  - GesetzMobil [collections of laws]
  - JuraPush, BGH-Push [law and Federal Court of Justice newsletter]
  - IT-Recht.Karriere [career portal]

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- Interdisciplinary teaching
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Career Portal IT-Law: www.it-recht-karriere.de

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  - Job offers / legal clerskhip positions / internships
  - Students/ Ph.D students / career entrants

SUMMER SCHOOL 2025

IT Law and Legal Informatics

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UNIVERSITÄT DES SAARLANDES

JurKIProjekt.

SAARBRÜCKEN

AI use cases in the field of law

Every Thursday, 6-8 p.m. | Summer Semester 2025

PROF DR GEORG BORGES

INSTITUTE FOR LEGAL INFORMATICS UNIVERSITY OF THE SAARLAND

Agenda

I. AI regulation – the need and concepts

1. The current debate on AI regulation
2. AI potential and legal challenges
3. The development of the European legal framework for AI

II. The EU AI Act at a glance

1. The legislative process
2. Regulatory framework and contents
3. The scope of application of the AI Act
4. Addressees and obligations
5. Risk management for high-risk AI systems
6. General-purpose AI models (GPAI)
7. Transparency obligations and individual rights protection
8. Institutional rules
9. Interim conclusion

Agenda

III. The regulation of high-risk AI systems

1. The concept of high-risk AI systems
2. The obligations of providers of high-risk AI systems
3. The change of roles in high-risk AI systems

IV. The AI Act and the need for regulation

V. AI and Data Protection

III. Storing personal data in AI Models
IV. Sensor data as personal data
V. The use of generative AI systems

VI. The “right to voice” – Current discussion in German law

AI regulation – the need and concept

AI regulation – the need and concept

The current debate on AI regulation

AI regulation – the need and concept

The current debate on AI regulation

PRESS RELEASE | Aug 1, 2024 | Brussels | 4 min read

European Artificial Intelligence Act comes into force

"The regulation aims to establish a harmonised internal market for AI in the EU, encouraging the **uptake of this technology** and creating a **supportive environment for innovation and investment**."

Press release, 1 August 2024

Thierry Breton, Commissioner for Internal Market

"With the entry into force of the AI Act, European democracy has delivered an **effective**, **proportionate** and **world-first framework** for AI, tackling risks and serving as a **launchpad for European AI startups**."

AI regulation – the need and concept

The current debate on AI regulation

Zurück auf den Boden der Tatsachen in der KI-Regulierung

Von Robert Mayr

Gescheitert ist die Utopie, die EU könnte zum regulatorischen Weltgewissen werden.

Frankfurter Allgemeine
ZEITUNG FÜR DEUTSCHLAND

BUSINESS

JD Vance warns 'massive' European regulation may kill AI, rips 'authoritarian censorship'

"We believe that excessive regulation of the AI sector could kill a transformative industry just as it's taking off [...]"

AI regulation – the need and concept

The current debate on AI regulation

The European Commission considers pause on AI Act's entry into application

Written by: Danny Tobey, Gareth Stokes, Ashley Carr, Jeanne Dauzier, Richard Sterneberg, Coran Darling, Karley Buckley

Since the publication of its original proposed draft in April 2021, the EU Artificial Intelligence Act (AI Act) has received a mixed welcome from the AI industry. While several industry experts, international organizations, and EU Member State governing bodies have lauded its approach to establishing guardrails for the responsible development and use of AI, others (including some Member States) have criticized what they describe as regulatory overreach, heavy burdens, uncertain interpretations, and/or reliance on not-yet-developed resources. This has led to experts and organizations in the industry calling for the EU to reassess its approach to AI regulation.

AI regulation – the need and concept

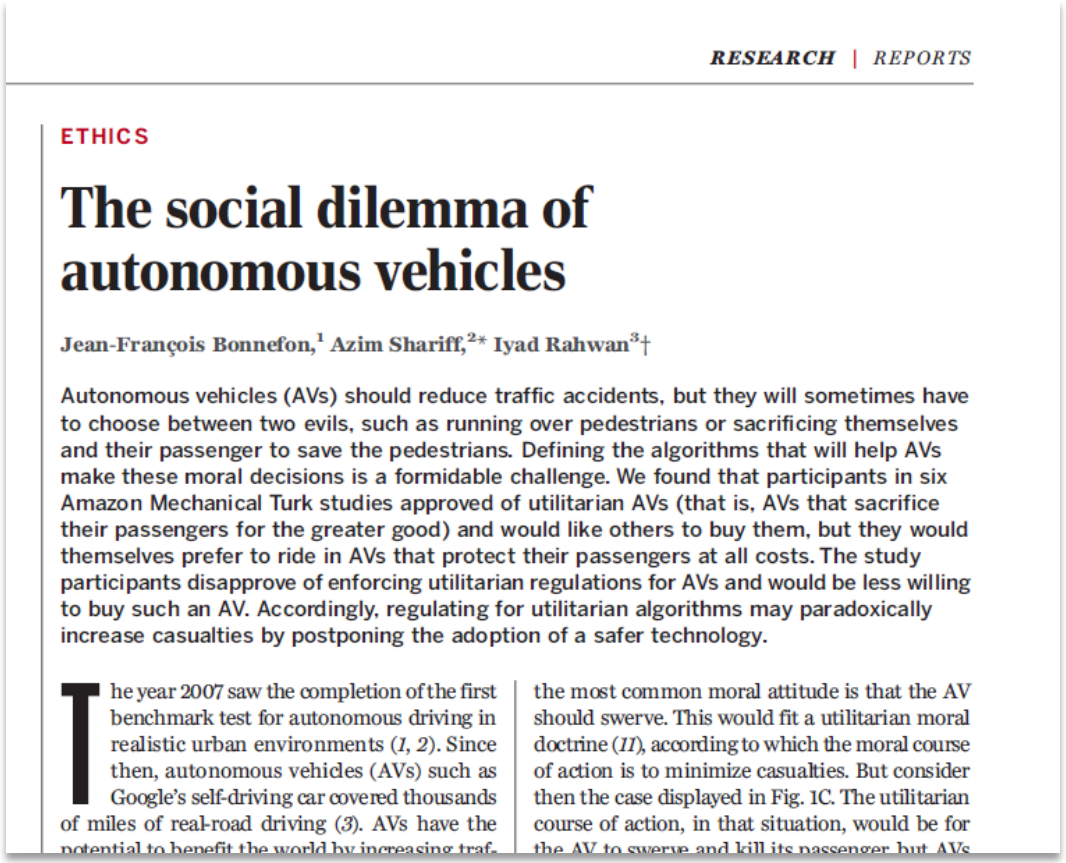
The current debate on AI regulation

Company survey on the acceptance and use of artificial intelligence - *TÜV-Verband:*
90% want legal regulation for liability issues in the use of AI

AI regulation – the need and concept

The current debate on AI regulation

Jean-François Bonnefon, Azim Shariff, Iyad Rahwan in: Science, 24 June 2016, Vol. 352, Issue, 6293, pp. 1573



ETHICS

The social dilemma of autonomous vehicles

Jean-François Bonnefon,[1] Azim Shariff,[2]* Iyad Rahwan[3]†

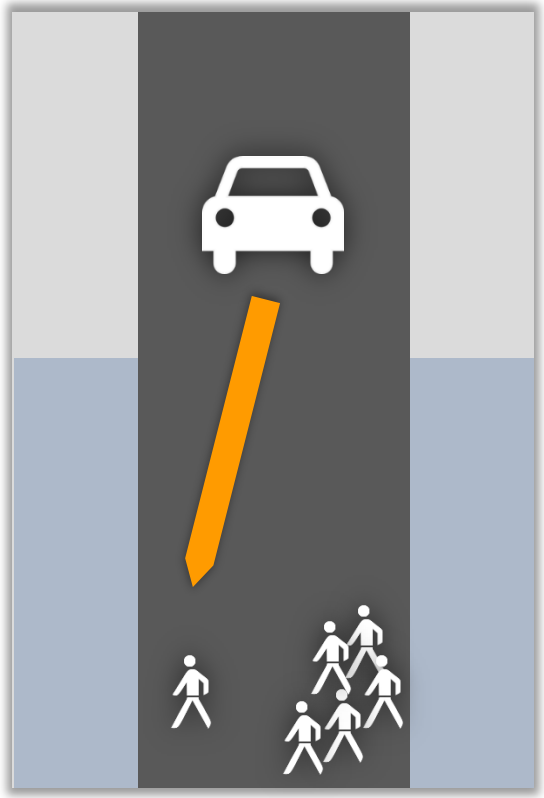
Autonomous vehicles (AVs) should reduce traffic accidents, but they will sometimes have to choose between two evils, such as running over pedestrians or sacrificing themselves and their passenger to save the pedestrians. Defining the algorithms that will help AVs make these moral decisions is a formidable challenge. We found that participants in six Amazon Mechanical Turk studies approved of utilitarian AVs (that is, AVs that sacrifice their passengers for the greater good) and would like others to buy them, but they would themselves prefer to ride in AVs that protect their passengers at all costs. The study participants disapprove of enforcing utilitarian regulations for AVs and would be less willing to buy such an AV. Accordingly, regulating for utilitarian algorithms may paradoxically increase casualties by postponing the adoption of a safer technology.

