LEGAL AND ADMINISTRATIVE STUDIES, www.jlas.upit.ro
e-ISSN: 2344-6900, ISSN-L: 1583-0772
No.2 (33), Year XXIV, 2025, pp. 86-98

# THE IMPACT OF ARTIFICIAL INTELLIGENCE ON FUNDAMENTAL HUMAN RIGHTS

**Andreea CORSEI**
*ORCID*[ID] : 0000-0001-5688-3701
*E-mail:* office.corsei@yahoo.co.uk
*Affiliation*: "Petre Andrei" University in Iasi
Vice-Dean of the "College of Legal Advisers Suceava" Association
General secretary of the "Order of Legal Advisers from Romania" Federation
Associate Researcher - Romanian Academy - Family Sociology Laboratory

***Abstract:*** *The accelerated development of artificial intelligence (AI) poses significant challenges to the protection of fundamental human rights, enshrined in key documents such as the Charter of Fundamental Rights of the European Union, the European Convention on Human Rights and the Universal Declaration of Human Rights. While AI technologies can improve administrative efficiency and access to justice, their uncontrolled or non-transparent use can pose major risks to rights such as privacy, equality, freedom of expression or the right to a fair trial.*

*Moreover, facial recognition and intelligent surveillance systems can lead to an erosion of privacy and excessive monitoring of citizens, with the potential for abuse by authorities. At the same time, the use of AI in justice or in the automated selection of beneficiaries of public services can affect the right to a fair trial and equal access to resources, in the absence of clear human control and an effective challenge mechanism.*

*From a legal perspective, a clear and predictable regulation of AI is necessary, which respects the principles of the rule of law, includes democratic control mechanisms and ensures the accountability of the actors involved (developers, authorities, users). In this regard, the AI Act proposed by the European Commission in 2021 represents an important step, attempting to introduce a risk-based approach and prohibit systems that clearly violate fundamental rights.*

*In conclusion, for technological development to remain compatible with democratic values, it is essential that AI is developed, implemented and overseen within a solid legal framework, centered on the respect and promotion of human rights.*

***Keywords:*** *artificial intelligence; technological development; risk; fundamental rights.*

## Introduction

In recent decades, artificial intelligence (AI) has become a major transformative factor in contemporary society, profoundly influencing areas as diverse as the economy, health, justice, education and security. This technological evolution promises significant benefits, but at the same time generates unprecedented challenges in relation to fundamental human rights. AI advances cannot be separated from the legal and social context in which they operate; therefore, the analysis of its impact must be carried out not only from a technological but also from a normative perspective, focusing on the compatibility of innovation with the fundamental values of democracy and the rule of law.

International and European legal instruments – such as the Universal Declaration of Human Rights (1948), the European Convention on Human Rights (1950) and the Charter of Fundamental Rights of the European Union (2000) – enshrine a set of inalienable rights, such as the right to privacy, non-discrimination, freedom of expression, protection of personal data and access to justice. The use of machine learning algorithms, facial recognition or automated decisions in administration, justice and the private sector generates direct and indirect risks to these rights. The lack of algorithmic transparency ("black box algorithms"), the existence of algorithmic bias, as well as the difficulty of attributing legal responsibility for AI decisions create a regulatory vacuum that needs to be urgently addressed.

In parallel, the European Union has initiated a series of legislative initiatives – in particular the General Data Protection Regulation (GDPR) and the proposed AI Act (2021) – to create a legal framework that ensures the use of AI in an ethical, fair and human rights-compliant manner. These initiatives highlight the need for a risk-based approach and robust democratic control over the development and implementation of intelligent technologies.

This paper aims to analyze, from a legal and interdisciplinary perspective, how AI affects the exercise and protection of fundamental rights. The main objective is to highlight the tensions between technological progress and the demands of human rights protection, as well as to assess the effectiveness of current regulatory mechanisms in managing these challenges. Through this analysis, the aim is to substantiate appropriate legal solutions, capable of balancing technological innovation with the imperative of respecting human dignity.

## 1. Right to privacy and protection of personal data

The right to privacy is a fundamental pillar of any democratic society and is enshrined in multiple international and European legal instruments. In the context of the accelerated development of artificial intelligence (AI), this right takes on new dimensions, as intelligent technologies operate by collecting, analyzing and correlating massive volumes of data, often sensitive, from various sources.

### 1.1. The legal basis of the right to privacy

At the international level, Article 12 of the Universal Declaration of Human Rights and Article 17 of the International Covenant on Civil and Political Rights guarantee the right to a person's private life, family, home and correspondence. In the European space, Article 8 of the European Convention on Human Rights (ECHR) enshrines the same right and imposes on states the positive obligation to ensure the protection of privacy not only in relations with public authorities, but also in the context of interference by private actors[1].

