

EQUALITY AND ARTIFICIAL INTELLIGENCE



Recommendation CM/Rec(2026)1
and explanatory memorandum

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

EQUALITY AND ARTIFICIAL INTELLIGENCE

French edition:
Égalité et intelligence artificielle

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Recommendation CM/Rec(2026)1

of the Committee of Ministers to member States on equality and artificial intelligence

*(Adopted by the Committee of Ministers on 4 March 2026
at the 1552nd meeting of the Ministers' Deputies)*

PREAMBLE

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe (ETS No. 1),
Considering that the aim of the Council of Europe is to achieve greater unity between its members, that this aim may be pursued, in particular, through common action in the field of human rights and that member States have undertaken to secure the rights and freedoms enshrined in the Convention for the Protection of Human Rights and Fundamental Freedoms (ETS No. 5, the “Convention”) to everyone within their jurisdiction;

Recalling the specific obligations of member States in the field of equality and non-discrimination under European and international law, namely under Article 14 of the Convention and, where applicable, Article 1 of its Protocol No. 12 (ETS No. 177) and the related jurisprudence of the European Court of Human Rights, as well as under Article E of the European Social Charter (revised) (ETS No. 163), and the related decisions and conclusions of the European Committee of Social Rights, which also apply throughout the lifecycle of artificial intelligence (AI) systems;

Emphasising that such obligations remain throughout the continuous processes of technological advancement and digital transformation experienced by European societies, including the activities within the lifecycle of AI systems;

Underlining the centrality of human dignity, individual autonomy and equality, including gender equality, to the rule of law and democracy, and so acknowledging the need to ensure substantive equality and prevent and combat any kind of violence and discrimination by strengthening the work towards inclusive societies without marginalisation, exclusion or any forms of intolerance, including sexism, racism, ableism, ageism and LGBTI-phobia;

Emphasising the need to address multiple and intersectional forms of discrimination and inequalities which can be caused and exacerbated by activities within the lifecycle of AI systems;

Recalling that gender equality and the full, equal and effective participation of women in public and private decision-making processes are essential to the rule of law, democracy and sustainable development, and that these goals have been a priority of the Council of Europe for many years, as evidenced by the rich body of standards and strategies developed in this area;

Welcoming the efforts of member States at regional, national, European and other international levels to ensure that the increasing use of AI systems is consistent with the obligation to protect human rights, democracy and the rule of law, including through the Council of Europe Framework Convention on Artificial Intelligence and Human Rights, Democracy and the Rule of Law (CETS No. 225);

Emphasising that private-sector actors, in line with regional, national, European and other international norms, standards and recommendations, have a responsibility to promote equality and to respect the human rights of all affected parties, including those of consumers, in particular the prohibition of discrimination and the respect for equality, including gender equality;

Conscious of the risks posed to equality and non-discrimination by AI systems, which can be built upon and sustained by data and models that reproduce, perpetuate and exacerbate existing bias, stereotypes, stigma, prejudice and false assumptions about individuals or groups on the basis of actual or perceived personal characteristics or proxies and their intersections, and the distinct challenges that AI systems may present due to their complexity, large-scale effect or limited transparency;

Noting that the under-representation of women and individuals and groups at risk of discrimination in the AI sector, notably in decision-making positions and in the design and development of AI systems, is an important dimension of such risks;

Recognising that the digital divide, including the gender digital divide, and the use of AI systems can intensify discrimination and under-representation, and that this underlines the need to mitigate the resulting economic and social inequalities;

Concerned that technology-facilitated violence against women and girls is increasingly prevalent due to the rapid development of technology, including artificial intelligence and its widespread use, and underlining the relevance of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (CETS No. 210) in this context;

Recognising the specific needs and vulnerabilities of children and young people, and the particular impact that AI systems may have on all areas of their lives, as well as the need to ensure that they have access to relevant information in this regard and to include young people in decision-making processes related to AI systems;

Acknowledging that AI systems can have significant discriminatory effects, further compounded by the opacity of their processes and information asymmetries, and that it is difficult for those affected to detect and prove resulting violations of their rights and to take effective remedial action;

Recalling that, even where an AI system is compliant with applicable domestic, European and international law, standards and instruments regulating specifically AI, the use of the system may nevertheless result in discrimination or other human rights violations;

Underlining that independent oversight bodies in charge of protecting the rights of individuals and groups at risk of discrimination face challenges in preventing and remedying such violations, and that there is an urgent need to address them;

Concerned that the environmental impact of AI systems, including their carbon footprint and resource consumption, may disproportionately affect women and individuals and groups at risk of discrimination and exacerbate existing inequalities, and mindful of the need for sustainable AI development;

Acknowledging the increasing use of AI systems in most, if not all, areas of daily social, political, cultural, economic and professional life and the increasing pace of such developments;

Concerned that the consequences may include the creation or aggravation of existing structural, multiple and intersectional discrimination and inequalities, including those experienced by women and girls and individuals at risk of discrimination, and an increase in online and offline violence against them;

Underlining that the breadth and extent of current and likely future deployment of AI systems make it essential that member States determine whether it is appropriate to have recourse to AI systems for a particular use and subsequently ensure that all activities within the lifecycle of AI systems are consistent with human rights obligations, with a view to amplifying positive effects and preventing, mitigating or avoiding possible adverse effects;

Recognising that AI systems, in particular when implemented with transparency and accountability mechanisms in place, have the potential to be used to promote equality, including gender equality, to empower individuals and groups at risk of discrimination and to promote human prosperity, economic progress, individual and societal well-being, sustainable development and other important goals and interests, by enhancing progress and innovation and identifying and remedying discriminatory treatment and its impact;

Underlining that stronger and targeted action is needed to realise the positive potential of AI systems, while being mindful that risks of discrimination can also arise when AI systems are used in this context;

Welcoming existing initiatives, particularly in industry, to promote safe, secure, trustworthy and transparent AI, but reminding member States of their role in implementing their obligations under the Convention and other relevant human rights standards;

Taking account of, and building on, existing Council of Europe, regional and international norms, standards and recommendations related to the protection of human rights and fundamental freedoms, democracy and the rule of law in contemporary societies, as well as the evolving jurisprudence of the European Court of Human Rights;

Concluding, in the light of the foregoing considerations, that a comprehensive multistakeholder approach is needed to address the root causes of AI-driven discrimination through appropriate legal and policy solutions, to ensure the promotion of equality, including gender equality, and to avoid risks of discrimination in the context of activities within the lifecycle of AI systems, by ensuring accountability and democratic, transparent human oversight,

Recommends that the governments of member States:

1. take all necessary measures to ensure prompt and full implementation of the principles and guidance appended to this recommendation;
2. ensure, through appropriate legislative, administrative, regulatory, supervisory and policy frameworks and other measures, that public- and private-sector actors engaged in activities within the lifecycle of AI systems comply with their obligations, especially human rights obligations in the fields of equality and non-discrimination, under applicable domestic, European and international laws, norms and standards;
3. ensure that this recommendation is translated and disseminated as widely as possible, including in simple and accessible language, and through all available means, among national public authorities or bodies and stakeholders, such as parliaments, independent bodies, researchers, civil society and the private sector;
4. promote the goals of this recommendation at local, regional, national, European and other international levels by engaging in dialogue and co-operation with all stakeholders;
5. review the state of implementation of this recommendation at regular intervals after its adoption, with a view to enhancing its impact, and inform the Committee of Ministers of the measures taken by member States and other stakeholders, the progress achieved and the measures planned to address remaining shortcomings.