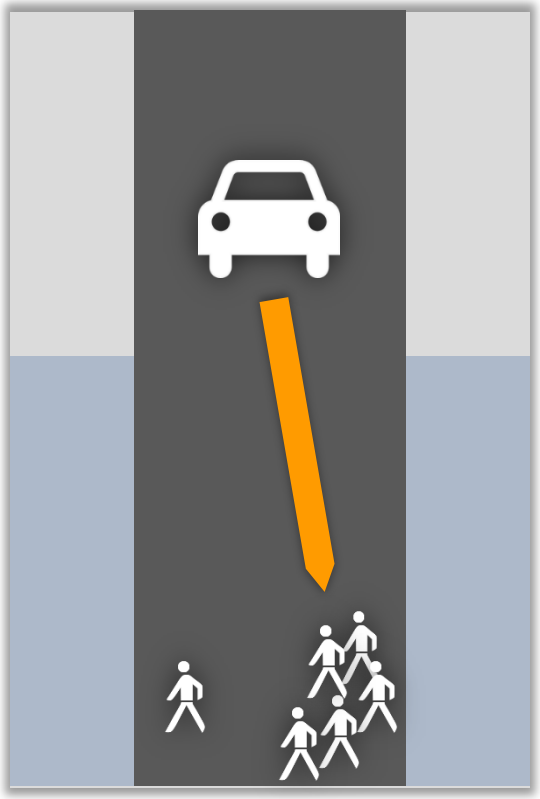
The year 2007 saw the completion of the first benchmark test for autonomous driving in realistic urban environments (*1*, *2*). Since then, autonomous vehicles (AVs) such as Google's self-driving car covered thousands of miles of real-road driving (*3*). AVs have the potential to benefit the world by increasing traf-

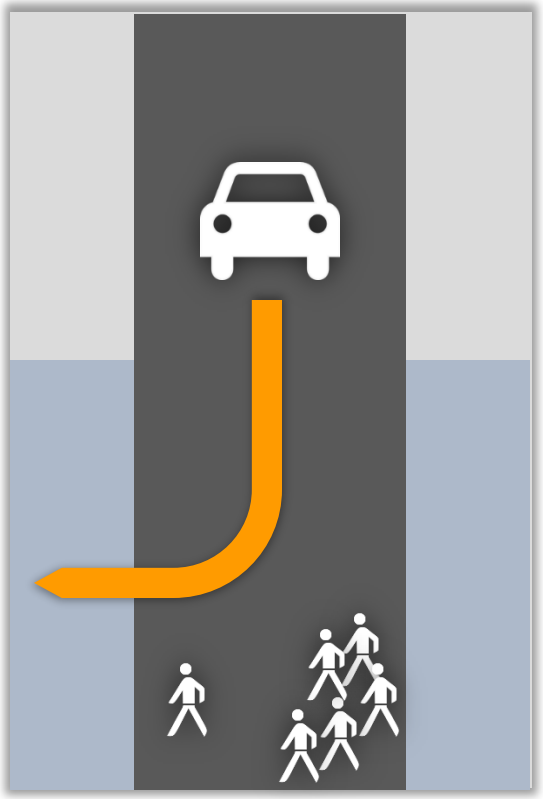
the most common moral attitude is that the AV should swerve. This would fit a utilitarian moral doctrine (*11*), according to which the moral course of action is to minimize casualties. But consider then the case displayed in Fig. 1C. The utilitarian course of action, in that situation, would be for the AV to swerve and kill its passenger, but AVs

AI regulation – the need and concept

The current debate on AI regulation

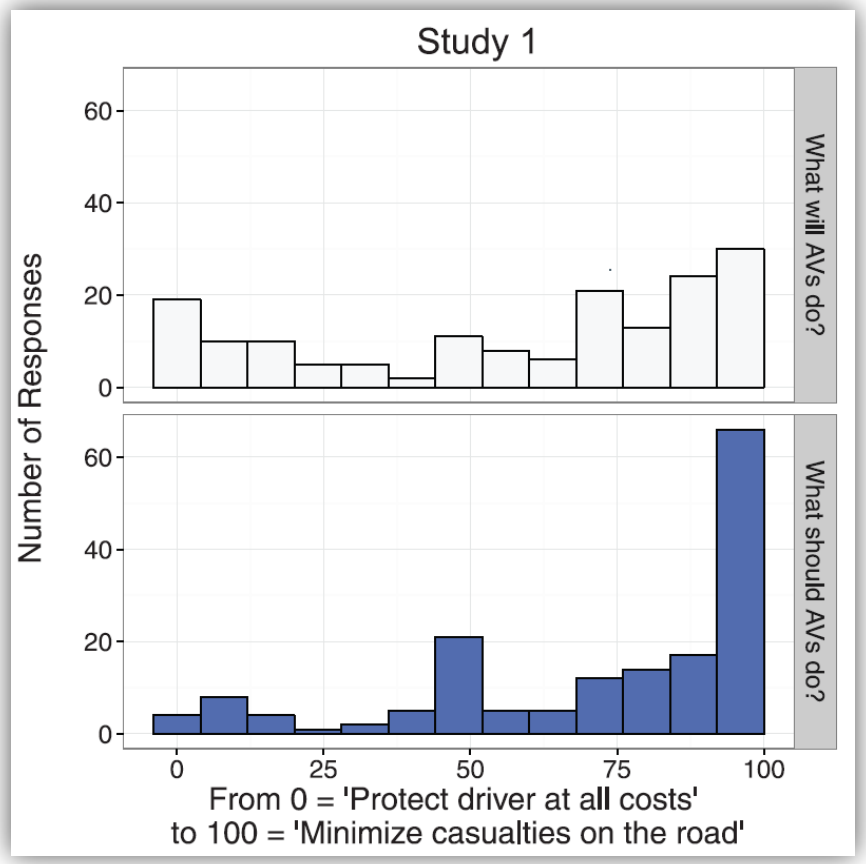


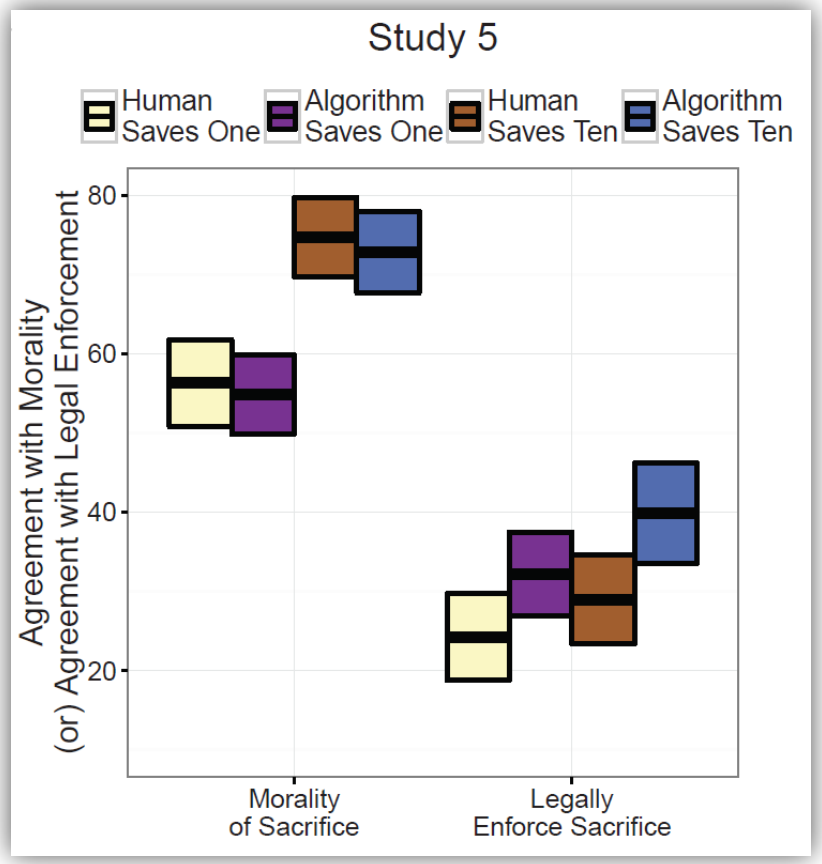




AI regulation – the need and concept

The current debate on AI regulation





AI regulation – the need and concept

The current debate on AI regulation

§ Section 1e StVO - Operation of motor vehicles with autonomous driving function

(2) Motor vehicles with an autonomous driving function must have technical equipment that is capable of

2. [...] and which has an accident prevention system that

a) [...]

b) in the event of unavoidable alternative harm to different legal interests, the significance of the legal interests is taken into account,

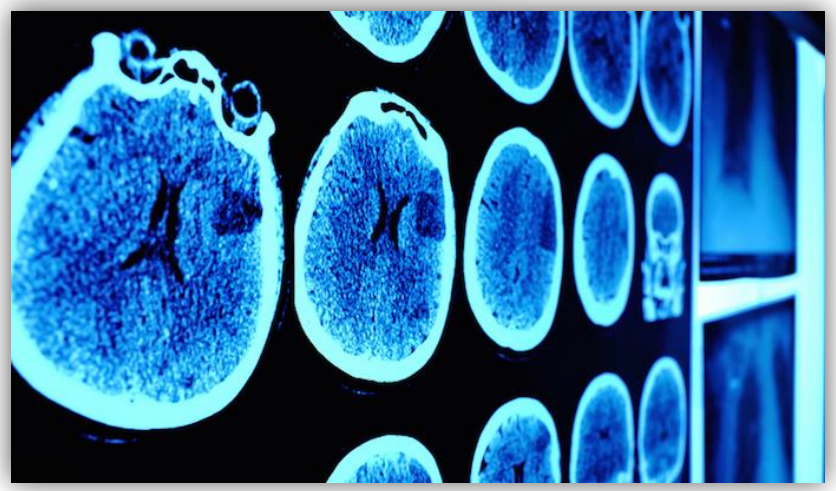
c) **does not** provide for **any further weighting based on personal characteristics in** the event of an unavoidable alternative risk to human life,

AI regulation – the need and concept

AI potential and legal challenges

AI regulation – the need and concept

AI potential and legal challenges



AI regulation – the need and concept

AI potential and legal challenges

AI regulation – the need and concept

AI potential and legal challenges

AI regulation – the need and concept

AI potential and legal challenges

Der Irrtum des Kühlschranks und andere Fragen zu Willenserklärungen von Maschinen: Eine Bestandsaufnahme

