



13/02/2024

AMENDMENTS: 51

Axel Voss

Harmonised rules on Artificial Intelligence (Artificial Intelligence Act) and amending certain Union Legislative Acts

Proposal for a regulation COM(2021)0206 - C9-0146/2021 – 2021/0106(COD)

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Amendment 1

Karen Melchior, Jana Toom

Proposal for a regulation

Recital 16

Text proposed by the Commission

(16) The placing on the market, putting into service or use of certain AI systems intended to distort human behaviour, ***whereby physical or psychological harms are likely to occur***, should be forbidden. Such AI systems deploy ***subliminal*** components individuals cannot perceive or exploit vulnerabilities of ***children and people due to their age, physical or mental incapacities***. They do so with the intention to materially distort the behaviour of a person ***and in a manner that causes or is likely to cause harm to that or another person***. The intention may not be presumed if the distortion of human behaviour results from factors external to the AI system which are outside of the control of the provider or the user. Research for legitimate purposes in relation to such AI systems should not be stifled by the prohibition, if such research does not amount to use of the AI system in human-machine relations that exposes natural persons to harm and such research is carried out in accordance with recognised ethical standards for scientific research.

Amendment

(16) The placing on the market, putting into service or use of certain AI systems intended to distort human behaviour ***without the affected persons' knowledge***, should be forbidden. Such AI systems deploy components individuals cannot perceive or exploit vulnerabilities of ***persons or groups of persons with protected characteristics***. They do so with the intention to materially distort the behaviour of a person. ***Such distortions are likely to cause harm to that or another person***. The intention may not be presumed if the distortion of human behaviour results from factors external to the AI system which are outside of the control of the provider or the user. Research for legitimate purposes in relation to such AI systems should not be stifled by the prohibition, if such research does not amount to use of the AI system in human-machine relations that exposes natural persons to harm and such research is carried out in accordance with recognised ethical standards for scientific research.

Or. en

Amendment 2

Karen Melchior, Jana Toom

Proposal for a regulation

Recital 17

Text proposed by the Commission

(17) AI systems providing social scoring of natural persons for general purpose **by public authorities or on their behalf** may lead to discriminatory outcomes and the exclusion of certain groups. They may violate the right to dignity and non-discrimination and the values of equality and justice. Such AI systems evaluate or classify the trustworthiness of natural persons based on their social behaviour in multiple contexts or known or predicted personal or personality characteristics. The social score obtained from such AI systems may lead to the detrimental or unfavourable treatment of natural persons or whole groups thereof in social contexts, which are unrelated to the context in which the data was originally generated or collected or to a detrimental treatment that is disproportionate or unjustified to the gravity of their social behaviour. Such AI systems should be therefore prohibited.

Amendment

(17) AI systems providing social scoring of natural persons for general purpose may lead to discriminatory outcomes and the exclusion of certain groups. They may violate the right to dignity and non-discrimination and the values of equality and justice. Such AI systems evaluate or classify the trustworthiness of natural persons based on their social behaviour in multiple contexts or known or predicted personal or personality characteristics. The social score obtained from such AI systems may lead to the detrimental or unfavourable treatment of natural persons or whole groups thereof in social contexts, which are unrelated to the context in which the data was originally generated or collected or to a detrimental treatment that is disproportionate or unjustified to the gravity of their social behaviour. Such AI systems should be therefore prohibited.

Or. en

Amendment 3

Karen Melchior, Svenja Hahn, Jana Toom

Proposal for a regulation

Recital 19

Text proposed by the Commission

(19) The use of those systems for the purpose of law enforcement should therefore be prohibited, ***except in three exhaustively listed and narrowly defined situations, where the use is strictly necessary to achieve a substantial public interest, the importance of which outweighs the risks. Those situations involve the search for potential victims of crime, including missing children; certain threats to the life or physical safety of***

Amendment

(19) The use of those systems for the purpose of law enforcement should therefore be prohibited.

natural persons or of a terrorist attack; and the detection, localisation, identification or prosecution of perpetrators or suspects of the criminal offences referred to in Council Framework Decision 2002/584/JHA³⁸ if those criminal offences are punishable in the Member State concerned by a custodial sentence or a detention order for a maximum period of at least three years and as they are defined in the law of that Member State. Such threshold for the custodial sentence or detention order in accordance with national law contributes to ensure that the offence should be serious enough to potentially justify the use of ‘real-time’ remote biometric identification systems. Moreover, of the 32 criminal offences listed in the Council Framework Decision 2002/584/JHA, some are in practice likely to be more relevant than others, in that the recourse to ‘real-time’ remote biometric identification will foreseeably be necessary and proportionate to highly varying degrees for the practical pursuit of the detection, localisation, identification or prosecution of a perpetrator or suspect of the different criminal offences listed and having regard to the likely differences in the seriousness, probability and scale of the harm or possible negative consequences.

³⁸ Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States (OJ L 190, 18.7.2002, p. 1).

³⁸ Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States (OJ L 190, 18.7.2002, p. 1).

Or. en

Justification

Complete ban on Biometric Mass Surveillance.

