



# D6.11 – Legal - ethical issues and AI for LEAs (Report)

Lead Beneficiary: Timelex (TLX)

Dissemination Level: PU - Public

Date: 30/11/2024

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The TRACY project has received funding from the DIGITAL 2022 programme under grant agreement No 101102641.

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## Project Information

|                        |                                                                                  |
|------------------------|----------------------------------------------------------------------------------|
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| Acronym                | TRACY                                                                            |
| Name                   | a big-data analyTics from base-stations Registrations And Cdrs e-evidence sYstem |
| Topic                  | DIGITAL-2022-DEPLOY-02-LAW-SECURITY-AI                                           |
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| Coordinator            | Performance Technologies SA                                                      |

## Document Information

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# Abbreviations

|       |                                                                                  |
|-------|----------------------------------------------------------------------------------|
| TRACY | a big-data analyTics from base-stations Registrations And Cdrs e-evidence sYstem |
| LE    | Law Enforcement                                                                  |
| LEA   | Law Enforcement Agency                                                           |
| AI    | Artificial Intelligence                                                          |
|       |                                                                                  |
|       |                                                                                  |
|       |                                                                                  |

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## Executive Summary

Deliverable D6.11 - Legal - ethical issues and AI for LEAs aims to deliver a report on a LEA workshop organized in the TRACY project regarding the legal and ethical issues on the use of artificial intelligence in law enforcement. The presentation took place on the 17<sup>th</sup> of September 2024 online via Teams.

To foster discussion and knowledge exchange, representatives of various partner research projects as well as TRACY consortium members were invited, creating a diverse audience with different points of view and different priorities such as technology partners, legal and policy professionals, industry representatives and law enforcement agency team members.

Key legal and ethical issues were discussed, including privacy, data protection, surveillance, liability, bias, and the right to a fair trial. The impact of AI on policing practices and public trust was also highlighted. Best practices and recommendations were shared based on lessons from the TRACY project, and participants engaged in active discussions, culminating in a summary and addressing remaining questions.

# 1 Workshop description

The TRACY Legal - ethical issues and AI workshop was centered around the use of artificial intelligence (AI) to support the law enforcement agencies' (LEA) investigations. As today's crimes become more and more complex, including emerging technologies in crime detection becomes a necessity. On the other hand, the systems used by LEA must be safe and robust and thus adhere to requirements set by the new AI Act<sup>1</sup>. For these reasons, Timelex organised this workshop, which first set the scene to then give space for discussion and exchange of knowledge.

To foster discussion and knowledge exchange, we have invited representatives of various partner research projects as well as TRACY consortium members. The project consortium made sure that our audience is a diverse group of professionals with sometimes contrasting points of view and different priorities such as technology partners, legal and policy professionals, industry representatives and law enforcement agency team members.

The workshop provided an overview of the TRACY project, introducing its objectives and the importance of the AI in crime investigations. The session then explored the European legal landscape regarding AI, with a deep dive into the requirements of the AI Act and examples of AI applications in law enforcement.

The workshop also addressed key legal-ethical issues in AI deployment, including privacy and data protection, surveillance, liability and accountability, bias and discrimination, autonomy, transparency, and the right to a fair trial. The discussion also highlighted the impact of AI on policing practices, public trust, and legitimacy. Timelex also shared best practices and recommendations, drawing on lessons learned from the TRACY project. Participants were encouraged to share their thoughts and experiences through the interactive polls.

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<sup>1</sup> Regulation 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on artificial intelligence and amending Regulations (EC) No 300/2008, (EU) No 167/2013, (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1139 and (EU) 2019/2144 and Directives 2014/90/EU, (EU) 2016/797 and (EU) 2020/1828 (Artificial Intelligence Act) <<https://eur-lex.europa.eu/eli/reg/2024/1689/oj>>

Throughout the workshop, we encouraged active discussion on the topic and fostered exchange of knowledge in this area between the participants. At the end of the session, Timelex analyzed and answered any remaining questions and summarized the presentation.