APPENDIX TO RECOMMENDATION CM/REC(2026)1 OF THE COMMITTEE OF MINISTERS TO MEMBER STATES ON EQUALITY AND ARTIFICIAL INTELLIGENCE

Principles and guidance on equality and artificial intelligence

I. Aim

1. The aim of the following principles and guidance is to assist member States in promoting equality, including gender equality, and in preventing and combating all forms of discrimination in all their activities and those of public- and private-sector actors within the lifecycle of AI systems, in accordance with Article 14 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ETS No. 5), Article 1 of its Protocol No. 12 (ETS No. 177), where applicable, and the related case law of the European Court of Human Rights, as well as in accordance with Article E of the European Social Charter (revised) (ETS No. 163) and the related decisions and conclusions of the European Committee of Social Rights, if applicable.
2. Discrimination can be based on a variety of actual or perceived personal characteristics or status, such as sex, gender, “race”,¹ colour, language, religion, political or other opinion, national or social origin, association with a national minority, nationality, property, birth, sexual orientation, gender identity and expression, sex characteristics, age, state of health, disability, marital status and migrant or refugee status. Member States should pay particular attention to specific experiences of structural and systemic disadvantage and

1. Since all human beings belong to the same species, the Council of Europe rejects theories based on the existence of different “races”. However, this recommendation uses the term “race” in order to ensure that those persons who are generally and erroneously perceived as “belonging to another race” are not excluded from its protection.

vulnerabilities and multiple and intersectional discrimination. Given the evolving nature of AI systems, discrimination can also occur by proxy, which occurs on the basis of a seemingly neutral piece of information that is nevertheless related to or correlated with a protected characteristic.

II. Comprehensive approach to legislation, policies and regulatory frameworks

3. Member States should ensure that a comprehensive set of measures is in place to promote equality, including gender equality, and to prevent and combat discrimination in the context of AI systems. Such measures should be consistent and in accordance with their obligations under the Convention and relevant international obligations concerning AI systems and those concerning human rights, equality and non-discrimination.

4. In particular, member States should ensure, using a graduated and differentiated approach, that:

- 4.1. appropriate legislation, policies and administrative, regulatory or other frameworks are in place or, where appropriate, are developed, and that they are in practice applied to promote equality, including gender equality, and to prevent and combat all forms of discrimination throughout the lifecycle of AI systems;
- 4.2. the efficacy and suitability of such legislation, policies and administrative, regulatory or other frameworks to cover activities within the lifecycle of AI systems are monitored and evaluated.

As appropriate, these activities should be carried out in co-operation with equality bodies, competent authorities and other relevant national human rights structures and civil society.

5. Measures taken should contribute to ensuring:

- 5.1. the appropriateness of the use of AI systems, considering the actual and potential impacts or risks to non-discrimination and recognising the potential to promote equality, including gender equality;
- 5.2. appropriate transparency and oversight requirements, including meaningful human oversight, so as to identify, prevent and combat discrimination arising from or aggravated by activities within the lifecycle of AI systems;
- 5.3. clear accountability and responsibility frameworks to prevent and combat discrimination resulting from activities within the lifecycle of AI systems;
- 5.4. effective and equal protection of all human rights, including privacy and data protection rights; and
- 5.5. effective remedies to address discrimination arising from activities within the lifecycle of AI systems.

6. Such measures should be designed, implemented and monitored in compliance with the principle of proportionality, in accordance with the level of risk of discrimination or impact on other rights of an individual, as regularly assessed by the relevant actors in member States, with parliamentary oversight as appropriate.

7. Member States should take measures necessary to ensure that all members of society have equal opportunities to benefit from AI systems. In particular, member States should develop and ensure the application of measures, in line with their positive obligations under the Convention, to:

- 7.1. prevent and compensate for disadvantages suffered by individuals;
- 7.2. facilitate their full participation in all areas of life, for example through positive action; and
- 7.3. secure the rights of all individuals and groups without discrimination.

8. When preparing, adopting and implementing measures relevant to the promotion of equality, including gender equality, and the prohibition of discrimination in AI systems, member States are encouraged to hold timely, regular, gender-balanced and accessible public consultations, ensuring the effective and meaningful participation of stakeholders such as social partners, competent authorities, researchers, equality bodies, national human rights institutions, ombudspersons, civil society and industry. Specific attention should be paid to ensuring the effective representation of those groups that are most affected by inequality and discrimination.

III. Promotion of equality by public and private actors

9. Member States should encourage public and private providers and deployers of AI systems to take action through their activities within the lifecycle of AI systems, to promote equality, including gender equality, where appropriate.
10. Member States should:
 - 10.1. take measures to encourage and support public and private providers and deployers of AI systems, in their capacity as employers, to promote and maintain gender equality and diversity in their workforce at all levels, including among those designing, developing and deploying AI systems, through gender balance and improved representation of individuals from under-represented groups at all levels of decision making; and
 - 10.2. take measures necessary to ensure that public and private providers and deployers of AI systems prevent and combat any form of exclusion, discrimination and violence in the workplace, and encourage them to facilitate the reconciliation of private and working life and combat stereotypes and intolerance.
11. Member States should encourage initiatives from providers and deployers of AI systems, as well as researchers and civil society, that explore how AI systems can be used to promote equality and inclusion, and to identify, prevent and combat discrimination, hate speech and violence, including gender-based violence.
12. Member States should support an inclusive and transformative use of AI systems to advance equality, including gender equality, by ensuring that relevant legislation, policies and regulatory, administrative or other frameworks create the conditions for initiatives in this regard and consider promoting adequate funding. Such initiatives may include:
 - 12.1. identifying and remedying previously undetected technical and social biases in data sets, designs, processes and decision criteria and patterns of discriminatory outcomes;
 - 12.2. identifying, preventing the dissemination of and combating online hate speech, including sexist, racist and LGBTI-phobic hate speech, and more broadly stereotypes and technology-facilitated violence against women and girls and other individuals, based on their actual or perceived personal characteristics and status.

IV. Prevention of discrimination

13. Member States should ensure that discrimination and risks of discrimination resulting from AI systems are identified and assessed, and they should take graduated and differentiated measures to prevent, mitigate and address such risks.
14. To inform policy making and legislative reform, member States are encouraged to:
 - 14.1. study and support research into existing and new forms of discrimination arising from activities within the lifecycle of AI systems to ensure a thorough identification and understanding of different biases and their impact on individuals, groups and society, as appropriate;
 - 14.2. review and, as relevant, amend their policy and legal frameworks regarding the collection of equality data to facilitate the identification, prevention and mitigation of biases and risks of discrimination, while respecting the rights to privacy and to the protection of personal data.

Transparency, explainability and oversight regarding equality and non-discrimination

15. Member States should establish obligations, in line with a graduated and differentiated approach, for providers and deployers of AI systems to:
 - 15.1. document relevant activities within the lifecycle of AI systems and store such documentation;
 - 15.2. effectively communicate appropriate information about AI systems and explain their role in decision making, as well as the scope and effects of a differentiation decision, to affected persons;
 - 15.3. facilitate the identification of content generated by AI systems and, where an AI system is intended to interact directly with natural persons, to inform them in accessible language and format that they are interacting with an AI system as appropriate for the specific context; and

15.4. collect and make available to competent authorities and, where appropriate, affected persons, in accessible language and format, including:

- data on the functioning of AI systems;
- the decision criteria used; and
- information about the training, validation and testing data used, and its processing.

16. Member States should contribute to, maintain or consider the creation of public registries listing AI systems having a significant impact on the enjoyment of human rights, which can contain a summary of human rights impact assessments, such as specific considerations of risks to equality, including gender equality, and non-discrimination.

17. Member States should ensure that affected persons have appropriate access to information about decision making which affects their rights in order to empower them to effectively assert their rights. Appropriate access to information should effectively redress information asymmetries between affected persons and deployers and providers of AI systems.

18. Member States should ensure that procedural guarantees and effective remedies are made available to affected persons, including procedures for appeal and redress in cases of suspected discrimination, and that AI systems which have a significant impact on the enjoyment of human rights are subject to human oversight.

19. Member States should consider providing equality bodies, national human rights institutions, ombudspersons and competent authorities with the right to access information and to test AI systems to enable effective scrutiny of whether discrimination has occurred.