Amendment 4
Karen Melchior, Jana Toom

Proposal for a regulation
Recital 19

Text proposed by the Commission

(19) The use of those systems for the purpose of law enforcement should therefore be prohibited, except in **three** exhaustively listed and narrowly defined situations, where the use is strictly necessary to achieve a substantial public interest, the importance of which outweighs the risks. Those situations involve the search for potential victims of crime, including missing children; certain threats to the life or physical safety of natural persons or of a terrorist attack; **and the detection, localisation, identification or prosecution of perpetrators or suspects of the criminal offences referred to in Council Framework Decision 2002/584/JHA³⁸ if those criminal offences are punishable in the Member State concerned by a custodial sentence or a detention order for a maximum period of at least three years and as they are defined in the law of that Member State. Such threshold for the custodial sentence or detention order in accordance with national law contributes to ensure that the offence should be serious enough to potentially justify the use of ‘real-time’ remote biometric identification systems. Moreover, of the 32 criminal offences listed in the Council Framework Decision 2002/584/JHA, some are in practice likely to be more relevant than others, in that the recourse to ‘real-time’ remote biometric identification will foreseeably be necessary and proportionate to highly varying degrees for the practical pursuit of the detection, localisation, identification or prosecution of a perpetrator or suspect of the different**

Amendment

(19) The use of those systems for the purpose of law enforcement should therefore be prohibited, except in exhaustively listed and narrowly defined situations, where the use is strictly necessary to achieve a substantial public interest, the importance of which outweighs the risks. Those situations involve the search for potential victims of crime, including missing children **and** certain threats to the life or physical safety of natural persons or of a terrorist attack.

criminal offences listed and having regard to the likely differences in the seriousness, probability and scale of the harm or possible negative consequences.

³⁸ Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States (OJ L 190, 18.7.2002, p. 1).

³⁸ Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States (OJ L 190, 18.7.2002, p. 1).

Or. en

Amendment 5 **Karen Melchior, Jana Toom**

Proposal for a regulation **Recital 35**

Text proposed by the Commission

(35) AI systems used in education or vocational training, notably for determining access or assigning persons to educational and vocational training institutions or to evaluate persons on tests as part of or as a precondition for their education should be **considered high-risk**, since they may determine the educational and professional course of a person's life and therefore affect their ability to secure their livelihood. **When improperly designed and used**, such systems may violate the right to education and training as well as the right not to be discriminated against and perpetuate historical patterns of discrimination.

Amendment

(35) AI systems used in education or vocational training, notably for determining access or assigning persons to educational and vocational training institutions or to evaluate persons on tests as part of or as a precondition for their education should be **prohibited**, since they may determine the educational and professional course of a person's life and therefore affect their ability to secure their livelihood. **Due to the reproduction of the inherent biases of our societies**, such systems may violate the right to education and training as well as the right not to be discriminated against and perpetuate historical patterns of discrimination.

Or. en

Amendment 6 **Karen Melchior, Jana Toom**

Proposal for a regulation **Recital 36**

Text proposed by the Commission

(36) AI systems used in employment, workers management and access to self-employment, notably for the recruitment and selection of persons, for making decisions on promotion and termination and for task allocation, monitoring or evaluation of persons in work-related contractual relationships, should also be **classified as high-risk**, since those systems may appreciably impact future career prospects and livelihoods of these persons. ***Relevant work-related contractual relationships should involve employees and persons providing services through platforms as referred to in the Commission Work Programme 2021. Such persons should in principle not be considered users within the meaning of this Regulation.*** Throughout the recruitment process and in the evaluation, promotion, or retention of persons in work-related contractual relationships, such systems **may** perpetuate historical patterns of discrimination, for example against women, certain age groups, persons with disabilities, or persons of certain racial or ethnic origins or sexual orientation. AI systems used to monitor the performance and behaviour of these persons may also impact their rights to data protection and privacy.

Amendment

(36) AI systems used in employment, workers management and access to self-employment, notably for the recruitment and selection of persons, for making decisions on promotion and termination and for task allocation, monitoring or evaluation of persons in work-related contractual relationships, should also be **prohibited**, since those systems may appreciably impact future career prospects and livelihoods of these persons. Throughout the recruitment process and in the evaluation, promotion, or retention of persons in work-related contractual relationships, such systems perpetuate historical patterns of discrimination, for example against women, certain age groups, persons with disabilities, or persons of certain racial or ethnic origins or sexual orientation. AI systems used to monitor the performance and behaviour of these persons may also impact their rights to data protection and privacy.

Or. en

Amendment 7

Karen Melchior, Jana Toom

Proposal for a regulation

Recital 37

Text proposed by the Commission

(37) Another area in which the use of AI systems deserves special consideration is

Amendment

(37) Another area in which the use of AI systems deserves special consideration is

the access to and enjoyment of certain essential private and public services and benefits necessary for people to fully participate in society or to improve one's standard of living. In particular, AI systems used to evaluate the credit score or creditworthiness of natural persons should be classified as high-risk AI systems, since they determine those persons' access to financial resources or essential services such as housing, electricity, and telecommunication services. AI systems used for this purpose may lead to discrimination of persons or groups and perpetuate historical patterns of discrimination, for example based on racial or ethnic origins, disabilities, age, sexual orientation, or create new forms of discriminatory impacts. Considering the very limited scale of the impact and the available alternatives on the market, it is appropriate to exempt AI systems for the purpose of creditworthiness assessment and credit scoring when put into service by small-scale providers for their own use. Natural persons applying for or receiving public assistance benefits and services from public authorities are typically dependent on those benefits and services and in a vulnerable position in relation to the responsible authorities. If AI systems are used for determining whether such benefits and services should be denied, reduced, revoked or reclaimed by authorities, they may have a significant impact on persons' livelihood and may infringe their fundamental rights, such as the right to social protection, non-discrimination, human dignity or an effective remedy. Those systems should therefore be **classified as high-risk**. Nonetheless, this Regulation should not hamper the development and use of innovative approaches in the public administration, which would stand to benefit from a wider use of compliant and safe AI systems, provided that those

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systems do not entail **a high** risk to legal and natural persons. Finally, AI systems used to dispatch or establish priority in the dispatching of emergency first response services should also be classified as high-risk since they make decisions in very critical situations for the life and health of persons and their property.

an unacceptable risk to legal and natural persons. Finally, AI systems used to dispatch or establish priority in the dispatching of emergency first response services should also be classified as high-risk since they make decisions in very critical situations for the life and health of persons and their property.