## 2 Workshop Agenda

| TRACY Legal - ethical issues and AI for LEAs Workshop – 17 September 2024 – Agenda – (14.00 CEST – 15.30 CEST) |   |                                                                                                                                                                                                                                                                                                                                                                                                                       |
|----------------------------------------------------------------------------------------------------------------|---|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 14.00<br>14.10                                                                                                 | – | <b>Welcome and introduction</b>                                                                                                                                                                                                                                                                                                                                                                                       |
| 14.10<br>14.20                                                                                                 | – | <b>TRACY Overview</b> <ul style="list-style-type: none"> <li>▪ Brief introduction of the project</li> </ul>                                                                                                                                                                                                                                                                                                           |
| 14.20<br>14.40                                                                                                 | – | <b>European legal scene on AI.</b> Topics covered: <ul style="list-style-type: none"> <li>▪ Legal instruments and guidelines in the EU</li> <li>▪ Deep dive into the AI Act requirements</li> <li>▪ Applications of AI in law enforcement with examples</li> </ul>                                                                                                                                                    |
| 14.40<br>15.00                                                                                                 | – | <b>Relevant legal-ethical issues in AI deployment.</b> Topics covered: <ul style="list-style-type: none"> <li>▪ Privacy and data protection, surveillance;</li> <li>▪ Liability and accountability;</li> <li>▪ Bias and discrimination;</li> <li>▪ Autonomy and control;</li> <li>▪ Transparency and right to fair trial;</li> <li>▪ Impact on policing practices;</li> <li>▪ Public trust and legitimacy.</li> </ul> |
| 15.00-<br>15.20                                                                                                |   | <b>Best practices and guidelines</b> <ul style="list-style-type: none"> <li>▪ Lessons learnt from TRACY</li> <li>▪ Identified gaps and recommendations</li> </ul>                                                                                                                                                                                                                                                     |
| 15.20<br>15.30                                                                                                 | – | <b>Summary and discussion</b>                                                                                                                                                                                                                                                                                                                                                                                         |

### 3 Outcome report

The presentation took place on the 17<sup>th</sup> of September 2024 online via Teams.

Participants included representatives of various partner research projects as well as TRACY consortium members. This includes technology partners, legal and policy professionals, industry representatives, law enforcement agency team members and academia representatives.

**Table 1 List of participants to Legal - ethical issues and AI workshop**

| Name                                                                                               | Country | Type       |
|----------------------------------------------------------------------------------------------------|---------|------------|
| VTT Technical Research Centre                                                                      | Finland | RTO        |
| The Ministry of the Interior                                                                       | Finland | PA         |
| National Bureau of Investigation                                                                   | Finland | PA         |
| KU Leuven, Centre for IT & IP Law (CiTiP)                                                          | Belgium | University |
| Transgero Ltd.                                                                                     | Ireland | SME        |
| Herta Security, S.L.                                                                               | Spain   | SME        |
| FORTH                                                                                              | Greece  | RTO        |
| Centre of Excellence in Terrorism, Resilience, Intelligence and Organised Crime Research (CENTRIC) | UK      | RTO        |
| Engineering Ingegneria Informatica                                                                 | Italy   | Industry   |

The workshop went according to the planned agenda. It began with a welcome and an introduction to the workshop's objectives. Participants were then provided with an overview of the TRACY project, highlighting its goals and relevance. The session progressed to an in-depth examination of the European legal landscape regarding AI, including key legal instruments such as the AI Act. The workshop also discussed examples of the applications of AI in law enforcement, supported by real-world examples given by the workshop presenter and participants.

The workshop also tackled crucial legal and ethical issues related to AI deployment, covering topics such as privacy, data protection, liability, bias, autonomy, transparency, and their

implications for policing practices and public trust. The audience members also shared their issues and comments through an interactive word cloud before the segment.

In the latter part, best practices and guidelines were shared, drawing from lessons learned in the TRACY project and identifying gaps along with recommendations for improvement. The session concluded with a summary and an open discussion, allowing participants to share insights and ask questions, fostering a collaborative environment for knowledge exchange.

This way, the participants successfully shared their experience with artificial intelligence in their law enforcement(-related) activities and expressed their doubts, difficulties and issues thereof. This is valuable input for the TRACY project and how AI can successfully be implemented in TRACY, both on a legal and practical level. Furthermore, the participants improved their understanding of the AI Act and its broad impact.

Overall, the workshop effectively facilitated dialogue on the intersection of AI and law enforcement ethics. We have received positive feedback following the workshop, for example that it was a very informative and well-structured presentation on the implications of the AI Act in law enforcement. The power point slides were shared afterwards with the interested audience members.

## 4 Interactive polls results

During the workshop, an online poll application was used to facilitate interaction between the participants and the workshop presenter, as well as to provide some input from the participants' experience with Artificial Intelligence in Law Enforcement.

With the use of an interactive word cloud, the participants were asked to provide some examples of AI systems that were used in Law Enforcement based on their experience. The words on the figure below are their answers. The bigger and/or bolder the word in the figure, the more it was given as an answer to the poll by different participants. For example, from the below word Cloud it is clear that speech recognition is one of the most frequent use cases of AI in law enforcement mentioned by the participants.