Georg Borges / Andreas Sesing

Inhalt

Decisions by AI systems

Court decision

Recruitment decision

Loan decision

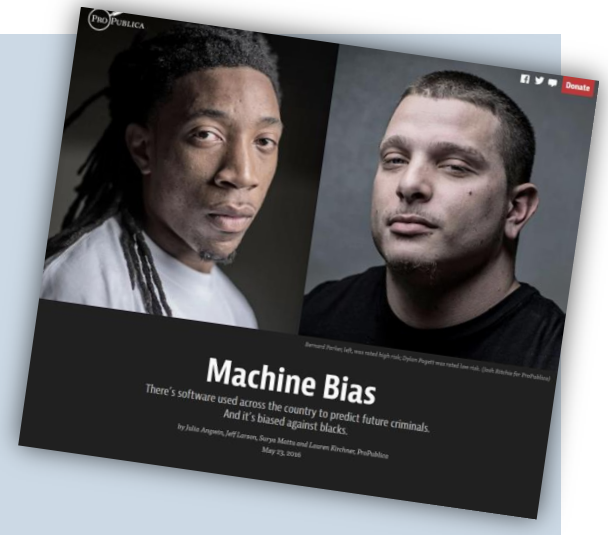
Health insurance offer

AI regulation – the need and concept

AI potential and legal challenges

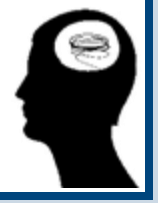
Note in Ausbildung

COMPAS



Credit score

Personality assessment during recruitment



AI regulation – the need and concept

AI potential and legal challenges

*"...**killed** by an Uber self-driving SUV"*

The Guardian

Uber

Self-driving Uber kills Arizona woman in first fatal crash involving pedestrian

Tempe police said car was in autonomous mode at the time of the crash and that the vehicle hit a woman who later died at a hospital

Sam Levin *and* Julia Carrie Wong *in San Francisco*

Mon 19 Mar 2018 22.48 GMT

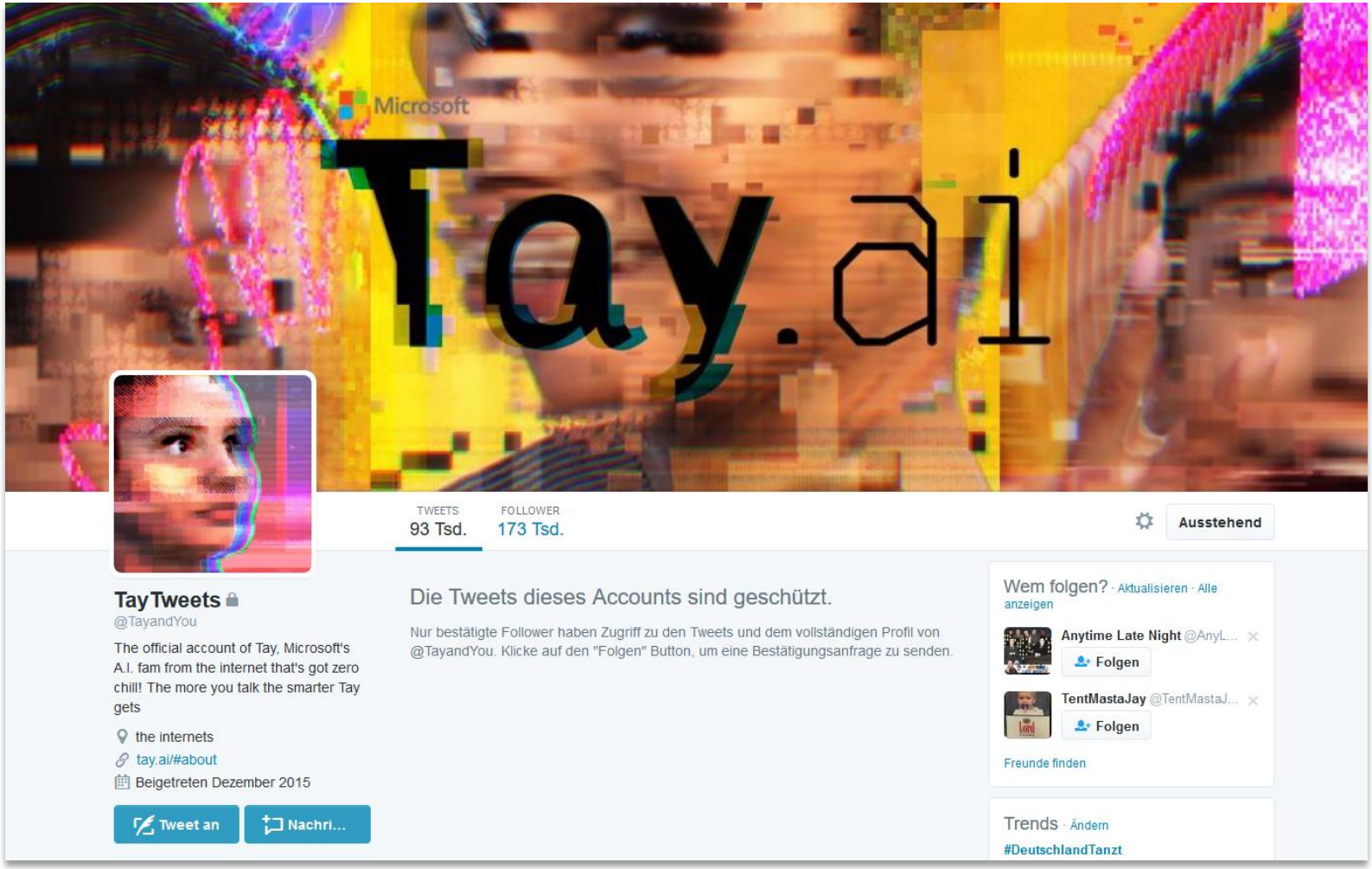
▲ A car passes the location where a woman pedestrian was struck and killed by an Uber self-driving sport utility vehicle in Tempe, Arizona, on Monday. Photograph: Rick Scuteri/Reuters

An autonomous Uber car killed a woman in the street in Arizona, police said, in what appears to be the first reported fatal crash involving a self-driving vehicle and a pedestrian in the US.

Tempe police said the self-driving car was in autonomous mode at the time of the crash and that the vehicle hit a woman, who was walking outside of the crosswalk and later died at a hospital. There was a vehicle operator inside the car at the time of the crash.

AI regulation – the need and concept

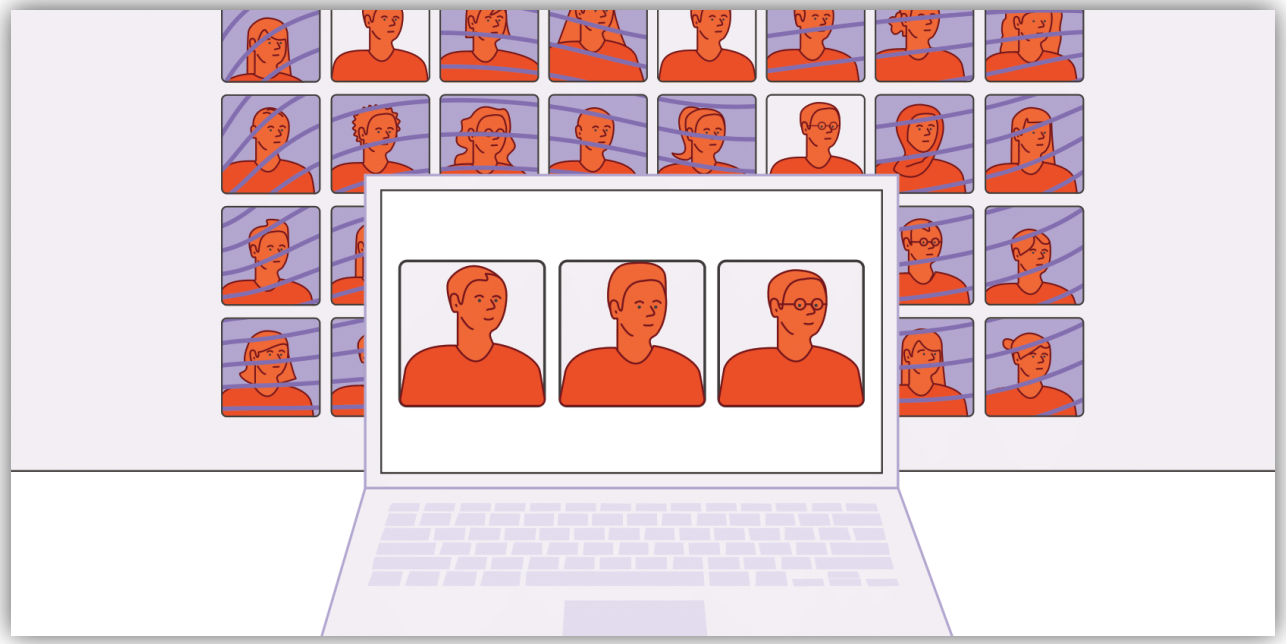
AI potential and legal challenges



AI regulation – the need and concept

AI potential and legal challenges

- When promoting employees internally, an AI system only selects employees who (do not) have certain characteristics.