Or. en

Amendment 8

Karen Melchior, Jana Toom

Proposal for a regulation

Recital 38

Text proposed by the Commission

(38) Actions by law enforcement authorities involving certain uses of AI systems are characterised by a significant degree of power imbalance and may lead to surveillance, arrest or deprivation of a natural person's liberty as well as other adverse impacts on fundamental rights guaranteed in the Charter. In particular, if the AI system is not trained with high quality data, does not meet adequate requirements in terms of its accuracy or robustness, or is not properly designed and tested before being put on the market or otherwise put into service, it may single out people in a discriminatory or otherwise incorrect or unjust manner. Furthermore, the exercise of important procedural fundamental rights, such as the right to an effective remedy and to a fair trial as well as the right of defence and the presumption of innocence, could be hampered, in particular, where such AI systems are not sufficiently transparent, explainable and documented. It is therefore appropriate to **classify as high-risk a number of** AI systems intended to be used in the law enforcement context where accuracy, reliability and transparency is particularly

Amendment

(38) Actions by law enforcement authorities involving certain uses of AI systems are characterised by a significant degree of power imbalance and may lead to surveillance, arrest or deprivation of a natural person's liberty as well as other adverse impacts on fundamental rights guaranteed in the Charter. In particular, if the AI system is not trained with high quality data, does not meet adequate requirements in terms of its accuracy or robustness, or is not properly designed and tested before being put on the market or otherwise put into service, it may single out people in a discriminatory or otherwise incorrect or unjust manner. Furthermore, the exercise of important procedural fundamental rights, such as the right to an effective remedy and to a fair trial as well as the right of defence and the presumption of innocence, could be hampered, in particular, where such AI systems are not sufficiently transparent, explainable and documented. It is therefore appropriate to **prohibit some** AI systems intended to be used in the law enforcement context where accuracy, reliability and transparency is particularly important to avoid adverse

important to avoid adverse impacts, retain public trust and ensure accountability and effective redress. In view of the nature of the activities in question and the risks relating thereto, *those high-risk* AI systems should include in particular AI systems intended to be used by law enforcement authorities for individual risk assessments, polygraphs and similar tools or to detect the emotional state of natural person, *to detect ‘deep fakes’, for the evaluation of the reliability of evidence in criminal proceedings*, for predicting the occurrence or reoccurrence of an actual or potential criminal offence based on profiling of natural persons, or assessing personality traits and characteristics or past criminal behaviour of natural persons or groups, for profiling in the course of detection, investigation or prosecution of criminal offences, *as well as for crime analytics regarding natural persons*. AI systems specifically intended to be used for administrative proceedings by tax and customs authorities should not be *considered high-risk AI systems used by law enforcement authorities for the purposes of prevention, detection, investigation and prosecution of criminal offences*.

impacts, retain public trust and ensure accountability and effective redress. In view of the nature of the activities in question and the risks relating thereto, *prohibited* AI systems should include in particular AI systems intended to be used by law enforcement authorities for individual risk assessments, polygraphs and similar tools or to detect the emotional state of natural person, for predicting the occurrence or reoccurrence of an actual or potential criminal offence based on profiling of natural persons, or assessing personality traits and characteristics or past criminal behaviour of natural persons or groups, *and* for profiling in the course of detection, investigation or prosecution of criminal offences. AI systems specifically intended to be used for administrative proceedings by tax and customs authorities should not be *included in such a ban*.

Or. en

Amendment 9

Karen Melchior, Jana Toom

Proposal for a regulation

Recital 39

Text proposed by the Commission

(39) AI systems used in migration, asylum and border control management affect people who are often in particularly vulnerable position and who are dependent on the outcome of the actions of the competent public authorities. The

Amendment

(39) AI systems used in migration, asylum and border control management affect people who are often in particularly vulnerable position and who are dependent on the outcome of the actions of the competent public authorities. The

accuracy, non-discriminatory nature and transparency of the AI systems used in those contexts are therefore particularly important to guarantee the respect of the fundamental rights of the affected persons, notably their rights to free movement, non-discrimination, protection of private life and personal data, international protection and good administration. It is therefore appropriate to ***classify as high-risk*** AI systems intended to be used by the competent public authorities charged with tasks in the fields of migration, asylum and border control management as polygraphs and similar tools or to detect the emotional state of a natural person; for assessing certain risks posed by natural persons entering the territory of a Member State or applying for visa or asylum; ***for verifying the authenticity of the relevant documents of natural persons; for assisting competent public authorities for the examination of applications for asylum, visa and residence permits and associated complaints with regard to the objective to establish the eligibility of the natural persons applying for a status.*** AI systems in the area of migration, asylum and border control management covered by this Regulation should comply with the relevant procedural requirements set by the Directive 2013/32/EU of the European Parliament and of the Council⁴⁹, the Regulation (EC) No 810/2009 of the European Parliament and of the Council⁵⁰ and other relevant legislation.