### Examples of the AI systems in LE



Figure 1: Examples of the AI systems in LE

The figure below concerns the results of a second interactive poll conducted amongst the participants of the workshop. The participants were asked what they have experienced to be the main issues and difficulties with the use of Artificial Intelligence in their Law Enforcement activities. The bigger an answer appears on the figure, the more it was answered by different participants. Trust is by far the obstacle that was most frequently mentioned by participants in relation to n using AI in Law Enforcement, covering both trust within the Law Enforcement Agency towards the use of an AI system, and the potential lack of trust from the general public with regard to AI systems being used by Law Enforcement.

What are the main issues with AI deployment in LE?



Figure 2: What are the main issues with AI deployment in LE?

## 5 Presentation slides



# Legal & Ethical issues and AI for LEAs

Speaker: Kasia Kostka  
(Legal Consultant, Timelex)



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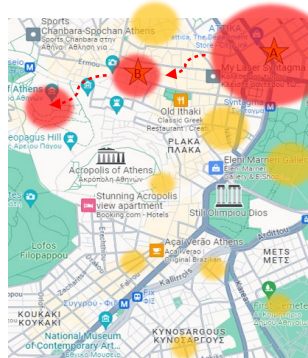
- Welcome and Introduction
- TRACY Overview
- European legal scene on AI
- Legal and ethical issues in AI deployment
- Best practices and guidelines
- Summary




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## TRACY What is TRACY?

- Deployment project aiming to foster the uptake of AI systems and cutting-edge data analytics for law enforcement
- Using non-content data from the electronic communication providers to locate devices and (combined with additional evidence) help identify suspects
- Alignment with the EU Artificial Intelligence Act (AI Act)



## TRACY What is TRACY?

Project name: a big-data analytics from base-stations Registrations And Cdrs e-evidence system

Project acronym: TRACY

Topic: DIGITAL-2022-DEPLOY-02- LAW-SECURITY-AI

Project starting date: fixed date: 1 June 2023

Project end date: 31 May 2025

Project duration: 24 months



TRACY

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## TRACY Our consortium

- 9 partners from 6 countries
- 3 Law Enforcement Agencies (LEAs):
  - Hellenic Police (HPOL, Greece),
  - Inspectoratul de Politie Județean Galati (GCPI, Romania),
  - Inspectoratul General al Politei (GPI, Moldavia)



TRACY

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## European Legal Scene on AI and related issues




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## Fundamental rights




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-  **THE RIGHT TO THE INTEGRITY OF THE PERSON** (article 3 of the Charter of Fundamental Rights of the European Union)
-  **THE RIGHT TO LIBERTY AND SECURITY** (article 6)
-  **RESPECT FOR PRIVATE AND FAMILY LIFE** (article 7)
-  **PROTECTION OF PERSONAL DATA** (article 8)
-  **FREEDOM OF EXPRESSION AND INFORMATION** (article 11)



## General Data Protection Regulation (GDPR)

Regulation (EU) 2018/1725

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The GDPR governs how the personal data of individuals in the EU may be processed and transferred.

**Personal data** is “any information relating to an identified or identifiable natural person (‘data subject’)”<sup>1</sup>.

**Processing** is “any operation or set of operations which is performed on personal data or on sets of personal data, whether or not by automated means, such as collection, recording, organization, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction”<sup>2</sup>.

<sup>1</sup>Article 3 (1) of Regulation (EU) 2018/1725

<sup>2</sup>Article 4(2) of Regulation (EU) 2018/1725

REGULATIONS

REGULATION (EU) 2018/1725 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL  
of 27 April 2018  
on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 1995/46/EC (General Data Protection Regulation)  
(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,  
Having regard to the Treaty on the Functioning of the European Union, and in particular Article 16 thereof,  
Having regard to the proposal from the European Commission,  
After transmission of the draft legislative act to the national parliaments,  
Having regard to the opinion of the European Economic and Social Committee (5),  
Having regard to the opinion of the Committee of the Regions (6),  
Acting in accordance with the ordinary legislative procedure (7),




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## Law Enforcement Directive (LED)

*Directive (EU) 2016/680*

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The LED provides rules on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, including the protection against threats to public security and its prevention.

**DIRECTIVES**

DIRECTIVE (EU) 2016/680 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL  
of 27 April 2016  
on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and  
repealing Council Framework Decision 2008/977/JHA

To fall within the scope of the LED, a data processing must therefore meet two conditions:

1. The LED is intended to apply to "criminal matters" and, in particular, to activities carried out by the police, or to processing operations set up for the management of enforcement actions linked to sentences ordered by judicial authorities.
2. The processing, whatever its purpose, only falls within the scope of the LED if it is carried out by a "competent authority".




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## Privacy and Electronic Communications Directive (ePrivacy Directive)

*Directive (EU) 2002/658*

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Directive is used as a legal basis for the general retention of non-content data for law enforcement purposes.