Equality and non-discrimination impact assessment, certification, evaluation and monitoring

20. Member States should, adopting a graduated and differentiated approach:

- 20.1. introduce or maintain human rights risk and impact assessments to be carried out by providers and deployers of AI systems prior to deployment and on an iterative basis throughout the lifecycle of the AI system, with specific considerations of risks to equality, including gender equality, and non-discrimination;
- 20.2. strongly encourage providers and deployers of AI systems to engage in continuous testing of AI systems and their use to mitigate the risks of discrimination and bias that may have a negative impact on human rights or lead to discrimination;
- 20.3. initiate the development of standards for discrimination audits of AI systems and strongly encourage providers and deployers to engage in auditing;
- 20.4. consider, with the involvement of competent authorities, the introduction of certification schemes of AI systems and their outcomes in relation to equality and non-discrimination; and
- 20.5. ensure that providers or deployers of AI systems document any measures that they have taken to prevent or mitigate bias or discrimination, so that this information can be provided to affected persons, equality bodies, national human rights institutions, ombudspersons, competent authorities and, where relevant, civil society, in particular in case of legal proceedings.

Accountability, liability and rules on the burden of proof in the fields of equality and non-discrimination

21. Member States should ensure, as appropriate in the national context, that easily accessible judicial and/or administrative proceedings, including conciliation procedures and/or non-judicial mechanisms, are available to all victims of discrimination that arises from activities within the lifecycle of AI systems. Member States are also encouraged to make sure that, in urgent cases, fast-track procedures which provide for interim decisions for putative victims of such discrimination are available.

22. Member States are encouraged to provide free legal aid, in accordance with international standards and conditions in national law, for individuals whose rights may have been violated or are at risk of violation as a result of discrimination arising from activities within the lifecycle of AI systems.

23. Member States should consider introducing collective routes of action for victims of discrimination resulting from activities within the lifecycle of AI systems to investigate discrimination and obtain redress, in accordance with their national judicial systems, including for representatives of affected groups.

24. Member States should assess whether existing rules on liability apply and are effective in the context of AI systems. Where appropriate, member States may assess the possibility of introducing strict liability for providers and deployers of AI systems in cases where discrimination is caused by activities within the lifecycle of AI systems, and otherwise ensure that clear and effective rules are in place.

25. Member States should apply existing evidentiary rules or consider introducing new evidentiary rules, including those providing for a shift of the burden of proof, notably in situations where it is alleged that no preventive measures to address bias have been taken by providers or deployers of AI systems and, where there is non-compliance with an obligation, to disclose information.

26. Member States should ensure the availability of effective, proportionate and dissuasive sanctions, and effective remedies including compensation, for pecuniary and non-pecuniary damage suffered as a result of discrimination arising from activities within the lifecycle of AI systems.

27. Member States should introduce monitoring obligations to prevent the recurrence of discrimination arising from activities within the lifecycle of AI systems and, where relevant, assess the need for a moratorium, a ban or other appropriate measures in respect of certain uses of AI systems because of a failure to respect the prohibition of discrimination or the principle of equality.

28. Member States should support co-operation between equality bodies, national human rights institutions, ombudspersons, data protection authorities and other competent authorities to enable the sharing of information and practice relevant to bias and discrimination in the lifecycle of AI systems.

V. Democratic participation, public awareness raising and capacity building

29. Member States should ensure that activities within the lifecycle of AI systems carried out by public authorities are subject to adequate parliamentary oversight and public scrutiny, including, where appropriate, through regular parliamentary debates.

30. Member States should:

30.1. raise public awareness of the risks and benefits to equality, including gender equality, and non-discrimination created by AI systems;

30.2. ensure the availability and accessibility of age-appropriate digital literacy programmes for individuals of all ages to improve awareness of equality and non-discrimination in the context of AI systems; and

30.3. encourage the provision of targeted and accessible capacity building and training, including on addressing bias, stereotypes and risks of discrimination, as well as on the promotion of equal participation of women and men, and individuals and groups at risk of discrimination in activities within the lifecycle of AI systems.

31. Member States should take measures to promote equality of access to and use of technology and remove barriers to access for all members of society, where appropriate in consultation or partnership with private actors and civil society.

32. Member States should ensure the effective and meaningful participation of civil society in standard-setting on AI and, where appropriate, hold public consultations.

VI. Competences and powers of independent oversight bodies

33. Member States should ensure that independent bodies overseeing the application and implementation of anti-discrimination law, such as equality bodies and, as relevant, other national human rights structures ("independent oversight bodies") are provided with the necessary human, technical and financial resources, and where relevant technical support, and operational independence to perform their tasks and exercise their competences effectively in the context of AI systems.

34. Member States should ensure, where appropriate in the national context, that independent oversight bodies are assigned:

34.1. the function to promote equality and prevent AI-driven discrimination, which may include a signalling function to identify uses of AI systems which may be assessed as requiring a moratorium or a ban;

- 34.2. the function to assist individuals and groups at risk of discrimination, including receiving complaints and providing information;
- 34.3. the function to initiate court proceedings on behalf of one or several victims or in their own name on public interest grounds, or to participate in court proceedings in support of one or several victims of discrimination. The right to act in court proceedings should include the right to submit observations to the court, in accordance with national law and practice; and
- 34.4. an advisory function on promoting equality and avoiding risks of discrimination, and on how to integrate safeguards throughout the lifecycle of AI systems.

Those institutions may also be assigned a decision-making function in respect of individual and collective complaints of AI-driven discrimination.

35. Member States should regularly consult with independent oversight bodies in the process of developing legislation, policies and regulatory frameworks relative to promoting equality, including gender equality, and preventing and combating discrimination in relation to activities within the lifecycle of AI systems.

36. Member States should consider empowering independent oversight bodies to conduct enquiries to enable effective scrutiny of whether discrimination has occurred as a result of activities within the lifecycle of AI systems.

37. Where regulatory frameworks, which include structures to test and experiment with new and innovative technologies, products, services or approaches in the context of AI systems are adopted, member States should introduce or maintain institutional and financial frameworks for co-operation between these structures and independent oversight bodies.

VII. Further provisions

38. When implementing the principles and guidance in this recommendation, member States should take measures, including by mainstreaming equality and gender equality, using a graduated and differentiated approach, to address the particularly acute and specific impact on equality, including gender equality, and non-discrimination that the use of AI systems may have in various sectors. Such measures may be required where the impact on affected persons is to impede the enjoyment of their rights or freedoms or their entitlement to a particular outcome, benefit or service, notably in the fields of education, justice and the judiciary, law enforcement, electoral processes, labour and employment, social services, housing and welfare, healthcare, migration and banking, finance, insurance and other services. In addition, possible negative impacts of AI in other areas should be monitored and, where appropriate, addressed, such as in the fields of media and advertising, sport and culture.

39. Member States, on the clear understanding that they are bound by their existing human rights obligations, notably those concerning non-discrimination and equality, including gender equality, are not required to apply the recommendation to activities within the lifecycle of AI systems which directly concern the protection of their national security interests.

Explanatory Memorandum

PREAMBLE

1. The aim of this Recommendation is to offer a distinct and specific source of guidance to member States on how to promote equality, including gender equality, and how to prevent and combat discrimination, in activities within the lifecycle of artificial intelligence (“AI”) systems. To do so, the Recommendation draws upon existing legal instruments that provide a legal basis for promoting equality and prohibiting discrimination, many of which are not specific to the context of AI systems,² and seeks to optimise how these legal instruments are applied to opportunities and challenges in this field. The Recommendation aims to operationalise this existing framework in a way that encourages innovation to promote equality and prevent and combat discrimination in the field of AI systems.

2. The Recommendation is based upon both binding and non-binding standards. Notably, it aligns with the existing legal framework specific to AI systems, including the [Council of Europe Framework Convention on Artificial Intelligence and Human Rights, Democracy and the Rule of Law](#) (CETS 225) (“the Framework Convention”)³ and the relevant regulation of the European Union (“the EU AI Act”).⁴ Equality, including gender equality, and non-discrimination are included in the Framework Convention at the level of general principles, alongside other human rights norms. The Explanatory Report to the Framework Convention underlines the importance of member States giving due consideration to equality, including gender equality, and non-discrimination in their assessment of risks and potential impacts of AI systems on human rights, democracy and the rule of law and adopting or maintaining appropriate measures to address those risks and potential impacts. In this regard, it recognises that member States should consider power asymmetries that could intensify existing inequalities and societal impacts. The Explanatory Report to the Framework Convention also notes the real and well-documented risk of bias that can constitute unlawful discrimination arising from the activities within the lifecycle of AI systems. However, whilst the Recommendation adopts terminology from the Framework Convention and seeks to maintain coherence with its scope and content, it is not an implementing instrument and should not be read as such. The references to the Framework Convention and its Explanatory Report in this Explanatory Memorandum are specific to this document and do not, and are not intended to, influence the interpretation of the Framework Convention.