⁴⁹ Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (OJ L 180, 29.6.2013, p. 60).

⁵⁰ Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code) (OJ L 243,

accuracy, non-discriminatory nature and transparency of the AI systems used in those contexts are therefore particularly important to guarantee the respect of the fundamental rights of the affected persons, notably their rights to free movement, non-discrimination, protection of private life and personal data, international protection and good administration. It is therefore appropriate to ***prohibit*** AI systems intended to be used by the competent public authorities charged with tasks in the fields of migration, asylum and border control management as polygraphs and similar tools or to detect the emotional state of a natural person; ***and*** for assessing certain risks posed by natural persons entering the territory of a Member State or applying for visa or asylum. ***Other*** AI systems in the area of migration, asylum and border control management covered by this Regulation should comply with the relevant procedural requirements set by the Directive 2013/32/EU of the European Parliament and of the Council⁴⁹, the Regulation (EC) No 810/2009 of the European Parliament and of the Council⁵⁰ and other relevant legislation.

⁴⁹ Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (OJ L 180, 29.6.2013, p. 60).

⁵⁰ Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code) (OJ L 243,

Amendment 10
Karen Melchior, Jana Toom

Proposal for a regulation
Article 5 – paragraph 1 – point a

Text proposed by the Commission

(a) the placing on the market, putting into service or use of an AI system that ***deploys subliminal techniques beyond a person's consciousness in order to materially distort a person's behaviour in a manner that causes or is likely to cause that person or another person physical or psychological harm;***

Amendment

(a) the placing on the market, putting into service or use of an AI system that materially ***distorts*** a person's behaviour ***without their knowledge.***

Justification

"subliminal techniques" is too vague, all AI systems that materially distort a persons behavior without their knowledge should be banned. It is not necessarily possible to know in advance if an AI system will cause harm, therefore it makes more sense to systematically inform the user to avoid harm.

Amendment 11
Karen Melchior, Jana Toom

Proposal for a regulation
Article 5 – paragraph 1 – point b

Text proposed by the Commission

(b) the placing on the market, putting into service or use of an AI system that exploits any of the vulnerabilities of a specific group of persons due to their age, physical or mental disability, in order to materially distort the behaviour of a person pertaining to that group ***in a manner that causes or is likely to cause that person or***

Amendment

(b) the placing on the market, putting into service or use of an AI system that exploits any of the vulnerabilities of a specific group of persons due to their age, physical or mental disability, ***sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion,***

another person physical or psychological harm;

membership of a national minority, property, birth, or sexual orientation, in order to materially distort the behaviour of a person pertaining to that group.

Or. en

Justification

Artificial Intelligence solutions risk exploiting vulnerabilities of a much wider range of groups, with data on such groups readily available from sources like social media. I have expanded the list of groups in line with Article 21 of the Charter of Fundamental Rights of the European Union. Furthermore, exploitation of vulnerabilities of these groups is inherently harmful, therefore there is no need to specify.

Amendment 12

Karen Melchior, Jana Toom

Proposal for a regulation

Article 5 – paragraph 1 – point c – introductory part

Text proposed by the Commission

(c) the placing on the market, putting into service or use of AI systems ***by public authorities or on their behalf*** for the evaluation or classification of the trustworthiness of natural persons over a certain period of time based on their social behaviour or known or predicted personal or personality characteristics, with the social score leading to either or both of the following:

Amendment

(c) the placing on the market, putting into service or use of AI systems for the evaluation or classification of the trustworthiness of natural persons over a certain period of time based on their social behaviour or known or predicted personal or personality characteristics, with the social score leading to either or both of the following:

Or. en

Justification

All systems for social scoring should be banned, regardless of if they are operated by public or private entities.

Amendment 13

Karen Melchior, Svenja Hahn, Jana Toom

Proposal for a regulation

Article 5 – paragraph 1 – point d – introductory part

Text proposed by the Commission

(d) the use of ‘real-time’ remote biometric identification systems in publicly accessible spaces for the purpose of law enforcement, ***unless and in as far as such use is strictly necessary for one of the following objectives:***

Amendment

(d) the use of ‘real-time’ remote biometric identification systems in publicly accessible spaces for the purpose of law enforcement.

Or. en

Justification

Total ban on Biometric Mass surveillance

Amendment 14

Karen Melchior, Svenja Hahn, Jana Toom

Proposal for a regulation

Article 5 – paragraph 1 – point d – point i

Text proposed by the Commission

(i) ***the targeted search for specific potential victims of crime, including missing children;***

Amendment

deleted

Or. en

Justification

Total ban on Biometric Mass surveillance

Amendment 15

Karen Melchior, Svenja Hahn, Jana Toom

Proposal for a regulation

Article 5 – paragraph 1 – point d – point ii

Text proposed by the Commission

(ii) ***the prevention of a specific,***

Amendment

deleted

*substantial and imminent threat to the life
or physical safety of natural persons or of
a terrorist attack;*

Or. en

Justification

Total ban on Biometric Mass surveillance

Amendment 16

Karen Melchior, Svenja Hahn, Jana Toom

Proposal for a regulation

Article 5 – paragraph 1 – point d – point iii

Text proposed by the Commission

Amendment

*(iii) the detection, localisation,
identification or prosecution of a
perpetrator or suspect of a criminal
offence referred to in Article 2(2) of
Council Framework Decision
2002/584/JHA⁶² and punishable in the
Member State concerned by a custodial
sentence or a detention order for a
maximum period of at least three years, as
determined by the law of that Member
State.*

deleted

⁶² *Council Framework Decision
2002/584/JHA of 13 June 2002 on the
European arrest warrant and the
surrender procedures between Member
States (OJ L 190, 18.7.2002, p. 1).*