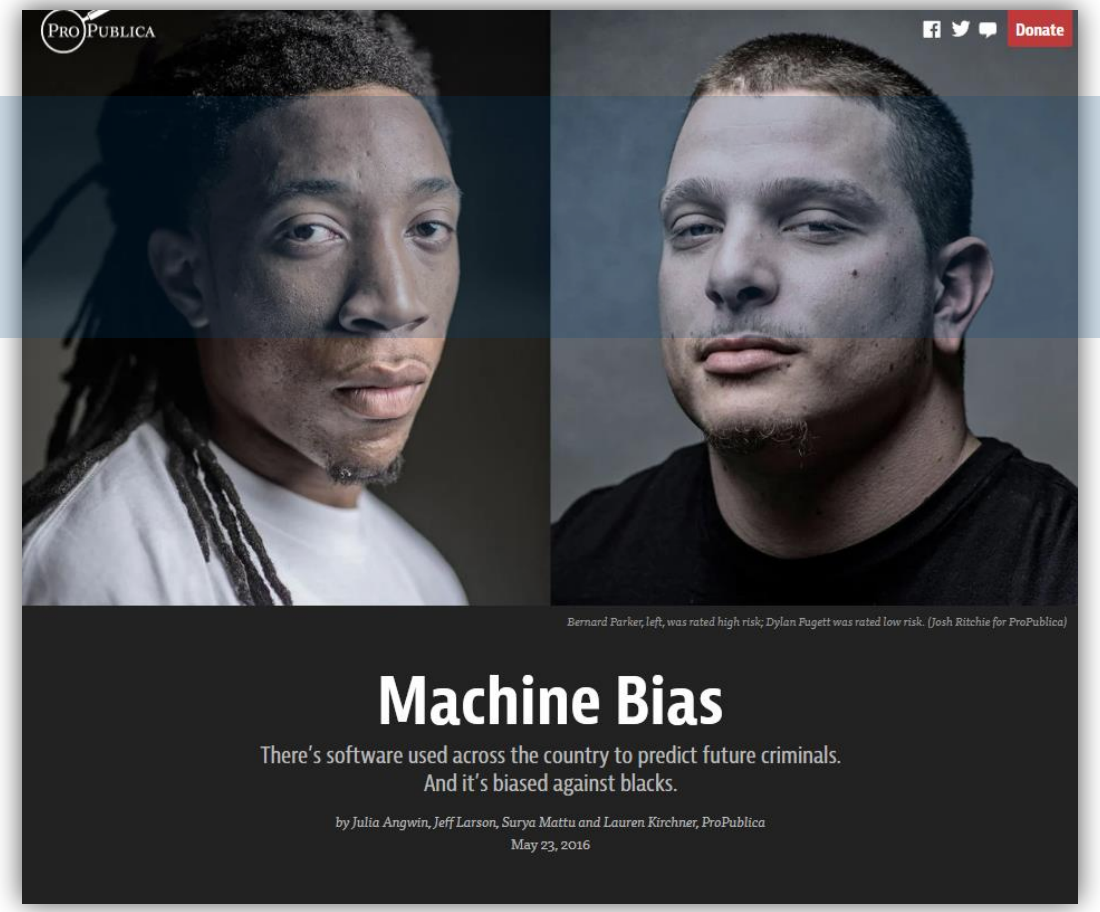
AI regulation – the need and concept

AI potential and legal challenges

Example: COMPAS algorithm

= *Correctional Offender Management Profiling for Alternative Sanctions*

- Calculation of the probability of recidivism among prisoners
- Strong significance of skin colour in the calculation



AI regulation – the need and concept

AI potential and legal challenges

German economy shrinks

Government expects recession in 2024

As of: 09.10.2024 15:51

Biggest problem for the German economy: **lack of willingness to innovate**

tagesschau

Constant but unspectacular: The global economy in sideways motion

Monthly report of the BMWK, Sept. 2024

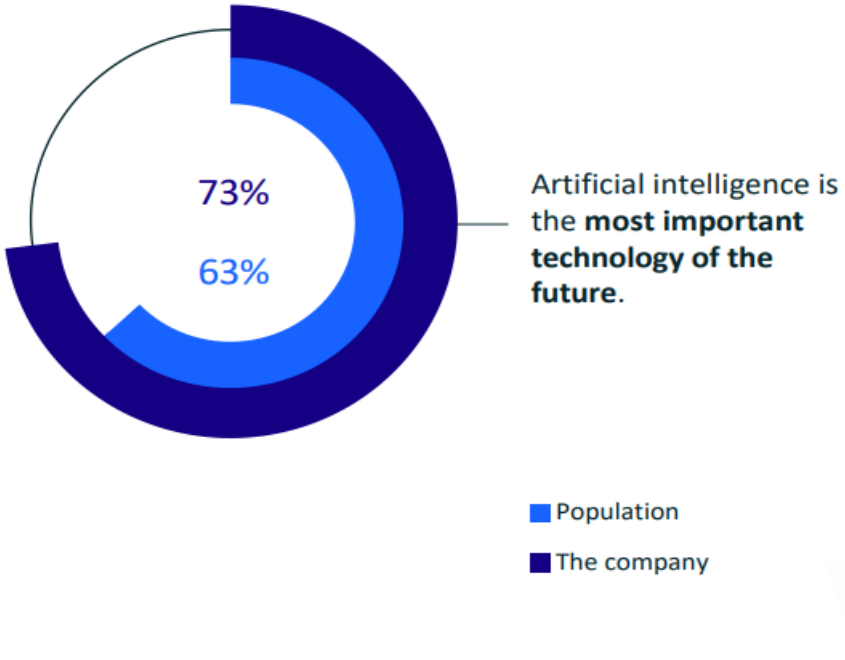
Bundesministerium für Wirtschaft und Klimaschutz

Gesamtwirtschaftliche Entwicklung in der Bundesrepublik DEUTSCHLAND [1]	**2023**	**Herbst-projektion 2024**
Veränderung gegenüber Vorjahr in %, soweit nicht anders angegeben		
ENTSTEHUNG des Bruttoinlandsprodukts (BIP)		
BIP (preisbereinigt)	**-0,3**	**-0,2**
Erwerbstätige (im Inland)	0,7	0,4
BIP je Erwerbstätigen	-1,0	-0,5
BIP je Erwerbstätigenstunde	-0,6	-0,5
nachrichtlich:		
Arbeitslosenquote in % (Abgrenzung der BA) [2]	*5,7*	*6,0*

Autumn projection 2024 of the federal government

AI regulation – the need and concept

AI potential and legal challenges

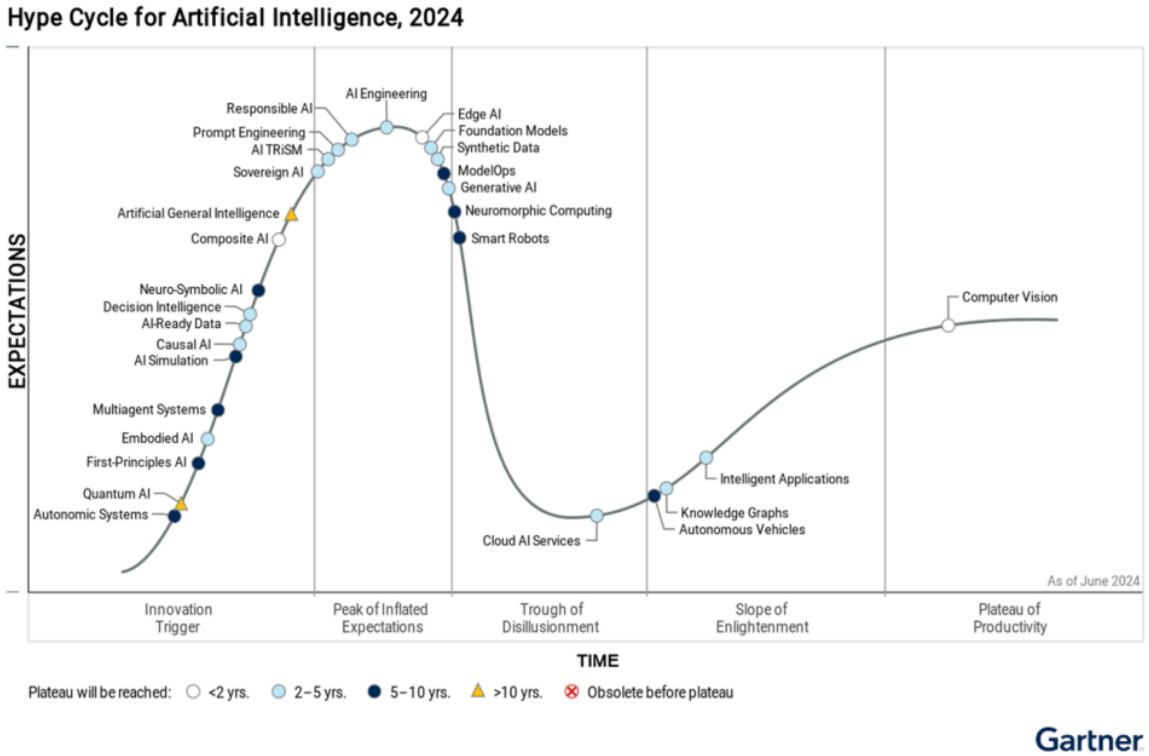


bitkom

In the future, generative AI could contribute 330 billion Euro to the GDP of Germany

Representative company survey commissioned by Google: value creation potential of **330 billion euros** with AI use of over 50 per cent in Germany

IW CONSULT



Gartner, Hype Cycle for Artificial Intelligence, 2024, Afraz Jaffri, Haritha Khandabattu, June 17, 2024

AI regulation – the need and concept

The development of the European legal framework for AI

AI regulation – the need and concept

The development of the European legal framework for AI

European Parliament: Resolution from 2017
Civil law regulations in the field of robotics
P8_TA(2017)0051
https://www.europarl.europa.eu/doceo/document/TA-8-2017-0051_DE.pdf

2017

AI regulation – the need and concept

The development of the European legal framework for AI

Communication from the European Commission:
Artificial intelligence for Europe
COM(2018) 237 final
https://eur-lex.europa.eu/legal-content/DE/TXT/PDF/?uri=CELEX:52018DC0237&from=DE

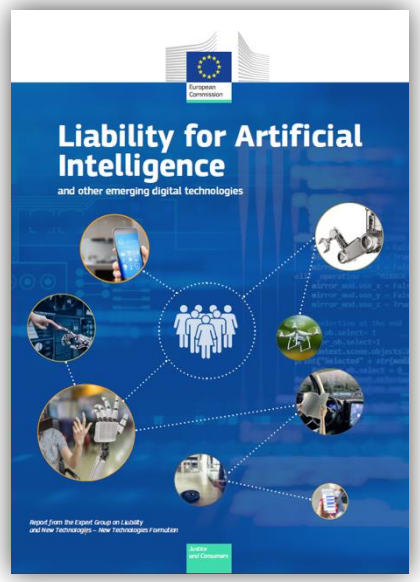
OECD
Council recommendations on artificial intelligence
https://www.oecd.org/berlin/presse/Empfehlung-des-Rats-zu-kuenstlicher-Intelligenz.pdf