Within the European Union, Articles 7 and 8 of the EU Charter of Fundamental Rights provide a dual protection: privacy (Art. 7) and the

[1] European Convention on Human Rights, Art. 8 – "Everyone has the right to respect for his private and family life, his home and his correspondence."

protection of personal data (Art. 8), supported by the General Data Protection Regulation (GDPR), which entered into force in May 2018[1].

### 1.2. The challenges posed by artificial intelligence

Artificial intelligence involves the automated processing of data, sometimes in an opaque manner and impossible to understand even for developers ("black box algorithms"). For example, facial recognition systems used in public spaces or for security purposes can identify, track and analyse the behaviour of individuals without their consent, thus violating the principles of legality, transparency and proportionality set out in the GDPR[2].

In addition, AI allows for behavioural profiling for commercial or administrative purposes, which can lead to indirect discrimination or algorithmic exclusion. According to Article 22 of the GDPR, individuals have the right not to be subject to a decision based solely on automated processing, including profiling, if it produces significant legal effects concerning them[3]. However, many AI applications ignore this right, and affected individuals do not always have effective remedies.

### 1.3. Legal obligations on data protection in the AI era

GDPR introduces a set of obligations that directly target the functioning of AI:

- Data protection impact assessment (DPIA – art. 35), mandatory for systems involving large-scale profiling or systematic monitoring of individuals.

---

[1] Charter of Fundamental Rights of the European Union, Art. 8 – "Everyone has the right to the protection of personal data concerning him."

[2] European Union Agency for Fundamental Rights (FRA), Facial recognition technology: fundamental rights considerations in the context of law enforcement, 2019.

[3] Regulation (EU) 2016/679 (GDPR), Art. 22 – "Right not to be subject to automated individual decision-making."

- Data minimization, i.e. processing only the data strictly necessary for the intended purpose (art. 5 para. 1 lit. c).
- Responsibility of the controller (art. 24), who must demonstrate compliance with the regulation through appropriate technical and organizational measures.

There is also an increasingly clear need for additional regulations, adapted to new forms of processing. In this regard, the proposal for the Regulation on Artificial Intelligence (AI Act) of the European Commission (2021) introduces prohibitions on certain AI-based surveillance practices and imposes transparency and algorithmic audit requirements[1].

The use of AI in the processing of personal data raises complex and urgent privacy issues. The right to privacy should not be seen as an obstacle to technological progress, but as an essential framework for the development of ethical, safe and democratic AI. In the absence of effective safeguards, AI can become a tool for intrusive surveillance and social exclusion. It is therefore essential that European states and institutions develop effective mechanisms of monitoring, transparency and democratic control that protect the individual in the face of autonomous technologies.

## 2. Non-discrimination and algorithmic bias: legal risks in the age of artificial intelligence

The principle of equality and non-discrimination is a fundamental value enshrined in all international human rights instruments. However, in the context of the use of artificial intelligence (AI) in automated decision-making, this principle is under pressure from the increasing phenomenon of algorithmic bias (prejudices embedded in automated

[1] European Commission, Proposal for a Regulation laying down harmonised rules on artificial intelligence (Artificial Intelligence Act), COM(2021) 206 final.

models). AI systems trained on historical data often reflect existing social inequalities and can reproduce or even amplify them.

This analysis aims to highlight the legal implications of algorithmic bias, the risks for the right to non-discrimination and the normative solutions proposed at European level to prevent these technological abuses.

### 2.1. The right to non-discrimination in the European legal order

At international level, the right to equality and protection against discrimination is enshrined in Article 26 of the International Covenant on Civil and Political Rights, as well as in Article 14 of the European Convention on Human Rights (ECHR), which prohibits any form of discrimination in the exercise of the rights set out in the Convention[1].

In the European Union, Article 21 of the Charter of Fundamental Rights prohibits "any form of discrimination such as that based on sex, race, colour, ethnic or social origin, genetic features, language, religion, political or other opinion, membership of a national minority, property, birth, disability, age or sexual orientation"[2]. In addition, Directive 2000/43/EC and Directive 2000/78/EC regulate in detail equal treatment in employment and services.

### 2.2. Algorithmic bias: causes and consequences

Algorithmic bias refers to the tendency of an AI system to produce distorted or unfair results for certain social groups, usually minorities. This phenomenon usually arises from:

- Biased historical data (e.g. databases with past discriminatory decisions);
- Underrepresentation of certain groups in training datasets;

---

[1] ECHR, art. 14 – "The exercise of rights and freedoms [...] must be secured without any discrimination."

[2] Charter of Fundamental Rights of the European Union, art. 21.

- Opaque mathematical models, which optimize efficiency at the expense of fairness.