Or. en

Justification

Total ban on Biometric Mass surveillance

Amendment 17

Karen Melchior, Jana Toom

Proposal for a regulation
Article 5 – paragraph 1 – point d a (new)

Text proposed by the Commission

Amendment

(d a) practices listed in Annex IIIa;

Or. en

Justification

An additional annex has been created that will be modifiable through a delegated act. This allows the Commission to respond rapidly in the event of the development of an AI solution that poses an unacceptable risk to fundamental rights, and to ban such practices. Other banned practices remain in the main text as there is no prospect of the risk they pose becoming acceptable, hence the Commission should not be able to freely modify them.

Amendment 18
Karen Melchior, Jana Toom

Proposal for a regulation
Article 5 – paragraph 1 – point d b (new)

Text proposed by the Commission

Amendment

(d b) AI systems intended to be used for the purpose of determining access or assigning natural persons to educational and vocational training institutions;

Or. en

Justification

Moved from High-risk to banned practices. AI only repeats what we have, meaning it will exasperate existing inequalities. This is particularly problematic in an educational environment.

Amendment 19
Karen Melchior, Jana Toom

Proposal for a regulation
Article 5 – paragraph 1 – point d c (new)

Text proposed by the Commission

Amendment

(d c) AI systems intended to be used for recruitment or selection of natural persons, notably for advertising vacancies, screening or filtering applications, evaluating candidates in the course of interviews or tests;

Or. en

Justification

Moved from High-risk to banned practices. AI only repeats what we have, meaning it will exasperate existing inequalities. Cases of discrimination by AI recruitment systems, notably against women, have already resulted in them being discontinued in various companies in the United States.

Amendment 20

Karen Melchior, Jana Toom

Proposal for a regulation

Article 5 – paragraph 1 – point d d (new)

Text proposed by the Commission

Amendment

(d d) AI intended to be used for making decisions on promotion and termination of work-related contractual relationships, for task allocation and for monitoring and evaluating performance and behavior of persons in such relationships;

Or. en

Justification

Moved from High-risk to banned practices. AI only repeats what we have, meaning it will exasperate existing inequalities. Furthermore, this poses an unacceptable risk to workers rights. Decisions like this severely affect the lives of those concerned by them, and should only be taken by a Human being.

Amendment 21

Karen Melchior, Jana Toom

Proposal for a regulation
Article 5 – paragraph 1 – point d e (new)

Text proposed by the Commission

Amendment

(d e) AI systems intended to be used by public authorities or on behalf of public authorities to evaluate the eligibility of natural persons for public assistance benefits and services, as well as to grant, reduce, revoke, or reclaim such benefits and services;

Or. en

Justification

Moved from High-risk to banned practices. AI only repeats what we have, meaning it will exasperate existing inequalities. When it comes to public assistance benefits and services, this could be the difference between a family eating and going hungry. Such decisions should not be taken by Artificial Intelligence.

Amendment 22
Karen Melchior, Jana Toom

Proposal for a regulation
Article 5 – paragraph 1 – point d f (new)

Text proposed by the Commission

Amendment

(d f) AI systems intended to be used by law enforcement authorities for making individual risk assessments of natural persons in order to assess the risk of a natural person for offending or reoffending or the risk for potential victims of criminal offences;

Or. en

Justification

Moved from High-risk to banned practices. AI only repeats what we have, meaning it will exasperate existing inequalities. This technology has already been deployed in the United States, and has been found to incorrectly report higher chances of reoffence for people of colour. Not only does such technology risk exasperating inequality, but it is also unexplainable, meaning

citizens could spend years more in prison for no reason.

Amendment 23

Karen Melchior, Jana Toom

Proposal for a regulation

Article 5 – paragraph 1 – point d g (new)

Text proposed by the Commission

Amendment

(d g) AI systems intended to be used by law enforcement authorities as polygraphs and similar tools or to detect the emotional state of a natural person;

Or. en

Justification

Moved from High-risk to banned practices. Current AI-based systems to establish if a person is lying, or their emotional state, are strongly disputed as being pseudo-scientific, and pose an extreme threat to fundamental rights. Suspects could be incorrectly condemned on the basis of such flawed technologies.

Amendment 24

Karen Melchior, Jana Toom

Proposal for a regulation

Article 5 – paragraph 1 – point d h (new)

Text proposed by the Commission

Amendment

(d h) AI systems intended to be used by law enforcement authorities for predicting the occurrence or reoccurrence of an actual or potential criminal offence based on profiling of natural persons as referred to in Article 3(4) of Directive (EU) 2016/680 or assessing personality traits and characteristics or past criminal behaviour of natural persons or groups;

Or. en

Justification

Moved from High-risk to banned practices. AI only repeats what we have, meaning it will exasperate existing inequalities. This is particularly problematic in an educational environment. This technology has already been deployed in the United States, and has been found to incorrectly report higher chances of reoffence for people of colour. Not only does such technology risk exasperating inequality, but it is also unexplainable, meaning citizens could spend years more in prison for no reason.