2017 **2018**

AI regulation – the need and concept

The development of the European legal framework for AI

Expert Group on Liability and New Technologies (New Technologies Formation)
Report from December 2019
https://www.europarl.europa.eu/meetdocs/2014_2019/plmrep/COMMITTEES/JURI/DV/2020/01-09/AI-report_EN.pdf



2017 2018 2019

AI regulation – the need and concept

The development of the European legal framework for AI

European Parliament: Resolution of 20 October 2020
Regulation of civil liability for the use of artificial intelligence
P9_TA(2020)0276
https://www.europarl.europa.eu/doceo/document/TA-9-2020-0276_DE.pdf


Europäisches Parlament
2019-2024
ANGENOMMENE TEXTE
P9_TA(2020)0276
Regelung der zivilrechtlichen Haftung beim Einsatz künstlicher Intelligenz

2017 2018 2019 2020

AI regulation – the need and concept

The development of the European legal framework for AI

European Commission (21 April 2021):
Proposal for a Regulation of the European Parliament and of the Council laying down harmonised rules on artificial intelligence (Artificial Intelligence Act; AI Regulation; "AI Act")
COM(2021) 206 final
https://eur-lex.europa.eu/legal-content/DE/TXT/PDF/?uri=CELEX:52021PC0206&from=EN

2017 **2018** **2019** **2020** **2021**

AI regulation – the need and concept

The development of the European legal framework for AI

European Commission (28 September 2022):

Proposal for a Directive on liability for defective products
COM(2022) 495 final
https://eur-lex.europa.eu/legal-content/DE/TXT/PDF/?uri=CELEX:52022PC0495&from=DE

Proposal for a Directive adapting the rules on on non-contractual civil liability to artificial intelligence
COM(2022) 496 final
https://eur-lex.europa.eu/legal-content/DE/TXT/PDF/?uri=CELEX:52022PC0496&from=DE

2017 2018 2019 2020 2021 2022

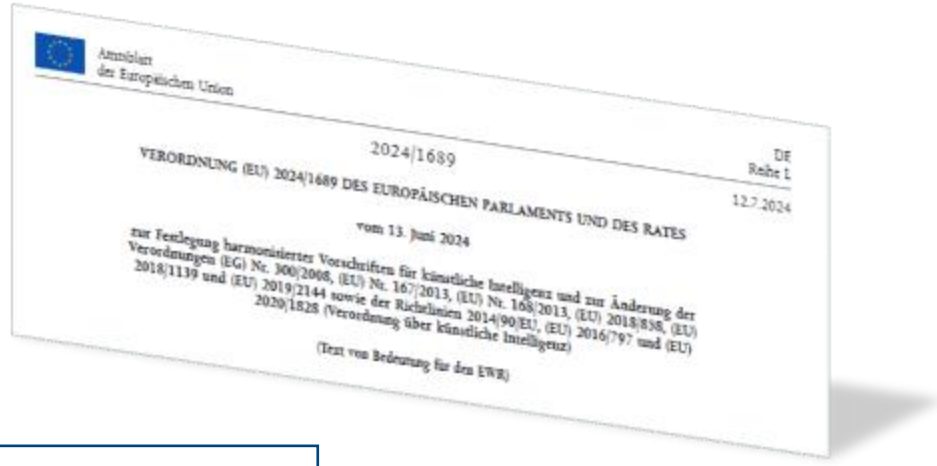
AI regulation – the need and concept

The development of the European legal framework for AI

AI Act (13.6.2024):

Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 (AI Act)

https://eur-lex.europa.eu/eli/reg/2024/1689/oj


Amtsblatt
der Europäischen Union

2024/1689

DE
Reihe L

12.7.2024

VERORDNUNG (EU) 2024/1689 DES EUROPÄISCHEN PARLAMENTS UND DES RATES

vom 13. Juni 2024

zur Festlegung harmonisierter Vorschriften für künstliche Intelligenz und zur Änderung der Verordnungen (EG) Nr. 300/2008, (EU) Nr. 167/2013, (EU) Nr. 168/2013, (EU) 2018/858, (EU) 2018/1139 und (EU) 2019/2144 sowie der Richtlinien 2014/90/EU, (EU) 2016/797 und (EU) 2020/1828 (Verordnung über künstliche Intelligenz)

(Text von Bedeutung für den EWR)

2017 2018 2019 2020 2021 2022 2024

AI regulation – the need and concept

The development of the European legal framework for AI

Council of Europe (5.9.2024):

Framework Convention on Artificial Intelligence and Human Rights, Democracy and the Rule of Law

https://rm.coe.int/1680afae3c

Product Liability Directive (23.10.2024):

Directive (EU) 2024/2853 of the European parliament and of the Council of 23 October 2024 on liability for defective products and repealing Council Directive 85/374/EEC

https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L_202402853

2017 2018 2019 2020 2021 2022 2024 2024

The EU AI Act at a glance

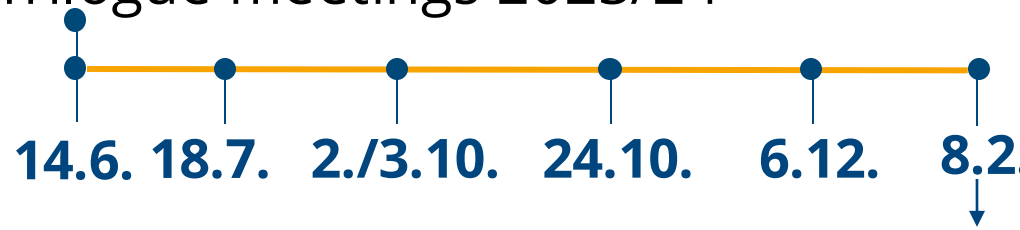
The EU AI Act at a glance

The legislative process

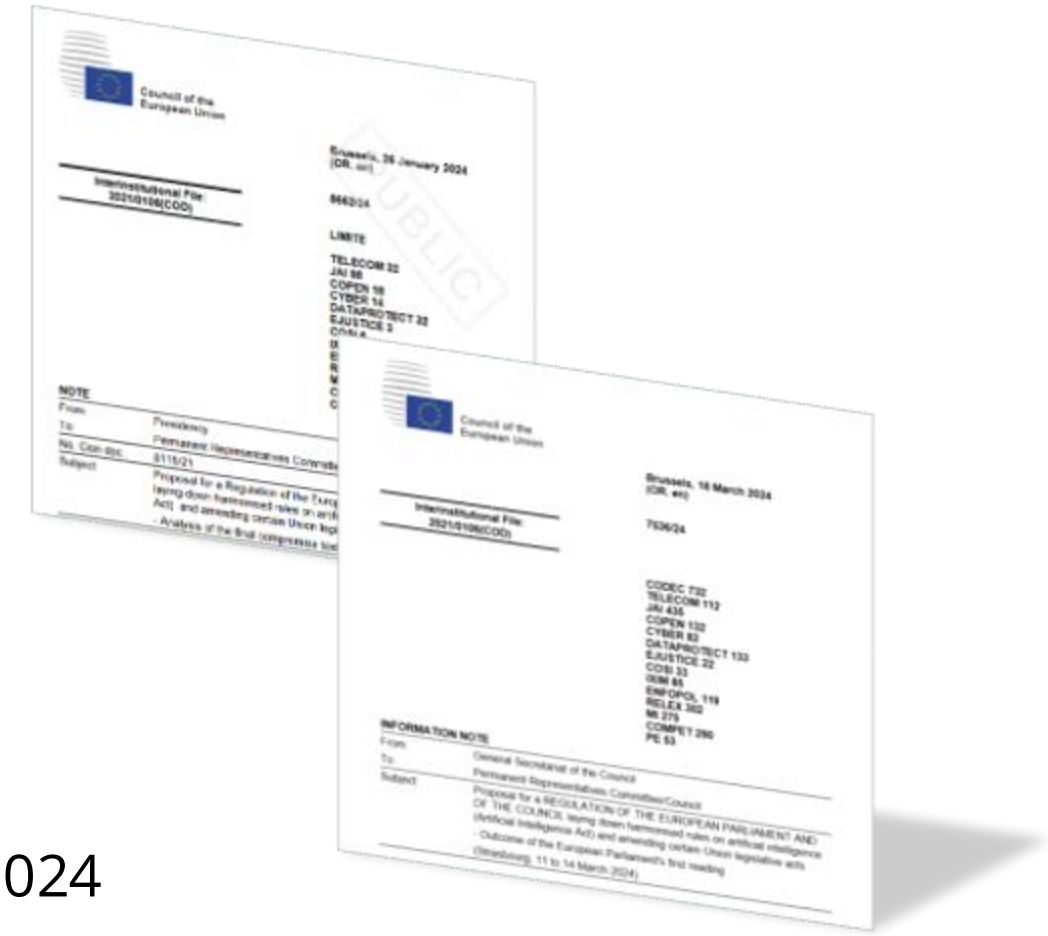
The EU AI Act at a glance

The legislative process

- Commission's proposal 21 April 2021
- Council's position 6 December 2022
- Parliament's position 14 June 2023
- Trilogue meetings 2023/24



- Technical work January 2024
- Confirmation of agreement 2 Feb/13 Mar 2024
- Entry into force 1 August 2024



The EU AI Act at a glance

Regulatory framework and contents

The EU AI Act at a glance

Regulatory framework and contents

- **Exceptionally broad area of application ('AI systems')**
- **Four regulatory concepts of AI with different protection concepts**
  (1) Prohibition of certain AI practices (Art. 5)
  Examples: Subliminal techniques, harmful and detrimental social scoring, biometric identification procedures in public spaces
  (2) Protection against high-risk AI systems (Chapter III, Art. 6–49)
  » Obligation of the provider for risk and quality management
  (3) Transparency obligations for certain AI systems (Art. 50)
  Examples: labelling of AI systems as such, disclosure of deep fakes
  (4) No requirements for other AI systems/ Infrastructure for AI development
- **Differentiation: AI systems, high-risk AI systems, GPAI models**