Article 15(1) introduces an exception to the principle of ensuring the confidentiality of communications and related non-content data.

Consequently, it allows national laws to require the storage of data for public interest purposes, such as national security, defense, public security and the prevention, investigation, detection and prosecution of criminal offences

DIRECTIVE 2002/65/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL  
of 23 July 2002  
concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 17 thereof,

Having regard to the proposal from the Commission (1),

Having regard to the opinion of the Economic and Social Committee (2),

Having consulted the Committee of the Regions,

Acting in accordance with the procedure laid down in Article 251 of the Treaty (3),

and privacy for users of publicly available electronic communications services, regardless of the technologies used. That Directive should therefore be repealed and replaced by this Directive.

(1) New advanced digital technologies are currently being introduced in public communications networks in the Community, which give rise to specific requirements concerning the protection of personal data and privacy of the user. The development of the information society is threatened by the introduction of new electronic communications services. Access to digital public networks has become available and affordable for a large




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## AI Act

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- European Union regulation regulating the use of artificial intelligence
- Came into force on 1 August 2024
- Introducing:
  - a risk-based approach to AI regulation
  - harmonised legal framework for: development, placing on the Union market, and the use of AI products and services
  - conformity assessment of AI products prior to use/placing on the market
  - ex-post controls i.e., market monitoring and surveillance

Official Journal  
of the European Union

EN  
L series  
12.7.2024

**REGULATION (EU) 2024/1689 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**of 13 June 2024**

laying down harmonised rules on artificial intelligence and amending Regulation (EC) No 609/2006, (EU) No 147/2008, (EU) No 186/2008, (EU) 2015/118 and (EU) 2015/144 and Directives 2014/90/EU, (EU) 2016/787 and (EU) 2018/1828 (Artificial Intelligence Act)

(first with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 16 and 114 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee (1),

Having regard to the opinion of the European Central Bank (2),

Having regard to the opinion of the Committee of the Regions (3),

Acting in accordance with the ordinary legislative procedure (4),




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D6.11 – Legal - ethical issues and AI for LEAs

|                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|----------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 6 months             | <ul style="list-style-type: none"> <li>General provisions (Chapter I)</li> <li>Prohibitions on <b>unacceptable risk AI</b> (Chapter II)</li> </ul>                                                                                                                                                                                                                                                                                                                                              |
| 9 months             | <ul style="list-style-type: none"> <li><b>Codes of practice for General Purpose AI (GPAI)</b> must be finalized (Art. 56)</li> </ul>                                                                                                                                                                                                                                                                                                                                                            |
| 12 months            | <ul style="list-style-type: none"> <li><b>GPAI rules</b> apply (Chapter V)</li> <li>Appointment of national <b>competent authorities + governance at Union level</b> (Chapter III, section 4, Chapter VII)</li> <li>Member states to have implemented rules on <b>penalties</b>, including administrative fines (Chapter XII)</li> <li>Annual Commission review and possible amendments on prohibitions (Art. 112)</li> </ul>                                                                   |
| 18 months            | <ul style="list-style-type: none"> <li>Commission issues implementing acts creating a <b>template for high-risk AI providers' post-market monitoring plan</b> (art. 72)</li> <li>Commission provides <b>guidelines on the classification</b> of high risk-AI systems + list of <b>practical examples of use cases</b> of AI systems that are high-risk and not high-risk (Art. 6)</li> </ul>                                                                                                    |
| 24 months            | <ul style="list-style-type: none"> <li>General application of the AIA</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                |
| 36 months            | <ul style="list-style-type: none"> <li>Obligations for high-risk AI systems that are intended to be used as a <b>safety component of a product</b>, or the <b>AI is itself a product</b>, covered by specific EU laws (<b>Annex I</b>) <b>and</b> the product is required to undergo a <b>third-party conformity assessment</b> under existing specific EU laws (Annex I)</li> <li><b>GPAI models</b> placed on the market before <b>12 months after entry into force</b> (Art. 111)</li> </ul> |
| (Around) end of 2030 | <ul style="list-style-type: none"> <li>Obligations go into effect for certain AI systems that are components of the <b>large-scale IT systems</b> established by EU law in the areas of <b>freedom, security and justice</b>, such as the Schengen Information System (Art. 111)</li> </ul>                                                                                                                                                                                                     |



