EUROPEAN CONVENTION ON HUMAN RIGHTS
CONVENTION EUROPÉENNE DES DROITS DE L'HOMME
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STEERING COMMITTEE FOR HUMAN RIGHTS

(CDDH)

DRAFTING GROUP ON HUMAN RIGHTS AND ARTIFICIAL INTELLIGENCE

(CDDH-IA)

Table of domestic caselaw based on the responses received on the questionnaire to member States

(Prepared by the Secretariat)

Country	Case reference	AI Technology Involved	Sector	Summary of Facts	Human Rights Issues	Court's Reasoning and Decision	Reference to ECHR/ESC /International Standards	Status
CZECHIA	Judgment no 10 C 13/2023-16 regarding the use of AI system (DALL-E)	Image generation	Intellectual Property	The plaintiff sought recognition of his authorship to the image generated by the AI system.	A1P1	Conditions of authorship under the Czech Copyright Act cannot be met without concrete evidence supporting the individual's claim of significant human involvement in the creative process. However, the court did not completely rule out that AI-generated works could be granted copyright protection in the future if a sufficient level of human creative input is demonstrated.	No	Final
FRANCE	Société Gerbi Avocat Victimes et Préjudices et autres, n°s 440376, 440976, 442327,	*Datajust:* AI-powered decision-support tool for judges aimed at analysing personal injury compensation cases.	Administration of Justice	The applicants seek the annulment of Decree No. 2020-356 for abuse of power concerning the *Datajust* automated data	A8	The court ruled that the decree merely authorizes data collection for developing an AI-based compensation assessment tool without infringing fundamental rights or altering existing legal safeguards. It emphasized that the project remains	Yes, A8 ECHR	Final

	442361, 442935			processing system.		experimental, with a two-year duration, and is not intended for immediate use by judges or litigants. The court also found that anonymization measures were in place and that individual notification was not required due to the scale of data processing. Consequently, claims of excessive infringement on the right to information under Article 8 of the EU Charter of Fundamental Rights were dismissed.		
FRANCE	Avis sur un projet de loi relatif aux jeux Olympiques et Paralympiques de 2024, 15 décembre 2022, n° 406383	AI systems applied to video surveillance images.	Law Enforcement and Public Security	The Conseil d'État reviewed a draft law for the 2024 Olympics, including provisions for AI-powered video analysis to detect security threats in real-time.	A8, A10, P4A2	The Conseil d'État approved a time-limited AI surveillance experiment for high-risk events, excluding biometrics and facial recognition, with strict safeguards. The CNIL oversees compliance, ensuring human supervision and constitutional alignment, notably for the 2024 Olympics.	NO	Final
FRANCE	Décision du Conseil constitutionnel n° 2021-834 DC du 20 janvier 2022	Processing of images from aircraft-mounted cameras, including unmanned aerial vehicles, for administrative police operations.	Law Enforcement and Public Security	The Conseil constitutionnel partially struck down provisions on the use of drones for administrative policing and imposed five	A8	The Conseil constitutionnel upheld the use of airborne surveillance by police, gendarmerie, and military for security, public order, and border control but imposed strict safeguards. It ruled that prefectural authorization	NO	Final

				interpretative reservations on the remaining contested provisions.		must ensure no less intrusive alternatives exist, that renewals require justification, and that facial recognition from external systems is prohibited to protect the right to privacy.		
FRANCE	CE, 26 avril 2022, Association la quadrature du net, n° 442364	Facial recognition	Law Enforcement and Public Security	In April 2022, France's Conseil d'État rejected La Quadrature du Net's request to annul provisions allowing the inclusion of facial recognition-compatible photographs in the TAJ (Traitement des Antécédents Judiciaires) database, affirming their compliance with privacy rights	A8, A10	The Conseil d'État ruled that the TAJ system's use of facial recognition complies with privacy rights, given its strict necessity and proportionality in supporting criminal investigations	NO, only fundamental charter	Final
FRANCE	CE, 30 décembre 2024, Ligue des droits de l'homme, n°s 473506,473546,473749,473867, T.	Processing images from aircraft-mounted devices	Law Enforcement and Public Security	The Ligue des droits de l'homme and other applicants seek the annulment of Decree No. 2023-283 of April 19, 2023, which authorizes the	A8	The Conseil d'État has ruled that the use of drones by law enforcement agencies is permissible under strict conditions, including obtaining prefectural authorization, ensuring proportionality, and adhering to privacy safeguards such as prohibiting sound	Yes, Article 16 of the Convention of the Rights of the Child	Final