A telling example is the COMPAS system used in the US to assess the risk of recidivism, which showed a higher probability of incorrect classification as “high risk” for black defendants compared to white ones (Angwin et al., 2016, https://www.propublica.org/article/machine-bias-risk-assessments-in-criminal-sentencing).

The legal consequences are major: individuals can be excluded from recruitment processes, receive lower credit scores or be subjected to disproportionate supervision, without objective and reasonable justification. This contradicts the principle of equal and fair treatment, guaranteed in the case law of the European Court of Human Rights (ECHR, D.H. and Others v. Czech Republic, 2007, indirect discrimination through automated educational policies).

### 2.3. Legal liability and access to justice

One of the most difficult legal aspects of algorithmic bias is identifying liability. If a discriminatory decision is generated by an autonomous system, who is liable: the programmer, the institution using it or the technology provider?

Currently, neither the ECHR nor EU law provides a comprehensive framework on discriminatory automated decisions. However, the GDPR offers some support, in particular through:

- Art. 22: Right not to be subject to significant automated decisions;
- Art. 5 and 24: Principle of accountability and fair processing;
- Art. 35: Obligation to assess the impact on data protection.

These provisions need, however, to be complemented by explicit measures against algorithmic discrimination in the future AI Act, currently being adopted at EU level.

### 2.4. Legal and ethical solutions to combat bias

To prevent and correct algorithmic bias, the legal and technical literature recommends several tools:

- Independent algorithmic audits: regular testing and evaluation of AI systems to identify discriminatory effects:

- Explainability of decisions: development of mechanisms for interpreting AI decisions, essential for the right to defense;
- Inclusion of diversity in development teams and in data selection;
- Accessible complaint mechanisms and remedies for affected individuals.

The European Commission proposed in 2021 through the AI Act the introduction of a risk-level classification, in which "high-risk" systems (such as those used for employment, credit or education) would be subject to strict transparency and monitoring requirements[1].

Algorithmic bias represents one of the most subtle but dangerous forms of violation of the right to non-discrimination in the digital age. If not detected and regulated effectively, it can lead to the systematic and invisible exclusion of vulnerable groups, undermining public trust in AI and democratic values. It is therefore essential that the European legal architecture firmly integrates principles of fairness, accountability and access to justice, to ensure that artificial intelligence works for people, not against them.

## 3. The need for democratic and transparent regulation of artificial intelligence

Artificial intelligence (AI) is profoundly transforming modern societies, with applications in justice, health, security, education and the economy. However, the rapid development and ever-increasing use of AI technologies raise fundamental questions of democratic legitimacy, transparency and social control. For AI to be compatible with the rule of law and democratic values, a clear, predictable and participatory legal framework is necessary. Without it, there is a risk that automated

[1] European Commission, Proposal for a Regulation laying down harmonised rules on artificial intelligence (Artificial Intelligence Act), COM(2021) 206 final.

decisions will be inaccessible, arbitrary or infringe fundamental human rights.

### 3.1. The legal basis for democratic regulation

In the European legal order, the principle of the rule of law requires that any interference with fundamental rights and freedoms must be provided for by law, pursue a legitimate aim and be proportionate (ECtHR, Malone v. United Kingdom, 1984), para. 67 – the need for a "sufficiently foreseeable law" to allow the individual to regulate his or her conduct). Article 10 of the Treaty on European Union (TEU) also enshrines the principle of representative democracy, requiring citizens to participate in the decision-making process.

In the context of AI, these principles imply:

- Transparent and auditable regulation of algorithmic technologies;
- Subjecting AI systems to a form of democratic and jurisdictional accountability;
- Including the public in the debate on the rules governing the use of AI.

In the absence of a solid legal basis and democratic control, autonomous systems can be used for mass surveillance, behavioral manipulation or discriminatory decision-making – all incompatible with European standards on human rights and good governance[1].

### 3.2. Current regulatory gaps

Currently, AI regulation is fragmented and reactive. There are sectoral rules, such as the GDPR for data protection or national cybersecurity regulations, but there is still no general and coherent framework for AI.

Moreover, many algorithmic systems operate in a "black box" mode, meaning that the internal logic of their decisions cannot be

[1] European Parliament, Artificial Intelligence and Civil Liberties, Study PE 656.297, 2020.

understood even by the developers. This runs counter to the principle of decision-making transparency guaranteed by the case law of the Court of Justice of the European Union (CJEU, Case C-619/18, Commission v. Poland, 2019 – reaffirmation of the principle of transparency and independence of the judiciary).

At the same time, existing regulations do not provide a clear mechanism for challenging automated decisions, leaving individuals without an effective remedy – contrary to Articles 6 and 13 of the ECHR, which provide for the right to a fair trial and an effective remedy.