## Scope of the AI Act




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## Whom does it apply to (Art. 2 AIA)

| Providers                                                                                                                                                                                                                         | Deployers                                                                                                                                             | Importers and Distributors                    | Product Manufacturers                                                                                                      | Authorized Representatives                                                                                       | Affected Persons                                                                 |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------|----------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------|
| Develop and place AI systems or general-purpose AI models on the EU market or put them into service, and are either established within the EU or in a third country where the output produced by the AI system is used in the EU. | Use an AI system under their authority, established within the EU or in a third country where the output produced by the AI system is used in the EU. | Make an AI System available on the EU market. | Place an AI system on the market or put it into service together with their product and under their own name or trademark. | Natural or legal persons in the EU with a specific mandate to represent a provider who is not located in the EU. | Individuals located in the EU and who are potentially affected by the AI system. |




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## TRACY Exclusions (Art. 2 AIA)



AI used for military, defence or national security purposes



AI used by public authorities outside the EU and international organizations (where international agreements are in place)



AI systems and models developed for scientific research & development



Research, testing and development of AI systems or models



Individuals using AI as part of a personal, non-professional activity



AI systems released under free and open-source licenses (excluding prohibited AI, high-risk AI, and GPAI models under certain conditions)

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## TRACY What is an 'AI system'?

**'AI System' means a machine-based system that is:**

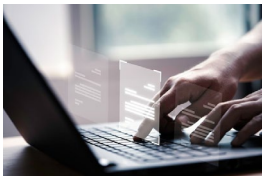
- designed to operate with **varying levels of autonomy** and that may exhibit adaptiveness after deployment, and
- that, for **explicit or implicit objectives**,
- infers, from the input it receives, how to generate outputs** such as predictions, content, recommendations, or decisions
- that can **influence physical or virtual environments**

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## TRACY AI systems in LE - Examples



(source: Security Industry Association)



(source: Freepik)



(source: Emirates News Agency)

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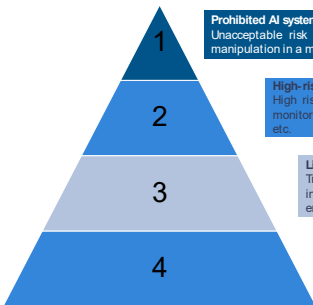
# Classification of AI systems




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## Risk-based system



**Prohibited AI systems:**  
Unacceptable risk as it violates EU fundamental rights and values. Eg. subliminal behavioural manipulation in a manner that causes harm, exploitation of vulnerabilities, social scoring, etc.

**High-risk AI systems:**  
High risk as it impacts health, safety or fundamental rights. Conformity assessment, post-market monitoring, etc are required. Eg. employment law, health, **law enforcement**, administration of justice, etc.

**Limited risk AI systems:**  
Transparency requirements to avoid risk of deception and maintain information transparency allowing individuals to make informed decisions or withdraw from a given situation. Eg. chatbots, deepfakes, emotion recognition system, etc.

**Minimal risk AI systems:**  
Unregulated AI systems. Eg. spam filters, recommender systems, etc.




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## High-risk AI systems (Art. 6 AIA)

**(1) AI systems which are safety components of products, or products themselves (Annex I)**

AI shall be considered high risk if:

- the AI System is intended to be used as a **safety component of a product, or is itself a product**, covered by the Union harmonization legislation listed in Annex I, and
- the product is required to undergo a **third-party conformity assessment**

**(2) Stand alone AI systems (Annex III)**

- Biometrics
- Critical infrastructure
- Education and vocational training
- Employment, workers management and access to self-employment
- Access to and enjoyment of essential private services and essential public services and benefits
- Law enforcement**
- Migration, asylum and border control management
- Administration of justice and democratic processes




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## High risk AI system in law enforcement where:

- (i) AI is to be used for assessing **the risk of a person becoming the victim of criminal offences**;
- (ii) AI is to be used as **a polygraph or similar tool** or (iii) AI is to be used to detect the reliability of evidence;
- (iii) AI is to assess **the risk of a person offending or re-offending** not solely based on their (automated) profiling;
- (iv) AI is to be used **to assess personality traits, characteristics or past criminal behaviour of a person**, or
- (v) AI is to be used for **profiling persons in the course of detection, investigation or prosecution of criminal offences**.



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## Requirements overview for high-risk AI systems



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## Chapter 3 AIA

### Providers

- Conformity Assessment against AIA requirements prior to placement/use
- Registration in new EU AI database
- Key requirements include detailed rules on:
  - Data quality and governance
  - Transparency
  - Accuracy, robustness, and cybersecurity
  - Human oversight
  - Risk and quality management systems
  - Technical documentation
  - Record-keeping
- Post-market monitoring system and incident reporting

### Deployers

- Fundamental Rights Impact Assessment (only for certain deployers/use cases)
- Comply with provider instructions using technical and organizational measures
- Assign human oversight to competent, trained, and supported personnel
- Ensure relevant and representative input data for the AI system's intended purpose
- Fulfil monitoring, record-keeping, and incident reporting obligations to providers and competent authorities



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## Requirements for LEA deployers



Technical and operational measures to use AI in accordance with instructions



Input data requirements (if under LEA control)



Register use in EU database



Keeping logs (if under LEA control)



Information, and transparency, with limitations



Fundamental rights impact assessment + DPIA if required



Human oversight (competence, training, authority)



Monitor the operation and report risks and issues




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## Fundamental Rights Impact Assessment (FRIA)




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## Fundamental Rights Impact Assessment

FRIA aims to protect individuals' fundamental rights from adverse impacts caused by AI systems. Its primary goal is to identify specific risks to the rights of affected individuals or groups of individuals and determine measures to mitigate these risks.