The EU AI Act at a glance

Regulatory framework and contents

Content of the AT Act at a glance 113 articles in 13 chapters and 13 annexes	
Chapter I	General provisions (Art. 1- 4)
Chapter II	Prohibited AI practices (Art. 5)
Chapter III	High-risk AI systems (Art. 6 – 49)
Chapter IV	Transparency obligations for providers and deployers of certain AI systems (Art. 50)
Chapter V	General-purpose AI models (Art 51 - 56)
Chapter VI	Measures in support of innovation (Art. 57 – 63)
Chapter VII	Governance (Art. 64 – 70)
Chapter VIII	EU database for high-risk AI systems (Art. 71)
Chapter IX	Post-market monitoring, information sharing and market surveillance (Art. 72 – 94)
Chapter X	Codes of conduct and guidelines (Art. 95 - 96)
Chapter XI	Delegation of power and committee procedure (Art. 97 - 98)
Chapter XII	Penalties (Art. 99 - 101)
Chapter XIII	Final provisions (Art. 102 - 113)

The EU AI Act at a glance

The scope of application of the AI Act

The EU AI Act at a glance

The scope of application over time

- **Application over time in four steps, Art. 113**

Chapters I and II (Prohibitions, Art. 5)
» February 2025

Chapter III Section 4 (notifying authorities, notified bodies), Chapter V (General purpose AI models), Chapter VII (Governance), Chapter XII (Penalties), Article 78 (Confidentiality)
» August 2025

Chapter III Art. 6 para. 2 (High-risk AI systems referred to in Annex III), Chapter IV (Transparency obligations), VI (Measures in support of innovation)
» August 2026

Chapter III, Art. 6 para. 1 (High-risk AI systems according to Annex I)
» August 2027

The EU AI Act at a glance

Material scope of application

- **AI systems**
  - Definition ‘AI system’ (Art. 3 no. 1): software, based on machine learning
- **General-purpose AI models** (Art. 3 no. 63): content of neural networks
- **Important exceptions and restrictions:**
  - Research and development, Art. 2 para. 6
  - Data protection, Art. 2 para. 7 (GDPR has priority)
  - Consumer protection, product safety, Art. 2 para. 9
  - Use of AI systems in the course of a purely personal non-professional activity, Art. 2 para. 10

The EU AI Act at a glance

The territorial scope of application

- **Broad extraterritorial scope of application, Art. 2 para. 1**
  - Providers placing on the market or putting into service AI systems or placing on the market general-purpose AI models in the Union, irrespective of whether those providers are established or located within the Union or in a third country, lit. a)
  - Deployers of AI systems that have their place of establishment or are located within the Union, lit. b)
  - Providers and deployers of AI systems that have their place of establishment or are **located in a third country**, where the **output** produced by the AI system is **used in the Union**, lit. c)

The EU AI Act at a glance

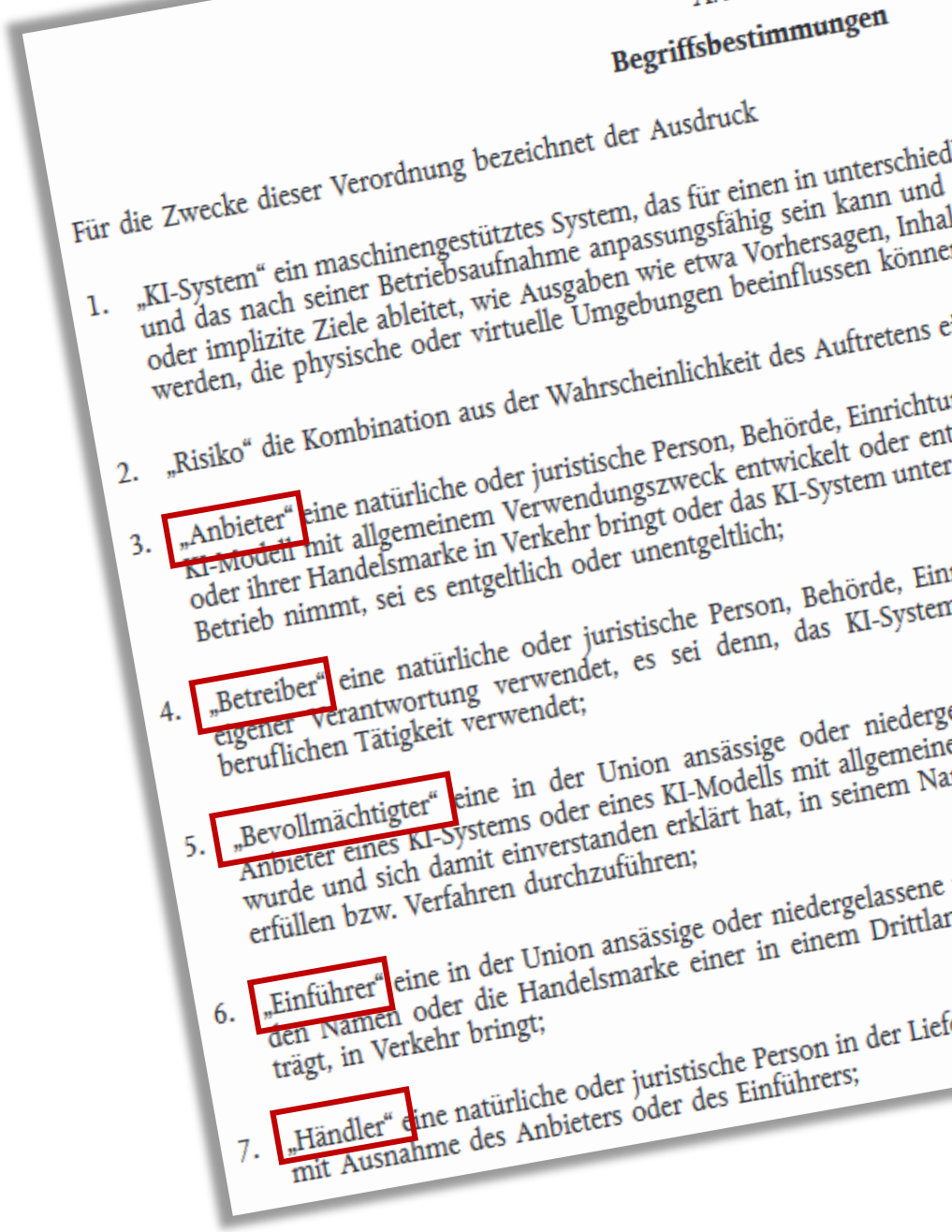
Addressees and obligations

The EU AI Act at a glance

Addressees and obligations

Extensive list of addressees with different obligations

- **Provider, Art. 3 para. 3**
- **Operator, Art. 3 para. 4**
- **Authorised representative, Art. 3 para. 5**
- **Importer, Art. 3 para. 6**
- **Dealer, Art. 3 para. 7**



Begriffsbestimmungen

Für die Zwecke dieser Verordnung bezeichnet der Ausdruck

1. „KI-System“ ein maschinengestütztes System, das für einen in unterschied
und das nach seiner Betriebsaufnahme anpassungsfähig sein kann und
oder implizite Ziele ableitet, wie Ausgaben wie etwa Vorhersagen, Inhal
werden, die physische oder virtuelle Umgebungen beeinflussen könne

2. „Risiko“ die Kombination aus der Wahrscheinlichkeit des Auftretens e

3. „Anbieter“ eine natürliche oder juristische Person, Behörde, Einrichtu
KI-Modell mit allgemeinem Verwendungszweck entwickelt oder ent
oder ihrer Handelsmarke in Verkehr bringt oder das KI-System unter
Betrieb nimmt, sei es entgeltlich oder unentgeltlich;

4. „Betreiber“ eine natürliche oder juristische Person, Behörde, Ein
eigener Verantwortung verwendet, es sei denn, das KI-System
beruflichen Tätigkeit verwendet;

5. „Bevollmächtigter“ eine in der Union ansässige oder niederge
Anbieter eines KI-Systems oder eines KI-Modells mit allgemeine
wurde und sich damit einverstanden erklärt hat, in seinem Na
erfüllen bzw. Verfahren durchzuführen;

6. „Einführer“ eine in der Union ansässige oder niedergelassene
den Namen oder die Handelsmarke einer in einem Drittlan
trägt, in Verkehr bringt;

7. „Händler“ eine natürliche oder juristische Person in der Lief
mit Ausnahme des Anbieters oder des Einführers;

The EU AI Act at a glance

Addressees and obligations

- **Definition in Art. 3 para. 3**

> **Article 3**
> *Definitions*
> ‘provider’ means a natural or legal person, public authority, agency or other body that develops an AI system or a general-purpose AI model or that has an AI system or a general-purpose AI model developed and places it on the market or puts the AI system into service under its own name or trademark, whether for payment or free of charge;

- **Central addressee of the provisions of the AI Act**
  - Obligation to ensure a sufficient level of AI-literacy of employees, Art. 4
  - Prohibited AI practices, Art. 5
  - Risk management for high-risk AI systems, Art. 16
  - Risk management for GPAI models, Art. 53, Art. 55
  - Labelling obligations, Art. 50

The EU AI Act at a glance

Addressees and obligations

Article 4

AI literacy

Providers and deployers of AI systems shall take measures to ensure, to their best extent, a sufficient level of AI literacy of their staff and other persons dealing with the operation and use of AI systems on their behalf, taking into account their technical knowledge, experience, education and training and the context the AI systems are to be used in, and considering the persons or groups of persons on whom the AI systems are to be used.

KI-Kompetenz: Weiterbildungspflicht nach KI-Verordnung Artikel 4.