### 3.3. AI Act – a step towards transparent and democratic regulation

To address these challenges, the European Commission proposed in 2021 a Regulation on the use of Artificial Intelligence (AI Act), which aims to establish harmonised rules for the development, commercialisation and use of AI in the European Union[1].

Key points of the proposal include:

- Classification of AI systems by risk levels (unacceptable, high, limited and minimal);
- Prohibition of cognitive manipulation or social surveillance practices;
- Strict transparency, documentation and audit requirements for "high-risk" systems;
- Democratic oversight through a European AI Council and through the participation of civil society in assessment processes.

This approach is based on the concept of "democratic governance of technology", which implies transparency, participation, accountability and procedural rights for all affected actors.

[1] European Commission, Proposal for a Regulation establishing harmonised rules on artificial intelligence (AI Act), COM(2021) 206 final.

### 3.4. Justification for democratic regulation

There are several legal and social reasons why AI should be subject to democratic and transparent regulation:

- Preventing the concentration of technological power in the hands of private or state actors without electoral legitimacy;
- Protecting fundamental rights, such as the right to privacy, freedom of expression and the right to equality;
- Avoiding systemic errors and diffuse responsibility in the event of erroneous automated decisions;
- Strengthening public trust in technology and the institutions that use it.

Without these guarantees, AI risks becoming an instrument of opacity and arbitrariness, contrary to the values on which European democracies are founded.

Artificial intelligence is not only a technological challenge, but above all a normative and democratic one. For its use to be legitimate, it must be regulated by clear, accessible and transparent rules, developed with the participation of society and subject to public and judicial control. The AI Act proposal is a promising start, but it is necessary for Member States, non-governmental organisations, courts and citizens to constantly monitor how these technologies are integrated into social life. After all, technology must serve people, not the other way around.

## Conclusions

Artificial intelligence fundamentally redefines the way in which decisions with an impact on citizens' rights and freedoms are conceived, adopted and implemented. Beyond technological innovation, AI poses essential structural challenges for the democratic legal order, in particular with regard to transparency, accountability and public scrutiny of algorithmic processes.

In this context, the regulation of AI should not be seen simply as a technical-legal measure, but as a democratic imperative. Subjecting automated systems to a clear, accessible and predictable regulatory framework is a necessary condition for respecting the rule of law and

preventing technological arbitrariness. Only through democratic and transparent regulation can modern societies guarantee that the use of AI is carried out in accordance with the principles of equality, fairness and procedural justice.

From a legal perspective, the obligation of states to regulate AI derives not only from international human rights commitments (such as the European Convention on Human Rights or the EU Charter), but also from domestic constitutional requirements regarding administrative legality, data protection and access to justice. Equally, the democratization of AI also involves the creation of participatory control mechanisms, public audit, as well as the real possibility for citizens to understand, challenge and correct algorithmic decisions that affect them.

In conclusion, the regulation of artificial intelligence is not just a matter of administrative efficiency, but a true test of the legal and democratic maturity of a digital society. Only through a robust legal framework, built on democratic foundations, can AI become an instrument of social emancipation and not of exclusion or algorithmic domination.

## References


CJEU, Case C-619/18, Commission v. Poland. (2019). Reaffirmation of the principle of transparency and independence of the judiciary.

ECtHR, Malone v. United Kingdom. (1984). Para. 67 – the need for a "sufficiently foreseeable law" to allow the individual to regulate his or her conduct.

ECHR, art. 14 – "The exercise of rights and freedoms [...] must be secured without any discrimination."

ECHR, D.H. and Others v. Czech Republic. (2007). Indirect discrimination through automated educational policies.

European Commission, Proposal for a Regulation establishing harmonised rules on artificial intelligence (AI Act), COM(2021) 206 final.

European Commission. COM(2021). Proposal for a Regulation laying down harmonised rules on artificial intelligence (Artificial Intelligence Act), 206 final.
European Convention on Human Rights, Art. 8 – "Everyone has the right to respect for his private and family life, his home and his correspondence."
European Parliament. (2020). Artificial Intelligence and Civil Liberties, Study PE 656.297.
European Union Agency for Fundamental Rights (FRA). (2019). Facial recognition technology: fundamental rights considerations in the context of law enforcement.
Charter of Fundamental Rights of the European Union, art. 21.
Charter of Fundamental Rights of the European Union, Art. 8 – "Everyone has the right to the protection of personal data concerning him."
Angwin, J. & al. (2016). *Machine Bias*. ProPublica. https://www.propublica.org/article/machine-bias-risk-assessments-in-criminal-sentencing
Regulation (EU) 2016/679 (GDPR), Art. 22 – "Right not to be subject to automated individual decision-making."