Who needs to conduct a FRIA?

- Bodies governed by public law
- Deployers of high-risk AI systems
- Private entities providing public services

Exception: high-risk AI systems under point 2 of Annex III (Critical Infrastructure)




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## What should FRIA consist of?

- A description of the deployer's processes in which the high-risk AI system will be used in line with its intended purpose;
- A description of the period of time within which and the frequency with which each high-risk AI system is intended to be used;
- The categories of natural persons and groups likely to be affected by its use in the specific context;
- The specific risks of harm likely to have an impact on the categories of persons or groups of persons identified pursuant to the point above, taking into account the information given by the provider pursuant to article 13 of the EU AI act;
- A description of the implementation of human oversight measures according to the instructions for use;
- The measures to be taken where those risks materialize, including arrangements for internal governance and complaint mechanisms.



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## Legal-ethical issues in AI deployment



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## Privacy and data protection

**AI Act:** *'The right to privacy and to protection of personal data must be guaranteed throughout the entire lifecycle of the AI system. In this regard, the principles of data minimisation and data protection by design and by default, as set out in Union data protection law, are applicable when personal data are processed.'* (Recital 69)

**Example:** an AI system that processes large quantities of personal data e.g. facial recognition systems or e-evidence platforms

**Challenge:** tackling both data and AI-related requirements

**Solution:** data protection by design and by default, interdisciplinary cooperation



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## TRACY Surveillance

**AI Act:** 'The placing on the market, the putting into service for that specific purpose, or the use of AI systems that create or expand facial recognition databases through the untargeted scraping of facial images from the internet or CCTV footage, should be prohibited because that practice adds to the feeling of mass surveillance and can lead to gross violations of fundamental rights, including the right to privacy.' (Recital 43)

**Prohibited AI practice:** 'an AI system for making risk assessments of natural persons in order to assess or predict the risk of a natural person committing a criminal offence, based solely on the profiling of a natural person or on assessing their personality traits and characteristics' (Article 5 (1d))

**Example:** an AI system that creates or expand facial recognition databases through the untargeted scraping of facial images from the internet or CCTV footage (facial recognition systems)

**Challenge:** balancing act between respecting the right to privacy and aiding investigations, power imbalance

**Solution:** data minimalization, targeted investigations and human assessment



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## TRACY Liability and accountability

**AI Act:** '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, insofar as their use is permitted under relevant Union and national law, a number of AI systems intended to be used in the law enforcement context where accuracy, reliability and transparency is particularly important to avoid adverse impacts, retain public trust and ensure accountability and effective redress.' (Recital 59)

**Example:** AI systems intended to be used by or on behalf of law enforcement authorities, or by Union institutions, bodies, offices or agencies, in support of law enforcement authorities to evaluate the reliability of evidence in the course of the investigation or prosecution of criminal offences (one of the high-risk AI systems in law enforcement)

**Challenge:** ensuring a sufficient amount of transparency and reliability

**Solution:** technical robustness, proper documentation and record-keeping



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## TRACY Bias and discrimination

**AI Act:** 'Diversity, non-discrimination and fairness means that AI systems are developed and used in a way that includes diverse actors and promotes equal access, gender equality and cultural diversity, while avoiding discriminatory impacts and unfair biases that are prohibited by Union or national law.' (Recital 27)

**Example:** an AI system that assesses the risk of a person becoming a victim of a criminal offence, assesses the risk of a person offending or re-offending or is used for profiling in the course of detection, investigation or prosecution of criminal offences

**Challenge:** preventing technical inaccuracies and using high-quality, diverse data

**Solution:** high-quality data sets, frequent quality checks and trainings



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## Autonomy and control

**AI Act:** *'In order to obtain the greatest benefits from AI systems while protecting fundamental rights, health and safety and to enable democratic control, AI literacy should equip providers, deployers and affected persons with the necessary notions to make informed decisions regarding AI systems.(Recital 20)*

**Example:** all AI systems designed to operate with varying levels of autonomy especially if they exhibit adaptiveness after deployment