				use of image processing from devices installed on aircraft for administrative police missions. They argue that the decree infringes on the right to privacy and personal data protection		recording and facial recognition. Sensitive data must be necessary for the operation and deleted within seven days. These measures comply with data protection laws.		
FRANCE	CE, Juge des référés, 21 December 2023, Communauté de communes Cœur Côte Fleurie, No. 489990	Facial recognition	Public Administration	Human rights organizations sought to halt the use of BriefCam software by the Communauté de communes Cœur Côte Fleurie, alleging unauthorized use of facial recognition capabilities. The initial court ordered deletion of personal data collected.	A8, P4A2	The court found that while the software had facial recognition capabilities, these were not activated. The system was used solely for retrospective analysis of images for specific investigations, such as vehicle analysis and license plate searches. Due to technical issues rendering the software non-functional, no current use was possible. The court annulled the initial injunction.	Yes, A8 ECHR	Final
FRANCE	TA de Marseille, 27 February 2020, La Quadrature du Net and Others,	Virtual access control system employing facial recognition technology.	Education	The PACA region initiated an experimental virtual access control system using facial recognition in two high	A8	The court held that the region did not demonstrate that the system's objectives constituted a public interest or that these goals couldn't be achieved through less intrusive means, such as	Yes, A8 of the ECHR	Final

	No. 1901249			schools for security purposes. Several organizations challenged this decision, seeking its annulment.		badge controls and video surveillance. The processing of biometric data did not meet the requirements of Article 9 of the General Data Protection Regulation (GDPR). Consequently, the court annulled the region's decision to implement the experimental system.		
GREECE	Council of State [supreme administrative court], fourth chamber, judgement 1206/2024 (22.01.2024)	Algorithms in the issuance of administrative acts	Public Administration	The case concerned a project of state subsidies for young higher education professionals put forward by the Government under the EU European Regional Development Fund and the rejection of the applicant, a civil engineer, through an automated decision on the basis of an algorithm assessing information such as income, profession, years of activity, age	A6	The Council of State ruled that administrative decisions based on automated data processing must include detailed reasoning, specifying the key stages of the algorithmic calculations and the factual variables considered, to uphold the principles of transparency, legality, and effective judicial protection.	No	Final
ITALY	Italian Supreme	AI-driven reputational rating system	Data protection	The case concerned the	A8 CFREU,	The Court held that the inherent opacity of the	Yes, ECHR	Final

	Court, Case 14381/2021 (25.05.2021)			development of a web platform using algorithms to generate reputational ratings for individuals and businesses. These ratings were calculated by comparing genuine profiles with artificial or fabricated ones and were then offered to third parties as credibility verification tools. The system operated within the area of data analytics and reputation management.	Art. 13, 23 e 26, art. 7 GDPR	algorithm made it impossible for individuals to understand how their data was being used or how reputational ratings were derived. As a result, any purported consent to data processing was invalid.		
ITALY	Italian Council of State, Case 2270/2019	Automated assignment of secondary school teachers	Education	The Ministry of Education employed an algorithm within a web-based platform to manage the national mobility procedure for teachers, aiming to allocate	principles of impartiality, transparency, and the right to a reasoned decision.	The Court found that the opacity of the algorithm breached the principles of impartiality, publicity, and transparency, as it was impossible to understand the criteria and methods used for the assignments. Additionally, the illogical and irrational outcomes of the procedure underscored the need	No	Final

				positions based on preferences and rankings, which resulted in multiple anomalies.		for human oversight in algorithmic decision-making processes.		
NETHERLANDS	Hague Discrict Court, SyRI case, ECLI:NL:RBDHA:2020:1878	Fraud detection	Social service and Welfare	Systeem Risico Indicatie, (SyRI), is a legal instrument used by the Dutch government to detect various forms of fraud through an AI system	Arts 6,8,13 ECHR	The Court concluded that the legislation governing SyRI failed to with A8(2) , as it did not strike a fair balance, which would warrant a sufficiently justified violation of private life. The Court did not address art 6 and 13 ECHR.	Yes, ECHR	Final
NETHERLANDS	ABRvS (Judicial Division of the Council of State) 17 May 2017, ECLI:NL:RVS:2017:1259 (‘AERIUS’)	Algorithmic decision making to grant permits	Environment	The AREIUS software was employed to aid decision-making within the framework of the PAS program (reduction of emission in agriculture)	Transparency issues	The Court argued that AERIUS hindered transparency and access to information of the parties involved, impacting their right to a remedy. The public authority is required to offer transparency regarding the data input, operation, and the use of the algorithms that form the basis for the decision.	No	Final
NETHERLANDS	The childcare benefit scandal (Toeslagenaffaire) – Decision issued by	Risk classification model	Social services and Welfare	The Dutch tax authority employed a risk classification algorithm to decide on fraudulent	A8 A1P12 ECHR	The Data Protection Authority (AP) found that the tax office violated both national and EU data protection laws (GDPR). The AP highlighted the lack of necessity and proportionality in	Yes, ECHR, GDPR, ICCPR	Final