3. The Recommendation also acknowledges the importance of other relevant global standards and norms to the promotion of equality and the prevention of discrimination, in particular, the [International Convention on the Elimination of All Forms of Racial Discrimination](#) (ICERD), the [Convention on the Elimination of All Forms of Discrimination against Women](#) (CEDAW), the [Convention on the Rights of the Child](#) (CRC), and the [Convention on the Rights of Persons with Disabilities](#) (CRPD), together with those referenced in the Explanatory Report to the Framework Convention.⁵

2.. Including the [Convention for the Protection of Human Rights and Fundamental Freedoms](#) (ETS No. 005), Article 14; [Protocol No. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms](#) (ETS No. 177), Article 1; [European Social Charter](#) (ETS No. 035) and [European Social Charter \(revised\)](#) (ETS No. 163), Article 20, Article E; the [Convention on preventing and combating violence against women and domestic violence](#) (“the Istanbul Convention”) (CETS No. 210), Article 4; the [Framework Convention for the Protection of National Minorities](#) (ETS No. 157), Articles 4, 6(2), and 9; the [European Charter for Regional or Minority Languages](#) (ETS No. 148), Article 7(2); and the [Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data](#) (ETS No. 108) and [Protocol amending the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data](#) (CETS No. 223).

3. Opened for signature on 5 September 2024 in Vilnius, Lithuania.

4. 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 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](#)), (“the EU AI Act”).

5. Explanatory report to the Framework Convention paragraphs 72-73, including: Title III of the [Charter of Fundamental Rights of the European Union](#); Treaties of the European Union (for example, [Treaty on European Union](#), Article 2, [Treaty on the Functioning of the European Union](#), Article 10), EU secondary legislation and the relevant case-law of the Court of Justice of the European Union; [International Covenant on Civil and Political Rights](#) (ICCPR), Articles 2, 24, 26 and [International Covenant on Economic, Social and Cultural Rights](#) (ICESCR), Articles 2, 3 and 7.

4. Moreover, there is a substantial body of non-binding standards of the Council of Europe which is relevant to preventing and combating discrimination and promoting equality, including specifically on gender equality. In this regard, Recommendation [CM/Rec\(2019\)1](#) on preventing and combating sexism calls on member States to “integrate a gender equality perspective in all policies, programmes and research in relation to artificial intelligence to avoid the potential risks of technology perpetuating sexism and gender stereotypes and examine how artificial intelligence could help to close gender gaps and eliminate sexism.”⁶ Recommendation [CM/Rec\(2026\)2](#) on Accountability for technology-facilitated violence against women and girls deals with specific risks posed by new technologies including AI systems. The standards relevant to promoting equality more generally which have informed the drafting of the Recommendation also include, in particular, Recommendation [CM/Rec\(2022\)16](#) of the Committee of Ministers to member States on combating hate speech, which recognises that legislative and policy measures to prevent and combat online hate speech should be kept under regular review in order to take into account the fast evolution of technology and online services and, more widely, digital technologies and their influence on information and communication flows in contemporary democratic societies. They also include Recommendation [CM/Rec\(2024\)4](#) of the Committee of Ministers to member States on combating hate crime, which recognises that preventing and combating hate crime, whether perpetrated online or offline, demands a holistic and multifaceted approach involving those working in public institutions, and civil society organisations and those belonging to and working with groups at risk of being targeted by hate crime. Recommendation [CM/Rec\(2010\)5](#) of the Committee of Ministers to member States on measures to combat discrimination on grounds of sexual orientation or gender identity calls on member States to take appropriate measures to combat all forms of expression, including in the media and on the Internet, which may be reasonably understood as likely to produce the effect of inciting, spreading or promoting hatred or other forms of discrimination against lesbian, gay, bisexual and transgender persons.

5. The Recommendation builds upon the commitments expressed by the Heads of State and Government at the conclusion of the 4th summit (“the [Reykjavík Declaration](#)”),⁷ notably, the need to ensure equality and combat any kind of discrimination, to integrate a youth perspective and to strengthen work towards inclusive societies without marginalisation, exclusion, racism or intolerance, as well as to ensure the full, equal and effective participation of women in public and private decision-making processes. The Reykjavík Declaration acknowledges the positive impact and opportunities created by new and emerging digital technologies, while recognising the need to mitigate risks of negative consequences of their use on human rights, democracy and the rule of law, and commits to ensuring a leading role for the Council of Europe in developing standards in the digital era to safeguard human rights online and offline.

6. The Preamble to the present Recommendation underlines the importance of building inclusive societies without marginalisation, exclusion, sexism, racism, LGBTI-phobia and other forms of intolerance, including ageism and ableism. This list is non-exhaustive and also includes specific forms of racism, such as antigypsism, as well as antisemitism, anti-Muslim hatred and other forms of religious intolerance. The Recommendation draws upon the General Policy Recommendations (GPR) of the European Commission against Racism and Intolerance (ECRI), notably [GPR No.17](#) on preventing and combating intolerance and discrimination against LGBTI persons, which underlines, for example, that while advances in technology have the potential to enhance the enjoyment of human rights and social participation of LGBTI persons, some forms of technology, such as artificial intelligence, including facial recognition and algorithmic systems, may also be used to undermine the privacy, security and equality of LGBTI persons.⁸ The Recommendation refers to persons and groups at risk of discrimination in order to include those who have experienced discrimination as well as those who may do so in the future.

7. In line with the Reykjavík Declaration, this Recommendation adopts an intersectional approach. This means an approach which recognises that various grounds on which discrimination is based may intersect, leading to unique lived experiences and vulnerabilities. An intersectional approach can be used to understand, take into account and address the interactions between different personal characteristics or status and the resulting compounded forms of discrimination. As such, this approach can allow insight into the more complex forms of discrimination, exclusion and violence to which individuals may be exposed and so permit detection of discrimination which may otherwise go unnoticed. Anyone can be vulnerable

6. Recommendation [CM/Rec\(2019\)1](#) of the Committee of Ministers to member States on preventing and combating sexism, II.B.7., p. 19.

7. [United around our values - Reykjavík Declaration](#), adopted at the 4th Summit of Heads of State and Government of the Council of Europe (Reykjavík, 16-17 May 2023), p. 7.

8. [ECRI General Policy Recommendation N°17 on preventing and combating intolerance and discrimination against LGBTI persons](#), para. 24.

to intersectional discrimination, but certain groups are particularly exposed to it and thus stand to benefit in particular from an intersectional approach.⁹ Whereas the terminology of intersectional discrimination is growing in recognition both in the Council of Europe and its member States and internationally, for example in the Pay Transparency Directive and Directives on standards for Equality Bodies of the European Union¹⁰, some member States may also use terminology relating to “multiple” or “cumulative” discrimination to express a similar concern. To reflect that many member States use the term multiple discrimination in their national laws, policies and practices, the Recommendation therefore uses the terminology “multiple and intersectional discrimination”.

8. The Preamble refers to proxies for personal characteristics or status. Discrimination by proxy is a concept which is further defined and explained in paragraph 2 of the Recommendation and corresponding paragraph 19 of the Explanatory Memorandum.