Nach Artikel 4 der EU-Verordnung über künstliche Intelligenz (englisch 'AI Act') sind Anbieter und Betreiber von KI-Systemen verpflichtet, Maßnahmen zu ergreifen, um nach besten Kräften sicherzustellen, dass ihr Personal und andere Personen, die in ihrem Auftrag mit dem Betrieb und der Nutzung von KI-Systemen befasst sind, über ein ausreichendes Maß an KI-Kompetenz verfügen, wobei ihre technischen Kenntnisse, Erfahrungen, Ausbildung und Schulung sowie der Kontext, in dem die KI-Systeme eingesetzt werden sollen, und die Personen oder Personengruppen, bei denen die KI-Systeme eingesetzt werden sollen, zu berücksichtigen sind.

The EU AI Act at a glance

Addressees and obligations

- **Definition of operator:** Definition in Art. 3 para. 4

> **Article 3**
> *Definitions*
> (4) 'deployer' means a natural or legal person, public authority, agency or other body using an AI system under its authority except where the AI system is used in the course of a personal non-professional activity;

- **Obligations of the deployer**
  - deployer as addressee of numerous obligations
  - Extended obligations for Public Authorities (PA), Financial Institutions (FI)
  - Obligation to ensure AI literacy of employees, Art. 4
  - Prohibitions of Art. 5
  - Obligations for high-risk AI systems, Art. 26
  - Transparency obligations for some AI systems, Art. 50
  - Obligation to provide an explanation for automated decisions, Art. 86

The EU AI Act at a glance

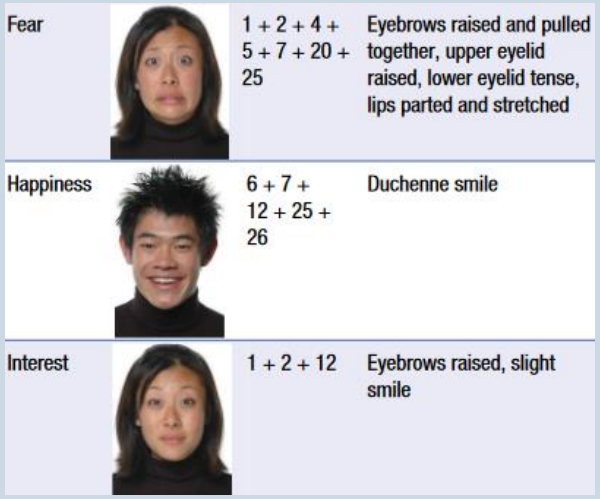
- Example: A German judge is using the German version the LawTech Legal Support System distributed by LawTech GmbH, designed to support Attorneys. The system is developed by LawTech Inc. CA, and adjusted for European Law. The System is able to suggest relevant case law for specific legal aspects. The Saarland Ministry of Justice has bought the system and operates it for all Saarland courts.

LawTech, Inc, CA

LawTech GmbH, Germany

Judge, Germany

The EU AI Act at a glance



Barrett et al, Emotional Expressions Reconsidered, p. 7

Example:

- Emotional AI ltd, Shanghai, develops the AI system „*Readme*“ to recognise emotions for interviews of all kinds
- The system is operated by AI Analytics, Inc., San Francisco and used for analyses of job interviews as a service for employers
- Siemens AG, Munich, has AI Analytics create analyses for decisions on hiring applicants

- **AI Act is applicable (Art. 2 - Use of the output in the EU)**
- Emotional AI is the provider of the AI system
- AI Analytics is the deployer of the AI system

The EU AI Act at a glance

Risk management for high-risk AI systems

The EU AI Act at a glance

Risk management for high-risk AI systems

Chapter III High-risk AI systems (Art. 6 - 49)	
Section 1	Categorisation of AI systems as high-risk AI systems (Art. 6 - 7)
Section 2	Requirements for high-risk AI systems (Art. 8 - 15)
Section 3	Obligations of providers and deployers of high-risk AI systems and other parties involved (Art. 16 - 27)
Section 4	Notifying authorities and notified bodies (Art. 28 - 39)
Section 5	Standards, conformity assessment, certificates, registration (Art. 40 - 49)

- Demanding requirements for high-risk AI systems
- Extensive obligations for providers and deployers of high-risk AI systems
- Supervision much stricter for other AI systems

The EU AI Act at a glance

General-purpose AI models (GPAI)

The general-purpose AI (GPAI) model

Definition

- Definition in Art. 3 para. 63

> **Article 3**
> *Definitions*
> „ ‘general-purpose AI model’ means an AI model, including where such an AI model is trained with a large amount of data using self-supervision at scale, that displays significant generality and is capable of competently performing a wide range of distinct tasks regardless of the way the model is placed on the market and that can be integrated into a variety of downstream systems or applications, except AI models that are used for research, development or prototyping activities before they are placed on the market;“

- Very vague definition

The general-purpose AI (GPAI) model

Obligations of providers of GPAI models

- **Obligations under Art. 53 para. 1**

  -Technical documentation, para. 1(a)

  -Information to providers of AI systems, para. 1(b)

  -Comply with Union copyright law and related rights, para. 1(c)

  -Publicly accessible summary of training data, para. 1(d)

- **Exemption for open-source models, para. 2**

The general-purpose AI (GPAI) model

The GPAI model with systemic risks

- **Definition in Art. 51**

Article 51

Classification of general purpose AI models as general purpose AI models with systemic risk

1. A general-purpose AI model shall be classified as a general-purpose AI model with systemic risk if it meets any of the following requirements:

(a) it has high impact capabilities evaluated on the basis of appropriate technical tools and methodologies, including indicators and benchmarks;

(b) based on a decision of the Commission, ex officio or following a qualified alert from the scientific panel, it has capabilities or an impact equivalent to those set out in point (a) having regard to the criteria set out in Annex XIII

Obligations set out in Art. 55

-Evaluation of the model, para. 1 lit. a)

-Risk assessment, para. 1 lit. b)

-Information about “serious incidents,” para. 1 lit. c)

-Cybersecurity, para. 1 lit. d)

The EU AI Act at a glance

Transparency obligations and individual rights protection

Transparency in relation to AI-generated content

Conceptual regulatory gaps

Transparency obligations for providers

-Clarification of interaction with an AI system to the natural person concerned (Art. 50(1))

-Obligation of AI system providers to apply watermarking (Art. 50(2))

Transparency obligations for deployers

-Reference to the use of emotion recognition and biometric categorisation (Art. 50(3))

-Disclosure of deepfakes (Art. 50(4) subpara. 1)

-Disclosure of AI processing of published texts for information on matters of public interest (Art. 50(4) subpara. 2)

Transparency in relation to AI-generated content

Conceptual regulatory gaps

- No regulation for the use of AI-generated content

- No regulation for communication through AI systems

FAKTENCHECK

Künstliche Intelligenz generiert Bilder von Donald Trumps Festnahme – die gab es aber gar nicht

CORRECTIV Recherchen für die Gesellschaft

Individual rights protection

Conceptual regulatory gaps

- **Right of appeal for everyone, Art. 85**

- **Right to explanation, Art. 86**
  - -Scope of application: Decisions based on the output of an AI system
  - -Entitled: Data subject
  - -Obligated: Deployer of an AI system
  - -Subject:
    - •Role of the AI system in the decision-making process
    - •Elements of the decision

The EU AI Act at a glance

Institutional rules

Institutional rules

Establishment of new authorities and facilities

EU level

- AI Office (Art. 64)
- European Artificial Intelligence Board (Art. 65)
- Advisory forum (Art. 67)
- Scientific panel of independent experts (Art. 68)
- EU database for high-risk AI systems (Art. 71)

National bodies of the Member States

- Notifying authority (Art. 70)
- Market surveillance authority (Art. 70)

Institutional rules

STANDARDS AND CERTIFICATION

Standards

- Harmonised standards, Art. 40
- Common specifications, Art. 41

Certification

- Notifying authority, Art. 28
- Notified bodies, Art. 31
- Procedure for notication of competent bodies, Art. 31
- Procedure for conformity assessments by notified bodies, Art. 34

FRAMEWORK FOR SELF-REGULATION

Codes of Conduct, Art. 95

- Codes for voluntary application of requirements
- Codes drawn by invidual providers, groups of providers, stakeholders, academia etc.

Codes of Practice, Art. 56

- Standards for GPAI Models
- Development of codes by providers and authorities

Self-assessment for high-risk AI systems

- Internal conformity assessment, Art. 43
- Declaration of conformity, Art. 47

The EU AI Act at a glance

Interim conclusion

The EU AI Act at a glance

Interim result

The AI Act...

- ... is **not a comprehensive legal framework** for AI
  - ... does not include liability
  - ... does not include automated decisions
  - ... does not regulate data protection aspects or intellectual property rights
- ... is a "**product safety law for AI**" with additions
  - Prohibitions
  - Transparency
  - Individual rights

Conclusion

Conclusion

Overall assessment

- **Relatively minor impact on the development and use of AI**
  - Approximately 1-5% of AI systems classified as high-risk AI
  - Very minor prohibitions
- **Highly complex regulations**
- **High degree of interpretation required**
  - » High level of legal uncertainty
- **Biggest advantage:** Basis for the technical standardisation of AI

Conclusion

Achievements of the AI Act in the legal framework for AI

- **No regulation of AI or AI systems as a whole**
  - » Product safety law for AI systems

- **Specific rules**
  - Prohibitions
  - Transparency obligations
  - Individual rights

- **Focus:** Basis for technical requirements

Conclusion

Unresolved issues in the AI Act

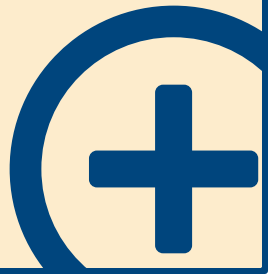
- Liability
- Intellectual property rights
- Data protection
- Automated evaluations
- Communication with AI-generated content

Conclusion

AI Act as a basis for innovation in Europe

AI ACT

- Supplementing product safety law for AI
- Basis for technical standardisation of AI
- No obligations for 95-99% of all AI systems
- Global validity ⇨ Level playing field for AI development



AI ACT

- Obstacle to innovation due to ties to providers (role change)
- Very high transaction costs due to the complexity of the regulation
  - » Support through guidelines etc., is indispensable