**Challenge:** appropriate control and human oversight

**Solution:** appropriate human oversight measurers



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## Transparency and right to fair trial

**AI Act:** *'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, insofar as their use is permitted under relevant Union and national law, a number of AI systems intended to be used in the law enforcement context where accuracy, reliability and transparency is particularly important to avoid adverse impacts, retain public trust and ensure accountability and effective redress.'*(Recital 59)

**Example:** all AI systems used in law enforcement

**Challenge:** sufficient level of transparency and control

**Solution:** technical robustness, proper documentation and record-keeping, human oversight



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## Public trust and legitimacy

**AI Act:** *'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, insofar as their use is permitted under relevant Union and national law, a number of AI systems intended to be used in the law enforcement context where accuracy, reliability and transparency is particularly important to avoid adverse impacts, retain public trust and ensure accountability and effective redress.'*(Recital 59)

**Example:** all AI systems used in law enforcement

**Challenge:** sufficient level of transparency and control

**Solution:** public consultations, knowledge exchange



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## Impact on policing practices

**AI Act:** 'Given their role and responsibility, 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.' (Recital 59)

**Example:** all AI systems used in law enforcement

**Challenge:** technology that helps rather than the opposite

**Solution:** all of the already mentioned examples



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## What's next?



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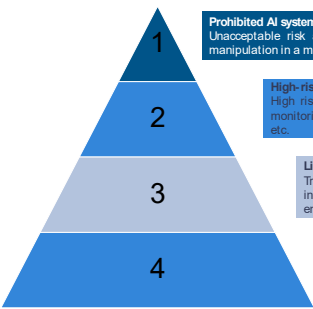
## Recommendations

1. Clarifications for the risk-based approach
2. Template for a Fundamental Rights Impact Assessment (FRIA)
3. Fostering knowledge exchange and ongoing conversation
  - a) Research projects and market entry
  - b) Substantial changes



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## TRACY Clarifications for the risk-based approach



**Prohibited AI systems:**  
Unacceptable risk as it violates EU fundamental rights and values. Eg. subliminal behavioural manipulation in a manner that causes harm, exploitation of vulnerabilities, social scoring, etc.

**High-risk AI systems:**  
High risk as it impacts health, safety or fundamental rights. Conformity assessment, post-market monitoring, etc are required. Eg. employment law, health, law enforcement, administration of justice, etc.

**Limited risk AI systems:**  
Transparency requirements to avoid risk of deception and maintain information transparency allowing individuals to make informed decisions or withdraw from a given situation. Eg. chatbots, deepfakes, emotion recognition system, etc.

**Minimal risk AI systems:**  
Unregulated AI systems. Eg. spam filters, recommender systems, etc.

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## TRACY Fundamental Rights Impact Assessment (FRIA)

Obligations for deployers of high-risk AI systems to perform an assessment of the impact in fundamental rights that the use of the AI system may produce

Article 27 (5) of the AI Act:

5. The AI Office shall develop a template for a questionnaire, including through an automated tool, to facilitate deployers in complying with their obligations under this Article in a simplified manner.

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## TRACY Research and development

*'This Regulation does not apply to AI systems or AI models, including their output, specifically developed and put into service for the sole purpose of scientific research and development.'* (Article 2(6) AIA)

OR

*'This Regulation does not apply to any research, testing or development activity regarding AI systems or AI models prior to their being placed on the market or put into service. Such activities shall be conducted in accordance with applicable Union law. Testing in real world conditions shall not be covered by that exclusion.'* (Article 8AIA)

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## Substantial modifications

'substantial modification' means a change to an AI system after its placing on the market or putting into service which is not foreseen or planned in the initial conformity assessment carried out by the provider and as a result of which the compliance of the AI system with the requirements set out in Chapter III, Section 2 is affected or results in a modification to the intended purpose for which the AI system has been assessed' (Article 3(23) AIA)



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## Additional remarks

- While the ambitions of the EU's GDPR and AI Act are commendable, their complexity and risk of overlaps and inconsistencies can undermine developments in the field of AI by EU industry actors. This calls for developing simplified rules and enforcing harmonised implementation of the GDPR in the Member States, while removing regulatory overlaps with the AI Act (*The future of European competitiveness by Mario Draghi, 2024*).
- Multi-level cooperation and ongoing dialogue with LEA is crucial for obtaining results.
- Clear policies and assigned personnel to deal with compliance.