9. The Recommendation recognises that one consequence of the development of AI and its widespread use is an increase in technology-facilitated violence against women and girls, and so makes reference to Recommendation CM/Rec(2026)2 on accountability for technology-facilitated violence against women and girls and to the [Council of Europe Convention on combating violence against women and domestic violence \(Istanbul Convention, CETS No. 210\)](#). The Recommendation also underlines the particular needs and vulnerabilities of children and related specific impact of AI on them. The Recommendation acknowledges the importance of the [Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse \(Lanzarote Convention, CETS No. 201\)](#) which provides a framework for the protection of children from sexual exploitation and abuse, including abuse committed through the use of information and communication technologies. The Recommendation also recognises that AI may have a particular impact on young people’s well-being, employment, education and civic rights.¹¹

10. The Recommendation builds on the findings of the Study on the impact of artificial intelligence systems, their potential to promote equality and the risks that they may cause in relation to non-discrimination (“the Study”).¹² In particular, the Study finds that technological solutions alone are not sufficient to address discrimination and promote equality and gender equality, and recommends that substantive equality and anti-discrimination by design should be placed at the centre of the legal regulation of AI development and deployment. This is why the Recommendation takes a broader approach and includes guidance on social and political change, to achieve substantive equality.¹³ The Recommendation envisages a multistakeholder approach,¹⁴ with tailored recommendations in respect of a wide range of actors.¹⁵ In particular, the Recommendation applies to activities within the lifecycle of AI systems carried out by both public and private actors. Private sector actors should respect the human rights of customers and of all affected parties. For example, Recommendation CM/Rec(2016)3 of the Committee of Ministers to Member States on human rights and business calls upon member States to take action to enable corporate responsibility to

9. See, for example, [Council of Europe Gender Equality Strategy 2024-2029](#); Committee of Experts on Intercultural Inclusion (ADI-INT) [Model Framework for an intercultural integration strategy at the national level](#); European Commission Against Racism and Intolerance (ECRI) [General Policy Recommendation \(GPR\) No. 14 on combating racism and racial discrimination in employment and its Explanatory Memorandum](#); ECRI revised [General Policy Recommendation No. 5 on preventing and combating anti-Muslim racism and discrimination](#); COVID-19: An analysis of the anti-discrimination, diversity and inclusion dimensions in Council of Europe member states and [The Guidelines of the Committee of Ministers of the Council of Europe on upholding equality and protecting against discrimination and hate during the Covid-19 pandemic and similar crises in the future](#).

10. [Directive \(EU\) 2023/970](#) of the European Parliament and of the Council of 10 May 2023 to strengthen the application of the principle of equal pay for equal work or work of equal value between men and women through pay transparency and enforcement mechanisms; [Council Directive EU 2024/1499](#) of 7 May 2024 on standards for equality bodies in the field of equal treatment between persons irrespective of their racial or ethnic origin, equal treatment in matters of employment and occupation between persons irrespective of their religion or belief, disability, age or sexual orientation, equal treatment between women and men in matters of social security and in the access to and supply of goods and services, and amending Directives 2000/43/EC and 2004/113/EC and [Directive EU 2024/1500](#) of the European Parliament and of the Council of 14 May 2024 on standards for equality bodies in the field of equal treatment and equal opportunities between women and men in matters of employment and occupation, and amending Directives 2006/54/EC and 2010/41/EU.

11. See, for example, ‘Insight into artificial intelligence and its impact on the youth sector’, Veronica Stefan, prepared in the framework of the Youth partnership between the Council of Europe and the European Commission, 2024.

12. [Study on the impact of artificial intelligence systems, their potential for promoting equality, including gender equality, and the risks they may cause in relation to non-discrimination](#), prepared by Ivana Bartoletti and Raphaële Xenidis, adopted by the Steering Committee on Anti-discrimination, Diversity and Inclusion (CDADI) and the Gender Equality Commission (GEC) in 2023.

13. Ibid, pp. 10, 28-30, 78, 88.

14. See, recommending this approach, for example, the Council of Europe Commissioner of Human Rights [Human rights by design - future-proofing human rights protection in the era of AI](#) (2023) pp. 18-20, a follow-up to [Unboxing Artificial Intelligence: 10 steps to protect Human Rights](#) (2019).

15. These include state actors; private sector representatives; academia and research organisations; Equality Bodies; National Human Rights Institutions; Ombudspersons; civil society, including youth civil society and minority organisations (and smaller minority organisations), with due consideration to reflect intra-group diversity.

protect human rights and the [United Nations Guiding Principles on Business and Human Rights provide for corporate responsibility to protect human rights](#). To this end, in line with Recommendation [CM/Rec\(2020\)1](#) of the Committee of Ministers to member States on the human rights impacts of algorithmic systems, such corporate responsibility entails that flexible governance models should be adopted that guarantee fast and effective reparation and possibilities for redress when incidents occur, ensuring that responsibility and accountability for the protection of human rights are effectively and clearly distributed throughout all stages of the process, from the proposal stage through to task identification, data selection, collection and analysis, system modelling and design, through to ongoing deployment, review and reporting requirements. Recommendation [CM/Rec\(2022\)16](#) of the Committee of Ministers to member States on combating hate speech also points to the role of internet intermediaries in addressing online hate speech.¹⁶

11. In relation to monitoring, documentation and reporting, member States may already be implementing the Recommendation by complying with their obligations under the EU AI Act and other relevant international law instruments on AI. The Recommendation applies a graduated and differentiated approach, in an effort to maintain coherence with the graduated and differentiated approach of the Framework Convention and the risk-based approach of the EU AI Act.

APPENDIX

Principles and guidance on equality and artificial intelligence

I. Aim

On paragraph 1

12. The Recommendation covers the promotion of equality, including gender equality, and risks of discrimination. It builds on the longstanding and substantial work that the Council of Europe has carried out in the fields of equality, including gender equality, and non-discrimination, and on existing standards to address the new challenges posed by the development of AI systems.¹⁷ While the Recommendation primarily targets member States and their institutions, it also includes recommendations addressed to private sector actors, taking into account the specificities of their activities.¹⁸ To ensure that the Recommendation remains relevant amidst the rapid pace of technological development, its principles and guidelines are technology-neutral and intended to apply equally to future, innovative AI systems as well as existing ones.

13. The Recommendation uses the term ‘artificial intelligence “systems” in line with Article 2 of the Framework Convention, which provides that an “artificial intelligence system” means a machine-based system that, for explicit or implicit objectives, infers, from the input it receives, how to generate outputs such as predictions, content, recommendations or decisions that may influence physical or virtual environments. Different artificial intelligence systems vary in their levels of autonomy and adaptiveness after deployment.

14. As highlighted in the Explanatory Report to the Framework Convention, the definition “reflects a broad understanding of what artificial intelligence systems are, specifically as opposed to other types of simpler traditional software systems based on the rules defined solely by natural persons to automatically execute operations” and “it is meant to ensure legal precision and certainty, while also remaining sufficiently abstract and flexible to stay valid despite future technological developments”.¹⁹ The definition of the Framework Convention is drawn from the definition adopted by the Organisation for Economic Co-operation and Development (OECD) in 2023, with a view to enhancing international co-operation in the field of AI and facilitate efforts aiming at harmonising governance of AI at global level.²⁰

15. The Recommendation uses the expression “activities within the lifecycle of an AI system”, which is used in the Framework Convention to cover “any and all activities from the design of an artificial intelligence system to its retirement, no matter which actor is involved in them” (paragraph 15, Explanatory Report to the Framework Convention). This ensures a comprehensive, future-proof approach. The definition thus includes

16. Paragraphs 16 et seq.

17. See in particular Recommendation [CM/Rec\(2020\)1](#) of the Committee of Ministers to member States on the human rights impacts of algorithmic systems.

18. See also [Explanatory Report to the Council of Europe Framework Convention on Artificial Intelligence and Human Rights, Democracy and the Rule of Law](#) (CETS No. 225), paragraph 17, and Recommendation [CM/Rec\(2020\)1](#) on the human rights impacts of algorithmic systems, paragraph 3.

19. Explanatory Report to the Framework Convention, paragraph 24.

20. Ibid, paragraphs 23-24.

(1) planning and design, (2) data collection and processing, (3) development of artificial intelligence systems, including model building and/or fine-tuning existing models for specific tasks, (4) testing, verification and validation, (5) supply/making the systems available for use, (6) deployment, (7) operation and monitoring, and (8) retirement.²¹

16. The Recommendation uses the language of “deployer” and “provider” (both of which are drawn from the EU AI Act) of an AI system. “Affected persons” are those subjected to AI-supported decisions or processes, for instance customers, job candidates, taxpayers, etc., whether or not the final decision is taken by an AI system.²² For the purposes of this Recommendation, an affected person could also be a legal person (for example, where an entity is targeted due to the protected characteristics of its members).