AI and data protection

AI and data protection

Storing personal data in AI Models

- **Controversial discussion**
  - *Position 1: no storage of personal data in AI model*
  - *Argument: mere mathematical representation of information*

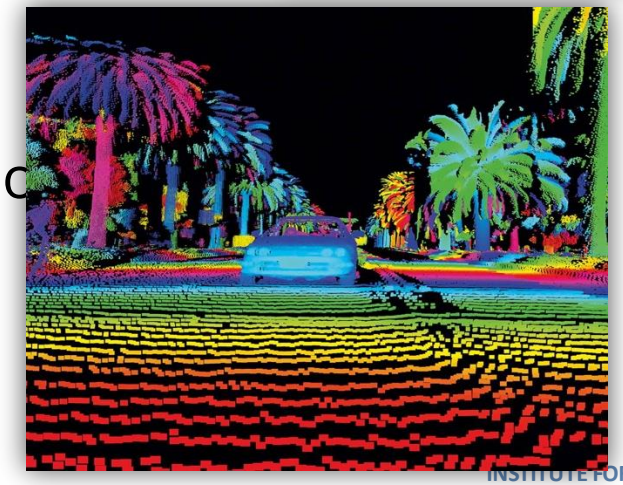
    (Hamburgische Beauftragte für Datenschutz und Informationsfreiheit, Diskussionspapier: Large Language Models und personenbezogene Daten, S. 1 (abrufbar unter: https://datenschutz-hamburg.de/fileadmin/user_upload/HmbBfDI/Datenschutz/Informationen/240715_Diskussionspapier_HmbBfDI_KI_Modelle.pdf,)

  - *Position 2: storage of personal data in AI model*
  - *Argument: representation allows reproduction of information*

AI and data protection

Sensor data. The example of autonomous driving

- Personal data if there is a person can be identifiied by the controller using reasonable efforts
- No processing of personal data if identification is impossible
- No processing of personal data if sensor data are processed by for the sole purpose o controlling a machine



AI and data protection

Justificiation of sensor data processing. The example of autonomous driving

Justification for camera recording by automated motor vehicle

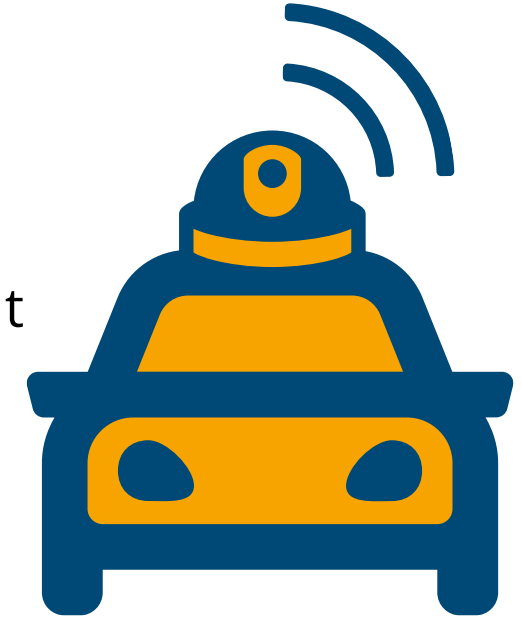
- Processing of camera recording for vehicle contol
  - Aussumed: Applicability of the GDPR
  - Justification pursuant to Art. 6 (1) (f) GDPR **?**
    - Legitimate interest of the driver: vehicle controle
    - Legitimate conflicting interest of the data subject **?**
    - Justification according to Art. 6 papa. 1 (f) **(+)**

AI and data protection

Justificiation of sensor data processing. The example of autonomous driving

Justification for camera recording by automated motor vehicle

- Transfer of video recordings to manufacturers
  - Purpose: Use of data fr reearch and development (improving of driving function)
  - Justification pursuant to Art. 6 (1) (f) GDPR **?**
    - Legitimate interest of the manufacturer: research and cevelopment
    - Legitimate conflicting interest of the data subject **?**
    - Justification under Art. 6 (1) (f) **(+)**

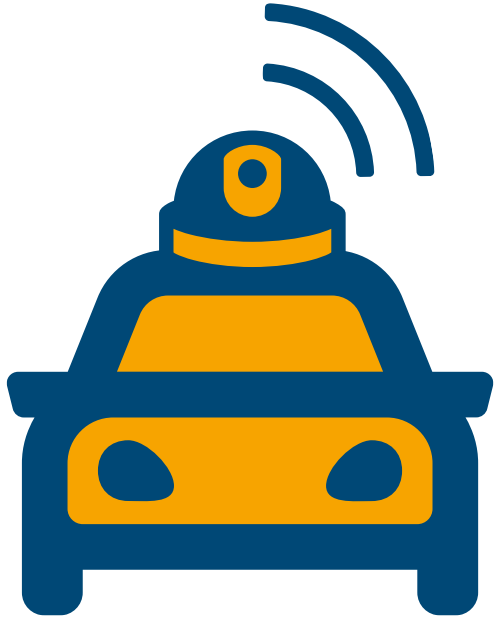


AI and data protection

Justificiation of sensor data processing. The example of autonomous driving

Justification for camera recording by automated motor vehicle

- Transfer of video recordings to manufacturers
  - Purpose: Impoving of offerings to the driver (personalised advertising)
  - Justification pursuant to Art. 6 (1) (f) GDPR **?**
    - Legitimate interest of the manufacturer: distribution of services
    - Legitimate conflicting interest of the data subject: no personalised advertising
    - Justification under Art. 6 (1) (f) **(-)**



Processing of personal data using AI systems

Processing of personal data producing output on prompts

ChatGPT, was weißt Du über Georg Borges?

Prof. Dr. Georg Borges (*1964 in Kempen) ist ein deutscher Rechtswissenschaftler und seit April 2014 Inhaber des Lehrstuhls für Bürgerliches Recht, Rechtsinformatik, deutsches und internationales Wirtschaftsrecht sowie Rechtstheorie an der Universität des Saarlandes.

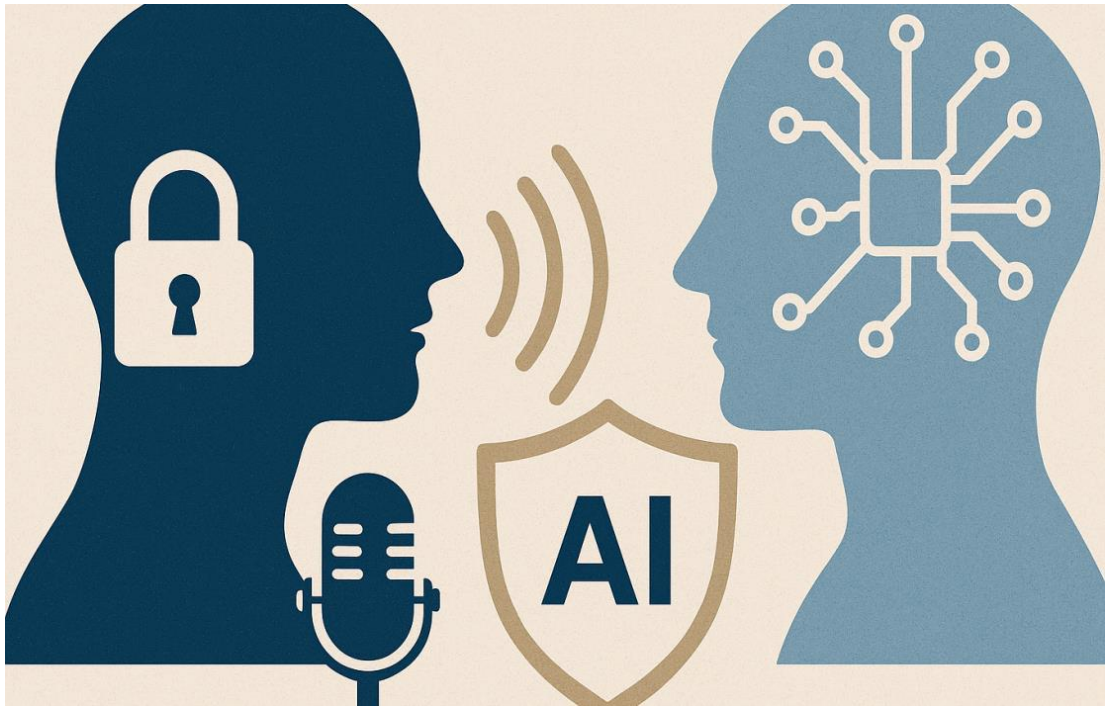
Akademischer Werdegang

Nach dem Abitur und Wehrdienst studierte Borges Rechtswissenschaften an den Universitäten Frankfurt am Main, Genf und Bonn sowie Wirtschaftswissenschaften an der FernUniversität Hagen. Parallel dazu war er von 1984 bis 1986 als Steuerfachgehilfe tätig und schloss diese Ausbildung 1987

The “right to voice” – Current discussion in German law

The right to voice

„The defendant intrrefed with the economic allocation function [„vermögensrechtlicher Zuweisungsgehalt“] of the plaintiff‘s right to his own voice.. […]
The decisive factor is the confusion of attribution caused by the deliberately induced similarity of the voices, which may lead viewers to believe that the voice actor who dubs the German voice of ... consented to the use of his voice for the dubbing of the videos."
Landgericht Berlin II, judgment of August 20, 2025 - 2 O 202/24



Thank you very much!

Prof. Dr. Georg Borges

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...further reading:

Borges, G.:
Die europäische KI-Verordnung (AI Act) - Teil 1 Überblick, Anwendungsbereich und erste Einschätzung, CR 2024, 497 ff.

Borges, G.:
Die europäische KI-Verordnung (AI Act) Teil 2 - Risikomanagement für Hochrisiko-KI-Systeme, CR 2024, 565 ff.

Borges, G.:
Die europäische KI-Verordnung (AI Act) Teil 3 - Transparenzpflichten, Durchsetzung, Gesamtbewertung, CR 2024, 633 ff.