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## Impact Assessment for trustworthy and robust AI in LE

The Impact Assessment for trustworthy and robust AI in Law Enforcement ("LE") is based on the requirements of Regulation (EU) 2024/1689 ("the AI Act"), as well as other guiding principles and recommendations surrounding AI.

| Impact Assessment for trustworthy and robust AI in LE                                                                                                                                                                                             |                                                             |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------|
| Instructions: Please complete the below questionnaire, providing responses on the system based on your best knowledge. If needed, please reach out to other colleagues, legal department, or the provider of services for additional information. |                                                             |
| <b>I. DOCUMENTATION AND TRANSPARENCY</b>                                                                                                                                                                                                          |                                                             |
| <b>Transparency and traceability</b>                                                                                                                                                                                                              |                                                             |
| A: Does the AI system allow for the automatic recording of events ('logs') over the duration of the lifetime of the system (Art. 12 AI Act)?                                                                                                      | <input type="checkbox"/> Yes<br><input type="checkbox"/> No |

|                                            |           | Severity of the impact if it were to materialize |         |           |         |
|--------------------------------------------|-----------|--------------------------------------------------|---------|-----------|---------|
|                                            |           | Very low                                         |         | Very high |         |
| Likelihood of the ... impact materializing | Very high | L4 / S1                                          | L4 / S2 | L4 / S3   | L4 / S4 |
|                                            |           | L3 / S1                                          | L3 / S2 | L3 / S3   | L3 / S4 |
|                                            |           | L2 / S1                                          | L2 / S2 | L2 / S3   | L2 / S4 |
|                                            | Very low  | L1 / S1                                          | L1 / S2 | L1 / S3   | L1 / S4 |



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## Impact Assessment for trustworthy and robust AI in LE

It is meant for developers of AI systems for law enforcement in EU-funded projects, whether law enforcement agencies ("LEAs") themselves or not, to assess whether the proposed solution is in line with legal, ethical and fundamental rights rules and principles.

| I. SUMMARY                                            |                     |          |               |                      |                     |
|-------------------------------------------------------|---------------------|----------|---------------|----------------------|---------------------|
| Overview of missing legal obligations of this section |                     |          |               |                      |                     |
| Requirement number                                    | Legal basis/content |          |               | Measures to be taken |                     |
|                                                       |                     |          |               |                      |                     |
| II. RISK ASSESSMENT                                   |                     |          |               |                      |                     |
| Description of this impact                            |                     | Severity | Likelihood    | Combined score       | Mitigation measures |
|                                                       |                     | Score    | Justification | Score                | Justification       |
| Transparency and traceability                         |                     |          |               |                      |                     |
|                                                       |                     |          |               |                      |                     |
| Auditability                                          |                     |          |               |                      |                     |
|                                                       |                     |          |               |                      |                     |

| Explainability                                     |                          |  |                |
|----------------------------------------------------|--------------------------|--|----------------|
|                                                    |                          |  |                |
| Instructions and communication                     |                          |  |                |
|                                                    |                          |  |                |
| Quality management and documentation keeping       |                          |  |                |
|                                                    |                          |  |                |
| I. IDENTIFIED MITIGATION MEASURES FOR THE SECTION: |                          |  |                |
| Measures to be taken                               | Applies to subsection(s) |  | Priority level |
|                                                    |                          |  | High           |
|                                                    |                          |  | Medium         |
|                                                    |                          |  | Low            |



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## Impact Assessment for trustworthy and robust AI in LE

It allows for a complete compliance analysis with the AI Act requirements as well as additional good practice measurers. It includes:

### PRELIMINARY QUESTIONNAIRE

- (1) Documentation and transparency
- (2) Safety
- (3) Data governance
- (4) Human oversight
- (5) Fundamental rights and impact on society

### ADDITIONAL MODULES



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Thank you!



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## 6 Conclusion and Key Outcomes

The TRACY Legal - ethical issues and AI workshop was centered around the use of Artificial Intelligence (AI) to support the Law Enforcement Agencies' (LEA) investigations. The workshop provided an overview of the TRACY project, introducing its objectives and the importance of the AI in crime investigations. The session then explored the European legal landscape regarding AI, with a deep dive into the requirements of the AI Act and examples of AI applications in Law Enforcement. The workshop was a successful interaction between various LE stakeholders on the topical issue of legal and ethical issues regarding the use of AI in law enforcement tasks and question of how to assess and organize AI compliance in practice.

Some of the key outcomes were that:

- The workshop provided an educational benefit to the participants regarding the legal framework of the AI Act;
- The workshop allowed participants to discuss and interact, sharing views and insights, leading to all participants learning more about the challenges in practice;
- The workshop allowed a tailored discussion through use cases and the use of the word clouds to capture main issues and to further educate all participants on the real-life challenges of using AI in Law Enforcement;
- The workshop, with the slides being made available for later consultation, provided an impetus for the participants to start working on their AI act and general legal and ethical compliance, as well as to raise further awareness within their organizations.