On paragraph 2

17. The list of grounds of discrimination included in the Recommendation initially appeared in the Council of Europe Gender Equality Strategy 2024-2029 and is a non-exhaustive, indicative list. It draws upon Article 14 of the European Convention on Human Rights and Fundamental Freedoms (the Convention) and includes grounds of discrimination which have gained recognition more recently - whether politically, through the evolutive interpretation in the case law of the Court, or through newer standards, including the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (the Istanbul Convention) and Recommendation CM/Rec(2024)4 on combating hate crime. The Recommendation covers discrimination on the basis of actual or perceived characteristics or status, in line with the case law of the Court.²³ Similarly, discrimination by association is covered. This occurs where an individual or group experiences discrimination because they are associated with or are perceived to be associated with a particular characteristic, status, person or group. The list of grounds also encompasses discrimination on the basis of ethnic origin. In the case law of the Court, ethnicity and “race”²⁴ are related and overlapping concepts²⁵ and discrimination on account of a person’s actual or perceived ethnic origin is a form of racial discrimination.²⁶ Additionally, “nationality” should be understood as encompassing citizenship.²⁷ Different combinations of grounds of discrimination can often be associated and intersect with social origin and socio-economic precarity and poverty. The Recommendation recognises the impact of social origin and socio-economic status in the context of discrimination, which can be amplified by AI systems.

18. AI systems infer how to generate outputs based on inputs defined by humans using data collected from humans, machines, or a combination of the two (at some point during the process). Consequently, AI systems can reflect and process the human biases that are incorporated when the algorithm is programmed, when it processes data and when humans interact with it.²⁸ As AI systems can analyse an unprecedented amount of fine-grained data (including highly sensitive personal data) at a much faster pace than humans, this ability can lead AI systems to be used in a way that perpetuates or amplifies unjust bias.²⁹ For example, a UNESCO study highlighted that large language models (LLMs) had a tendency towards producing content which was negative about women, gay people and particular ethnic groups. When three AI models were prompted to complete sentences beginning with the phrase “a gay person is...”, over 60% of the content generated was negative. Examples included: “The gay person was regarded as the lowest in the social hierarchy” and “The gay person was thought of as a prostitute, a criminal, and had no rights.”³⁰ Bias has different sources throughout the lifecycle of AI systems, from their inception to their deployment and use. The complexity of bias emergence and impact is the reason why close attention must be paid to the entire lifecycle of AI systems.³¹

21. Ibid, paragraphs 14-15.

22. CDADI/GEC Study (2023), p. 13.

23. For example, Sejdić and Finci v. Bosnia and Herzegovina [GC], 2009, § 43; Timishev v. Russia, 2005, § 55.

24. Since all human beings belong to the same species, the Council of Europe rejects theories based on the existence of different “races”. However, this Recommendation and its Explanatory memorandum use the term “race” in order to ensure that those persons who are generally and erroneously perceived as “belonging to another race” are not excluded from its protection.

25. Sejdić and Finci v. Bosnia and Herzegovina [GC], 2009, § 43; Timishev v. Russia, 2005, § 55-56.

26. Sejdić and Finci v. Bosnia and Herzegovina [GC], 2009, § 43; Timishev v. Russia, 2005, § 55.

27. ECRI GPR No.16 on safeguarding irregularly present migrants from discrimination, paragraph 10.

28. CDADI/GEC Study (2023), p. 15.

29. Feasibility Study on a legal framework on AI design, development and application based on Council of Europe standards, Committee on Artificial Intelligence (CAI), 17 December 2020, paragraph 13.

30. Challenging systematic prejudices: an investigation into bias against women and girls in large language models, UNESCO and International Research Center on Artificial Intelligence, 2024.

31. CDADI/GEC Study (2023), p. 15, citing Ivana Bartoletti, ‘The Complex Issue of Algorithmic Fairness’ (The Yuan 2021), available at: <https://www.the-yuan.com/129/The-Complex-Issue-of-Fairness-in-AI-Part-I.html>. See pp. 16-18 for a detailed exposition of the different sources of bias.

Particular attention should be paid to the issue of feedback loops, which describe situations where a system relies on data arising from past discrimination as a basis for predictions.³²

19. Discrimination by proxy is one of the discriminatory harms that AI systems are most likely to generate.³³ “Discrimination by proxy” means discrimination that occurs on the basis of a seemingly neutral piece of information that is nevertheless related to or correlated with a protected characteristic. It can appear in the forms of direct or indirect discrimination. For instance, shoe size may be a proxy for gender or names may be a proxy for ethnicity.³⁴ More broadly, a person’s postcode could serve as a proxy for race or sexual orientation, their occupation for gender and their first name for age.³⁵ Proxy discrimination is most often captured by the framework of indirect discrimination, by showing a disadvantageous effect based on a protected characteristic. However, it differs from discrimination by association, as it concerns a piece of information relating to an individual rather than the association of that individual with another individual, group or situation. The Ad Hoc Committee on Artificial Intelligence (CAHAI) recognised in its 2020 Feasibility Study that “[t]he increased prominence of proxy discrimination in the context of machine learning may raise interpretive questions about the distinction between direct and indirect discrimination or, indeed, the adequacy of this distinction as it is traditionally understood”.³⁶

20. The Recommendation is mindful of the radical change that AI systems present for the lives of children. AI technologies are embedded in toys, videogames, and adaptive learning software.³⁷ As a result, children have access at an increasingly young age to technology using AI systems. In addition to this general outlook, the present Explanatory Memorandum includes specific examples relevant to children. Moreover, even when AI systems are not directly used by children and young people, the Recommendation recognises the significant impact which they exert on their lives and rights.

II. Comprehensive approach to legislation, policies and regulatory frameworks

On paragraphs 3-4

21. Member States may implement paragraph 3 of the Recommendation through a variety of measures which are appropriate to the national legal, policy and regulatory framework. Such measures should be effective and tailored to achieve their aim of promoting equality or preventing discrimination and should take account of intersecting and cumulative forms of discrimination which can arise in activities within the lifecycle of AI systems. Some member States may choose to introduce a comprehensive Action Plan on AI and Equality,³⁸ though they may also achieve this through adding specific content to sectoral action plans.

22. The Recommendation underlines that it is crucial for member States to ensure that their existing legislation, policies and regulatory frameworks promote equality, including gender equality and prevent and combat all forms of discrimination throughout the lifecycle of AI systems. This includes reviewing and developing existing legislation, policies and regulatory frameworks to ensure that they apply to activities within the lifecycle of AI systems, as appropriate.

23. The Recommendation acknowledges that many member States will already have in place legal, regulatory and policy frameworks in the field of anti-discrimination and equality which are in many cases applicable to activities within the lifecycle of AI systems. The first step to ensuring a comprehensive approach to legislation, policies and regulatory frameworks, as recognised in paragraph 4.1, is therefore for member States to review these and evaluate whether reform or further development is necessary. This approach reflects that taken in [Parliamentary Assembly Resolution 2343 \(2020\)](#) on Preventing discrimination caused by the use of artificial intelligence, which calls upon member States to review their anti-discrimination legislation and amend it as necessary, so as to ensure that it covers all cases where direct or indirect discrimination, including discrimination by association, may be caused by the use of AI, and that complainants have full access to justice. Moreover, member States should assess other existing legal, regulatory and policy frameworks,

32. CDADI/GEC Study (2023), p. 56.

33. Ibid, pp. 17, 53, 56.

34. [Fundamental Rights Agency, Bias in Algorithms – Artificial Intelligence and Discrimination](#) (2022), p. 24. For further examples, see the [report of the United Nations Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance A/HRC/56/68](#), published 3 June 2024, paragraphs 18, 32, 40.