Amendment 25

Karen Melchior, Jana Toom

Proposal for a regulation

Article 5 – paragraph 1 – point d i (new)

Text proposed by the Commission

Amendment

(d i) AI systems intended to be used by law enforcement authorities for profiling of natural persons as referred to in Article 3(4) of Directive (EU) 2016/680 in the course of detection, investigation or prosecution of criminal offences;

Or. en

Justification

Moved from High-risk to banned practices. These technologies are unexplainable and pose an extreme threat to fundamental rights. Suspects could be incorrectly condemned on the basis of such flawed technologies.

Amendment 26

Karen Melchior, Jana Toom

Proposal for a regulation

Article 5 – paragraph 1 – point d j (new)

Text proposed by the Commission

Amendment

(d j) AI systems intended to assist competent public authorities for the examination of applications for asylum, visa and residence permits and associated complaints with regard to the eligibility of

the natural persons applying for a status.

Or. en

Justification

Moved from High-risk to banned practices. AI only repeats what we have, meaning it will exasperate existing inequalities. Decisions concerning the life and wellbeing of individuals, including the protection of their fundamental rights must be made in a manner that is entirely explainable. This is not possible with AI based solutions

Amendment 27

Karen Melchior, Jana Toom

Proposal for a regulation

Article 5 – paragraph 1 – point d k (new)

Text proposed by the Commission

Amendment

(d k) AI systems intended to be used by competent public authorities to assess a risk, including a security risk, a risk of irregular immigration, or a health risk, posed by a natural person who intends to enter or has entered into the territory of a Member State;

Or. en

Justification

Moved from High-risk to banned practices. AI only repeats what we have, meaning it will exasperate existing inequalities. Decisions concerning the life and wellbeing of individuals, including the protection of their fundamental rights must be made in a manner that is entirely explainable. This is not possible with AI based solutions

Amendment 28

Karen Melchior, Jana Toom

Proposal for a regulation

Article 5 a (new)

Text proposed by the Commission

Amendment

Article 5a

Amendments to Annex IIIa

1. The Commission is empowered to adopt delegated acts in accordance with Article 73 to update the list in Annex IIIa by adding prohibited AI practices where such practices pose an unacceptable risk to fundamental rights.

2. When assessing for the purposes of paragraph 1 whether an AI system poses an unacceptable risk to fundamental rights, the Commission shall take into account the following criteria:

(a) the intended purpose of the AI system;

(b) the extent to which an AI system has been used or is likely to be used;

(c) the extent to which the use of an AI system has already had an adverse impact on the fundamental rights or has given rise to significant concerns in relation to the materialisation of such an impact, as demonstrated by reports or documented allegations submitted to national competent authorities;

(d) the potential extent of such adverse impact, in particular in terms of its intensity and its ability to affect a plurality of persons;

(e) the extent to which potentially adversely impacted persons are dependent on the outcome produced with an AI system, in particular because for practical or legal reasons it is not reasonably possible to opt-out from that outcome;

(f) the extent to which potentially adversely impacted persons are in a vulnerable position in relation to the user of an AI system, in particular due to an imbalance of power, knowledge, economic or social circumstances, or age;

(g) the extent to which the outcome produced with an AI system is easily reversible, whereby outcomes having an impact on the health or safety of persons

shall not be considered as easily reversible

Or. en

Justification

This amendment gives the Commission the possibility to amend by way of delegated act the annex listing additional banned practices. This future-proofs the legislation.

Amendment 29

Karen Melchior, Jana Toom

Proposal for a regulation

Article 7 – paragraph 1 – introductory part

Text proposed by the Commission

1. The Commission is empowered to adopt delegated acts in accordance with Article 73 to update the list in Annex III by adding high-risk AI systems where ***both of*** the following conditions are fulfilled:

Amendment

1. The Commission is empowered to adopt delegated acts in accordance with Article 73 to update the list in Annex III by adding high-risk AI systems where the following conditions are fulfilled:

Or. en

Justification

In the original text, the Commission is only given the possibility to add High-risk AI applications to the existing categories in Annex III, this limits their ability to react to new technological developments. This amendment gives the Commission the ability to add new high-risk AI systems outside of the existing categories

Amendment 30

Karen Melchior, Jana Toom

Proposal for a regulation

Article 7 – paragraph 1 – point a

Text proposed by the Commission

(a) ***the AI systems are intended to be used in any of the areas listed in points 1 to 8 of Annex III;***

Amendment

deleted

Or. en

Justification

In the original text, the Commission is only given the possibility to add High-risk AI applications to the existing categories in Annex III, this limits their ability to react to new technological developments. This amendment gives the Commission the ability to add new high-risk AI systems outside of the existing categories

Amendment 31

Karen Melchior, Jana Toom

Proposal for a regulation

Article 13 – paragraph 3 – point b – point i a (new)

Text proposed by the Commission

Amendment

(i a) An overview of different inputs taken into account by the Artificial Intelligence solution when making decisions.

Or. en

Justification

To provide transparency both to operators, and end users, the criteria used by an AI to make decisions should be transparent.

Amendment 32

Karen Melchior, Jana Toom

Proposal for a regulation

Article 29 a (new)

Text proposed by the Commission

Amendment

Article 29a

Recourse for parties affected by decisions of high-risk Artificial Intelligence systems

1. Where the decision of a high-risk Artificial Intelligence system directly affects a natural person, that person is entitled to an explanation of the decision, including but not limited to:

(a) The inputs taken into account by the Artificial Intelligence solution in decision making.

(b) Where feasible, the inputs that had the strongest influence on the decision.