	the Data Protection Authority			childcare benefit claims.		collecting nationality data and using it as a criterion in the risk classification models. The authority also investigated the lawfulness of the data processing practices by the tax authority. It considered two processing activities as discriminatory practices, notably the use of nationality as an indicator in the risk model, as they lacked an objective justification for the use of nationality data in the model.		
NETHERLANDS	District Court of Overijssel, DUO case	Automated risk profiling model	Education	The Dienst Uitvoering Onderwijs (DUO) employed an automated risk profiling system to identify students who might falsely claim to live independently to receive higher financial aid.	A14 A1P12	The court found that DUO's use of the automated risk profiling system led to indirect discrimination. The system disproportionately selected students from specific backgrounds for verification without sufficient justification. Consequently, the court ruled that evidence obtained through this discriminatory process was inadmissible, and DUO was required to cease using the flawed profiling system.	Yes, ECHR, AP12, ICCPR	Final
NETHERLANDS	Hague Court of Appeal, 200.297.639/01	Risk assessment instrument-violence (RTI-G)	Law Enforcement and Public Security	To combat excessive crime in Rotterdam, the police	A8 A4P7	The Court of Appeal determined that the procedure formed an interference of the right to privacy, for a suitable	Yes	Final

				employed an automated system to designate certain individuals as safety risk subjects, based on data analysis. Once designated as a safety risk subject, these individuals would be subjected to preventive searches without immediate suspicion, aiming to mitigate risks associated with excessive violence.		goal, but that this was not sufficiently provided for by law. The legal authority to conduct searches on individuals solely based on their designation as safety risk subjects without specific suspicion for a such an extended period of time, based on a past score was insufficiently specific. The court emphasized that such practices could violate individuals' rights to privacy.		
NETHERLANDS	Amsterdam District Court on University of Amsterdam (UvA) C/13/684665 / KG ZA 20-481	Online proctoring software	Education	Due to COVID-19 restrictions, UvA implemented online proctoring software to conduct remote examinations, aiming to maintain academic integrity. This software utilized students' webcams to	A8	The court ruled that UvA's use of online proctoring was lawful under the circumstances, emphasising the following points: • Necessity: Given the COVID-19 restrictions, in-person examinations were not feasible, online proctoring was deemed necessary to fulfill UvA's legal obligation to ensure the quality and	ECHR GDPR	Final

				monitor their behavior during exams, employing algorithms to detect potential fraud by flagging unusual activities, such as looking away from the screen. The proctoring system recorded video data, which was encrypted and stored on EU-based servers, accessible only to authorized UvA staff.		integrity of examinations. • Data Protection Measures: UvA conducted a Data Protection Impact Assessment (DPIA) and implemented safeguards, such as data encryption, limited data retention (30 days), and restricted access to authorized personnel, aligning with GDPR requirements. • Proportionality: The court found that the measures taken were proportionate to the aim of preventing fraud, considering the temporary nature of the solution and the public interest in maintaining educational standards.		
SWITZERLAND	Swiss Federal Supreme Court, case no. 1C_63/2023 (17.10.2024)	Automated surveillance including facial recognition, profiling, and predictive policing technology	Law Enforcement and Public Security	Amendments to the Police Act of Lucerne introduced provisions that allowed the police to use various forms of automated surveillance and data analysis.	A8 A6 A13	The Court found that certain provisions of the amended Police Act violated constitutional and human rights standards, while others were upheld, subject to strict interpretation. It found that the mass, non-targeted surveillance allowed under this provision,	Yes ECHR	Final

				Some of these provisions permitted the automated processing of large amounts of personal data, including vehicle and individual identification, which could involve AI-driven facial recognition, profiling, and predictive policing techniques.		which included the automated capture of vehicle license plates and passenger images, was a severe infringement on the right to privacy. The law failed to establish sufficiently clear and precise limits on data collection and retention, making it disproportionate.		
UNITED KINGDOM	Court of Appeal (Civil Division), R Bridges v South Wales, C1/2019/2670, 11.08.2020	Facial recognition (AFR)	Law Enforcement and Public Security	The Police Force ran a pilot phase to trial the use of AFR, which involved deploying surveillance cameras to capture digital images of members of the public, which were then processed and compared with images of persons on police watchlists. If no match was made, the image was immediately and	A8	The Court found that AFR breached privacy rights, data protection laws, and equality laws. It ruled that the interference with the Claimant's Article 8 rights was not "in accordance with the law" due to unclear guidance and excessive discretion granted to police officers. The data protection impact assessment was inadequate, failing to properly address privacy risks. Additionally, the police force did not meet the public sector equality duty, as it had not investigated potential bias in the AFR system, particularly regarding race and gender. However, the Court	Yes	Final

				automatically deleted.		agreed with the first instance decision that the interference was proportionate if it had been lawful.		

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