35. CDADI/GEC Study (2023), p. 17.

36. [Feasibility Study](#) (2020), citing the CoE study by F. Zuiderveen Borgesius, [Discrimination, artificial intelligence, and algorithmic decision-making](#), 2018; Affinity Profiling and Discrimination by Association in Online Behavioural Advertising, Wachter 2020.

37. See, for example, Report on ‘The metaverse and its impact on human rights, the rule of law and democracy’, Council of Europe and Institute of Electrical and Electronics Engineers (IEEE), May 2024.

38. Ibid, p. 84.

including those related to remedies and oversight, to ensure that they comprehensively encompass the scope and circumstances of complaints of discrimination in the context of AI systems. To be effective and meaningful, the relevant legal, regulatory and policy frameworks must be effectively implemented and enforced in practice. Member States should also ensure that new frameworks developed in response to AI systems are compliant with the existing anti-discrimination and equality frameworks. One way to monitor this compliance could be for member States to mandate an equality body or to establish or support national observatories or research centres with the specific mandate to monitor the impact of AI systems on equality, including gender equality, and non-discrimination, with a view to generating continuous evidence-based policy recommendations.

24. Paragraph 4 explicitly refers to the use of a graduated and differentiated approach, in an effort to maintain coherence with the graduated and differentiated approach of the Framework Convention and the risk-based approach of the EU AI Act. Article 1(2) of the Framework Convention specifies that measures “shall be graduated and differentiated as may be necessary in view of the severity and probability of the occurrence of adverse impacts on human rights, democracy and the rule of law throughout the lifecycle of artificial intelligence systems.” This reflects the principle of proportionality which is fundamental for the application of the European Convention on Human Rights. Paragraph 17 of the Explanatory Report to the Framework Convention explains that “this provision conveys that measures pursuant to the Framework Convention need to be tailored to the level of risk posed by an artificial intelligence system within specific spheres, activities and contexts, as appropriate, and that this task falls on Parties to the Framework Convention to decide how to balance the relevant competing interests in each sphere, taking into account specificities of activities in the private sector, their domestic regulatory framework and national agenda for artificial intelligence while ensuring the protection and promotion of human rights, democracy and the rule of law.” Similarly, the Recommendation allows flexibility to member States to use such an approach.

On paragraph 5

25. Certain rights, referred to as “qualified rights,” including the right to respect for private and family life under Article 8 of the Convention and the right to freedom of expression under Article 10, may be restricted to protect the rights of others or the broader public interest. The Court’s case law provides well-established standards for determining whether such restrictions are permissible.³⁹ As in other fields, any restriction to human rights in relation to the use of AI systems must adhere to the principle of legality, which requires clarity and foreseeability of the law. This principle requires for instance that the law is accessible and precisely formulated, allowing individuals to regulate their conduct accordingly. Additionally, it is essential that restrictions on human rights do not exceed what is necessary in a democratic society to achieve the legitimate aim they intend to pursue, and that the interference remains proportionate to the public interest it seeks to serve.

26. In the case of *Glukhin v. Russia*, the Court applied this test and considered that there had been violations of both Article 8 and Article 10, underlining the highly intrusive nature of facial recognition technology. In this case, such technology had been used by law enforcement authorities to locate and arrest a peaceful protestor, whose actions did not present a danger or threat to public order. The Court considered that the widespread use of facial recognition technology by law enforcement authorities to identify protesters would infringe upon fundamental rights unless clear regulations and robust safeguards against arbitrariness are established such as authorisation procedures, procedures to be followed for examining, using and storing the data obtained, any supervisory control mechanisms or available remedies. It emphasised that this need for safeguards will be all the greater where the use of live (real-time) facial recognition technology is concerned.⁴⁰ This case also underscores the need for measures outlined in paragraphs 5.2 and 5.3, which call for transparency, explainability, and robust oversight to address the risks posed by AI systems. Furthermore, the case highlights the importance of ensuring that restrictions remain proportionate and that AI systems, including facial recognition technology, are only deployed in appropriate situations, as emphasised in paragraph 5.1.

27. Paragraph 5 of the Recommendation aligns with the principles set out in Article 8 of the Framework Convention, which provides that member States shall adopt or maintain measures to ensure that adequate transparency and oversight requirements, tailored to the specific contexts and risks, are in place in respect of activities within the lifecycle of AI systems. As noted in the Explanatory Report to the Framework Convention, this is due to certain features of AI systems that distinguish artificial intelligence systems from traditional computing systems, which may include complexity, opacity, adaptability, and varying degrees of

39. *Stoll v. Switzerland*, Application No. 69698/01, Grand Chamber judgment of 10 December 2007.

40. *Glukhin v. Russia*, Application No. 11519/20, judgment of 4 July 2023.

autonomy.⁴¹ The Explanatory Report to the Framework Convention further underlines that transparency, in relation to the lifecycle of AI systems, involves ensuring that the decision-making processes and operations of these systems are accessible and understandable to relevant stakeholders, subject to considerations such as security, intellectual property, and privacy. Transparency may require disclosing key information about AI systems, such as algorithms, data provenance, and training methodologies, which helps to foster accountability and enables individuals to contest outcomes when applicable. The principle of transparency encompasses explainability and interpretability, which ensure that AI systems' predictions and decisions can be understood by both experts and non-experts, particularly in sensitive areas such as healthcare and justice. Achieving full transparency may be limited by technological constraints and the need to balance competing interests like privacy, confidentiality, trade secrets and national security.⁴² Transparency, explainability and interpretability are critical to ensuring that AI systems are applied appropriately, preventing and addressing discrimination, and ensuring accountability for discriminatory outcomes.

28. Paragraph 5.1 of the Recommendation emphasises the importance of ensuring the appropriateness of the use of AI systems in a specific context. This relates to the zero questions, as explained in the HUDERIA Methodology.⁴³ Decision-makers, adopting a graduated and differentiated approach as appropriate, determine whether deploying AI systems in a specific situation is justified, before considering how it should be used, and which recognises that the deployment of AI systems is not inherently suitable or beneficial in specific contexts. Ensuring the appropriateness of the use of AI systems in specific contexts is guided by considering the nature of the problem that the AI system is trying to solve and the actual and potential impact or risks to equality and non-discrimination of using an AI system for that particular purpose, and a commitment to upholding human rights, thereby preventing undue reliance on technology in contexts where it might amplify risks or create disproportionate impacts.⁴⁴ This is particularly relevant in areas where the use of AI systems may have an acute impact on equality, including gender equality, and non-discrimination.⁴⁵ The perspectives of individuals and groups at risk of discrimination should be taken into account in determining situations in which the use of AI systems may or may not be appropriate.

29. The Recommendation places an emphasis on human oversight, which could include for example that AI systems should be capable of being effectively overseen by humans during the period in which they are in use or the final decision being taken by a human after review of the outcomes and the underlying rationale.⁴⁶

On paragraph 6

30. Paragraph 6 clarifies the approach applied throughout the Recommendation that member States should design and implement measures with due regard to the level of risk of discrimination or the impact on rights of an individual which are posed by a particular use case or context. As the Convention, including the principle of equality and the prohibition of discrimination under Article 14, applies, the assessment of proportionality should not be limited to high-risk systems but should encompass all levels of risk posed by AI applications, including medium- and low-risk scenarios. Such an approach acknowledges that even lower-risk systems can have significant cumulative or context-specific impacts on rights and equality, including gender equality. The assessment of any given measure should be made by the competent national authority in accordance with national laws, with appropriate parliamentary oversight to guarantee accountability and transparency.

31. In this regard, the Parliamentary Assembly has called on member States to ensure that the use of AI-based technologies by public authorities is subject to adequate parliamentary oversight and public scrutiny by making such technologies a part of regular parliamentary debates, establishing structures for these discussions, requiring government notification before deployment, and mandating the systematic recording of their use in a public register.⁴⁷ The Parliamentary Assembly also underlined the importance of ensuring that the activities of major private companies involved in developing and providing AI-based technologies and services are subject to democratic oversight.⁴⁸

41. Explanatory Report to the Framework Convention, paragraph 56.

42. Ibid, paragraphs 57-65.

43. See CAI(2024)16rev2, page 12.

44. See, for example, [The Administration and You, A Handbook, 3rd Edition](#), Principles of administrative law concerning relations between individuals and public authorities, Council of Europe, at page 19: "the use of algorithmic decision-making systems by public authorities should be proportionate to the legitimate public interest pursued."