2. Where the decision of a high-risk Artificial Intelligence system directly affects a natural persons economic or social prospects (for instance, job or educational opportunities, access to benefits, public services or credit), and without prejudice to existing sectoral legislation, that person may request that the decision be re-evaluated by a human being. This re-evaluation must take place within reasonable time following the request.

Or. en

Justification

This addition expands Citizens' right to recourse and information when affected by high-risk Artificial Intelligence Systems. It aims to build trust among Citizens.

Amendment 33

Karen Melchior, Svenja Hahn, Jana Toom

Proposal for a regulation

Article 52 – paragraph 2

Text proposed by the Commission

2. Users of an emotion recognition system or a biometric categorisation system shall inform of the operation of the system the natural persons exposed thereto.
This obligation shall not apply to AI systems used for biometric categorisation, which are permitted by law to detect, prevent and investigate criminal offences.

Amendment

2. Users of an emotion recognition system or a biometric categorisation system shall inform of the operation of the system the natural persons exposed thereto.

Or. en

Justification

The Reliability of emotional recognition systems is already considered to be highly questionable and may infringe on citizens' right to remain silent. At very least, suspects must be informed that they are exposed to such a system.

Amendment 34

Karen Melchior, Svenja Hahn, Jana Toom

Proposal for a regulation

Article 52 – paragraph 3 – subparagraph 1

Text proposed by the Commission

However, the first subparagraph shall not apply where ***the use is authorised by law to detect, prevent, investigate and prosecute criminal offences*** or it is necessary for the exercise of the right to freedom of expression and the right to freedom of the arts and sciences guaranteed in the Charter of Fundamental Rights of the EU, and subject to appropriate safeguards for the rights and freedoms of third parties.

Amendment

However, the first subparagraph shall not apply where it is necessary for the exercise of the right to freedom of expression and the right to freedom of the arts and sciences guaranteed in the Charter of Fundamental Rights of the EU, and subject to appropriate safeguards for the rights and freedoms of third parties.

Or. en

Justification

Deep fakes or similar techniques could be abused by law enforcement in order to manipulate suspects into false confessions. Such practices should not be encouraged.

Amendment 35

Karen Melchior, Jana Toom

Proposal for a regulation

Article 73 – paragraph 2

Text proposed by the Commission

2. The delegation of power referred to in Article 4, Article 7(1), Article 11(3), Article 43(5) and (6) and Article 48(5) shall be conferred on the Commission for

Amendment

2. The delegation of power referred to in Article 4, ***Article 5a(1)***, Article 7(1), Article 11(3), Article 43(5) and (6) and Article 48(5) shall be conferred on the

an indeterminate period of time from [entering into force of the Regulation].

Commission for an indeterminate period of time from [entering into force of the Regulation].

Or. en

Justification

This amendment gives the Commission the possibility to amend by way of delegated act the annex listing additional banned practices. This future-proofs the legislation.

Amendment 36

Karen Melchior, Jana Toom

Proposal for a regulation

Article 73 – paragraph 3

Text proposed by the Commission

3. The delegation of power referred to in Article 4, Article 7(1), Article 11(3), Article 43(5) and (6) and Article 48(5) may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of power specified in that decision. It shall take effect the day following that of its publication in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

Amendment

3. The delegation of power referred to in Article 4, **Article 5a(1)**, Article 7(1), Article 11(3), Article 43(5) and (6) and Article 48(5) may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of power specified in that decision. It shall take effect the day following that of its publication in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

Or. en

Justification

This amendment gives the Commission the possibility to amend by way of delegated act the annex listing additional banned practices. This future-proofs the legislation.

Amendment 37

Karen Melchior, Jana Toom

Proposal for a regulation

Article 73 – paragraph 5

Text proposed by the Commission

5. Any delegated act adopted pursuant to Article 4, Article 7(1), Article 11(3), Article 43(5) and (6) and Article 48(5) shall enter into force only if no objection has been expressed by either the European Parliament or the Council within a period of three months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by three months at the initiative of the European Parliament or of the Council.

Amendment

5. Any delegated act adopted pursuant to Article 4, **Article 5a(1)**, Article 7(1), Article 11(3), Article 43(5) and (6) and Article 48(5) shall enter into force only if no objection has been expressed by either the European Parliament or the Council within a period of three months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by three months at the initiative of the European Parliament or of the Council.

Or. en

Justification

This amendment gives the Commission the possibility to amend by way of delegated act the annex listing additional banned practices. This future-proofs the legislation.

Amendment 38

Karen Melchior, Jana Toom

Proposal for a regulation

Annex III – paragraph 1 – point 3 – point a

Text proposed by the Commission

(a) AI systems intended to be used for the purpose of determining access or assigning natural persons to educational and vocational training institutions;

Amendment

deleted

Or. en

Justification

Moved to banned practices, explanation provided in amendments there.

Amendment 39
Karen Melchior, Jana Toom

Proposal for a regulation
Annex III – paragraph 1 – point 3 – point b

Text proposed by the Commission

Amendment

(b) AI systems intended to be used for the purpose of assessing students in educational and vocational training institutions and for assessing participants in tests commonly required for admission to educational institutions. *deleted*

Or. en

Justification

Moved to banned practices, explanation provided in amendments there.

Amendment 40
Karen Melchior, Jana Toom

Proposal for a regulation
Annex III – paragraph 1 – point 4 – point a

Text proposed by the Commission

Amendment

(a) AI systems intended to be used for recruitment or selection of natural persons, notably for advertising vacancies, screening or filtering applications, evaluating candidates in the course of interviews or tests; *deleted*

Or. en

Justification

Moved to banned practices, explanation provided in amendments there.

Amendment 41
Karen Melchior, Jana Toom

Proposal for a regulation
Annex III – paragraph 1 – point 4 – point b

Text proposed by the Commission

Amendment

(b) *AI intended to be used for making decisions on promotion and termination of work-related contractual relationships, for task allocation and for monitoring and evaluating performance and behavior of persons in such relationships.* **deleted**

Or. en

Justification

Moved to banned practices, explanation provided in amendments there.

Amendment 42
Karen Melchior, Jana Toom

Proposal for a regulation
Annex III – paragraph 1 – point 5 – point a

Text proposed by the Commission

Amendment

(a) *AI systems intended to be used by public authorities or on behalf of public authorities to evaluate the eligibility of natural persons for public assistance benefits and services, as well as to grant, reduce, revoke, or reclaim such benefits and services;* **deleted**

Or. en

Justification

Moved to banned practices, explanation provided in amendments there.

Amendment 43
Karen Melchior, Jana Toom

Proposal for a regulation
Annex III – paragraph 1 – point 5 – point b

Text proposed by the Commission

Amendment

(b) *AI systems intended to be used to evaluate the creditworthiness of natural persons or establish their credit score, with the exception of AI systems put into service by small scale providers for their own use;* **deleted**

Or. en

Justification

Moved to banned practices, explanation provided in amendments there.

Amendment 44

Karen Melchior, Jana Toom

Proposal for a regulation

Annex III – paragraph 1 – point 6 – point a

Text proposed by the Commission

Amendment

(a) *AI systems intended to be used by law enforcement authorities for making individual risk assessments of natural persons in order to assess the risk of a natural person for offending or reoffending or the risk for potential victims of criminal offences;* **deleted**

Or. en

Justification

Moved to banned practices, explanation provided in amendments there.

Amendment 45

Karen Melchior, Jana Toom

Proposal for a regulation

Annex III – paragraph 1 – point 6 – point b

Text proposed by the Commission

Amendment

(b) AI systems intended to be used by law enforcement authorities as polygraphs and similar tools or to detect the emotional state of a natural person; *deleted*

Or. en

Justification

Moved to banned practices, explanation provided in amendments there.

Amendment 46

Karen Melchior, Jana Toom

Proposal for a regulation

Annex III – paragraph 1 – point 6 – point e

Text proposed by the Commission

Amendment

(e) AI systems intended to be used by law enforcement authorities for predicting the occurrence or reoccurrence of an actual or potential criminal offence based on profiling of natural persons as referred to in Article 3(4) of Directive (EU) 2016/680 or assessing personality traits and characteristics or past criminal behaviour of natural persons or groups; *deleted*

Or. en

Justification

Moved to banned practices, explanation provided in amendments there.

Amendment 47

Karen Melchior, Jana Toom

Proposal for a regulation

Annex III – paragraph 1 – point 6 – point f

Text proposed by the Commission

Amendment

(f) AI systems intended to be used by law enforcement authorities for profiling of natural persons as referred to in Article 3(4) of Directive (EU) 2016/680 in the course of detection, investigation or prosecution of criminal offences; **deleted**

Or. en

Justification

Moved to banned practices, explanation provided in amendments there.

Amendment 48

Karen Melchior, Jana Toom

Proposal for a regulation

Annex III – paragraph 1 – point 7 – point a

Text proposed by the Commission

Amendment

(a) AI systems intended to be used by competent public authorities as polygraphs and similar tools or to detect the emotional state of a natural person; **deleted**

Or. en

Justification

Moved to banned practices, explanation provided in amendments there.

Amendment 49

Karen Melchior, Jana Toom

Proposal for a regulation

Annex III – paragraph 1 – point 7 – point b

Text proposed by the Commission

Amendment

(b) AI systems intended to be used by competent public authorities to assess a **deleted**

risk, including a security risk, a risk of irregular immigration, or a health risk, posed by a natural person who intends to enter or has entered into the territory of a Member State;

Or. en

Justification

Moved to banned practices, explanation provided in amendments there.

Amendment 50
Karen Melchior, Jana Toom

Proposal for a regulation
Annex III – paragraph 1 – point 7 – point d

Text proposed by the Commission

Amendment

(d) AI systems intended to assist competent public authorities for the examination of applications for asylum, visa and residence permits and associated complaints with regard to the eligibility of the natural persons applying for a status. *deleted*

Or. en

Justification

Moved to banned practices, explanation provided in amendments there.

Amendment 51
Karen Melchior, Jana Toom

Proposal for a regulation
Annex III a (new)

Text proposed by the Commission

Amendment

**ANNEX IIIa ADDITIONAL
PROHIBITED ARTIFICIAL
INTELLIGENCE PRACTICES
REFERRED TO IN ARTICLE 5(1)**

1. Additional Prohibited Artificial Intelligence Practices pursuant to Article 5(1)da are:

(a) AI systems intended to be used for the purpose of assessing students in educational and vocational training institutions and for assessing participants in tests commonly required for admission to educational institutions.

Or. en

Justification

No AI is currently capable of assessing complex tests. Simple tests can be assessed by simple programmatic logic (Multiple Choice questions, etc...). Developing technology to assess students automatically may result in discrimination based on students' writing style or other factors. Furthermore, only teachers can factor in and evaluate individual students' issues, which is a vital part of education.