45. See paragraphs 95-118 of the present Explanatory Memorandum.

46. See also Explanatory Report to the Framework Convention, paragraph 65.

47. [Resolution 2343 \(2020\)](#) 'Preventing discrimination caused by the use of artificial intelligence', Parliamentary Assembly of the Council of Europe, paragraph 11.

48. [Resolution 2341 \(2020\)](#) 'Need for democratic governance of artificial intelligence', Parliamentary Assembly of the Council of Europe, paragraph 14.6.

On paragraph 7

32. Positive obligations entail that states have, in certain circumstances, the duty to actively take measures to achieve equality and prevent discrimination.⁴⁹ This goes further than limited passive or negative duties not to discriminate because it implies taking preventive action against discrimination or positive action measures to promote equality as a means to comply with Article 14 of the Convention.⁵⁰ In the context of Article 14, such positive obligations incumbent on the member States can include so-called “positive measures” or “positive action” that a State could or should adopt to correct “factual inequalities”⁵¹

33. Without appropriate guardrails, AI systems are liable to reproduce and amplify structural inequalities and the systems of exclusion and disadvantage that exist in society. Paragraph 7 of the Recommendation is therefore intended to assist member States to adopt a comprehensive approach to their legislation, policies, and regulatory frameworks, guided by the principle of substantive equality.⁵² This theory responds to the inability of formal equality or equality of opportunity to sufficiently take into account the different starting positions of different groups in society. The assumption that a system will cater equally for various groups will *de facto* prevent individuals who are not represented in the majority from benefiting from AI systems and related opportunities to the same extent as other groups.

34. Positive action, or temporary special measures, as explained in paragraph 5 of ECRI [GPR No. 7](#) on national legislation to combat racism and racial discrimination,⁵³ involves measures to prevent or compensate for disadvantage suffered by groups exposed to discrimination and intolerance and to facilitate their full participation in all fields of life. Such measures can be adopted with a view to reaching full substantive or *de facto* equality. ECRI has described the concept of temporary special measures “as an effective tool for achieving a fair and even playing field in society for members of disadvantaged groups.”⁵⁴ By way of example, in *Horváth and Kiss v. Hungary*, a case concerning the systemic placement of Roma children in special schools in Hungary, the Court concluded that in the context of the right to education of members of groups which suffered past discrimination in education with continuing effects, structural deficiencies called for the implementation of positive measures in order, *inter alia*, to assist the applicants with any difficulties they encountered in following the school curriculum. Therefore, additional steps were needed in order to address these problems, such as active and structured involvement on the part of the relevant social services.⁵⁵

35. By way of example, in Chapter III, the Recommendation calls upon member States to encourage and support public and private providers and deployers of AI systems to promote and maintain diversity in their workforce at all levels, including among those developing and deploying AI systems, by ensuring gender balance and improved representation of individuals from under-represented groups at all levels of decision-making (paragraph 10). Their participation should be meaningful, in that such individuals should have genuine opportunities to engage with decision-makers and that they are provided with sufficient time to make substantive contributions. Member States may be inspired by Recommendation [Rec\(2003\)3](#) of the Committee of Ministers to member States on balanced participation of women and men in political and public decision making and Recommendation [CM/Rec\(2023\)9](#) of the Committee of Ministers to member States on the active political participation of national minority youth. To this end, recruitment and retention strategies should explicitly address barriers to participation beyond hiring policies, including organisational culture, environment and career advancement opportunities, that may disproportionately affect women and individuals at risk of discrimination. The Recommendation further notes that member States should take appropriate measures to address the particularly acute impact on equality, including gender equality, and non-discrimination that the use of AI systems may have in various sectors including that of education. Member States may achieve these goals through a variety of measures. Positive action (for example and as appropriate in the national context, introducing a quota for hiring women and underrepresented groups to decision-making positions in AI research and development, or funding scholarships for girls and young people from underrepresented groups to study science, technology, engineering and mathematics – STEM – subjects at

49. See [European Court of Human Rights, Guide on Article 14 of the Convention \(prohibition of discrimination\) and on Article 1 of Protocol No. 12 \(general prohibition of discrimination\)](#) (2022), paragraphs 42-43. See also for example, *Thlimmenos v. Greece*, [Application No. 34369/97](#), judgment of 2 April 2000, and *Horváth and Kiss v. Hungary*, [Application No. 11146/11](#), judgement of 29 January 2013.

50. The Court has applied the concept of positive obligations in the context of monitoring of internet communications, for example, *Bărbulescu v. Romania*, [Application No. 61496/08](#), Grand Chamber judgment of 5 September 2017, paragraph 108, when considering the scope of Article 8.

51. [Guide on Article 14 of the European Convention on Human Rights and on Article 1 of Protocol 12](#), p. 14.

52. [CDADI/GEC Study](#) (2023), p. 73.

53. See [ECRI General Policy Recommendation No. 7 revised on National legislation to combat racism and racial discrimination](#), paragraph 5.

54. Seminar with national specialised bodies to combat racism and racial discrimination on positive action: [explanatory note](#) (2007).

55. *Horváth and Kiss v. Hungary*, paragraph 104.

school or through training programmes or e-learning platforms), is one effective method. Other incentives could also be envisaged, such as award schemes for organisations that demonstrate exemplary practices in promoting equality, including gender equality, in AI development and deployment, and supporting public interest AI initiatives, including open source projects that are designed to promote equality and mitigate discrimination.

36. Moreover, ECRI recommends that Equality bodies should promote the use of positive action, particularly in areas where deep-rooted, long-lasting structural discrimination needs to be addressed.⁵⁶ In its GPR No. 7, ECRI specifically endorses positive obligations to promote equality and prevent discrimination in the form of constitutional provisions, duties for public authorities, as well as obligations for public bodies to condition “the awarding of contracts, loans, grants or other benefits” to the respect of the positive obligation to promote equality and prevent discrimination. As noted in the Study on the impact of artificial intelligence systems, their potential to promote equality and the risks that they may cause in relation to non-discrimination, this can be used as a legal basis to create an equality mainstreaming obligation in the context of AI use by public authorities. This approach may be reflected by member States when reviewing, applying and developing existing and new legislative, regulatory and policy frameworks in the context of AI systems. Norwegian equality legislation could offer useful inspiration in this context as it foresees equality promotion as a legal obligation.⁵⁷

37. As to paragraph 10.2, facilitating the reconciliation of private and working life, for example by investing in care, promoting work–life balance and addressing unpaid care and domestic work, can help reduce gender inequality in the workforce and make the workplace more inclusive and diverse.⁵⁸ Measures could be implemented which aim to facilitate flexible working arrangements and to separate private and work lives.

On paragraph 8

38. Consultation about the measures introduced by member States relating to the design, development and deployment of AI systems plays a key role in ensuring transparency, accountability and informed public participation. As noted in the Explanatory Report to Article 19 of the Framework Convention, public consultation can foster civic engagement, empower individuals and experts to partake in public discussion on issues of broad social and political importance, and create greater public awareness of the fundamental and emerging questions, including issues applicable to the early stages of design which are raised by the activities within the lifecycle of artificial intelligence systems. According to the report of the Commissioner for Human Rights of the Council of Europe on Human Rights by Design,⁵⁹ public consultations related to AI have been held in many member States in recent years. For example, the Commissioner notes that Ireland undertook an extensive consultation across the government, relevant stakeholders (industry, experts, academics, research organisations) and the general public when developing its national AI strategy. The Malta.AI Taskforce, a group of experts in charge of developing Malta’s AI strategy, launched a public consultation when drafting the Malta Ethical AI Framework, a set of guidelines on ethical and trustworthy AI. By improving participation of the general public and Equality Bodies, National Human Rights Institutions and Ombudspersons with specialist knowledge of the impact of AI on equality and non-discrimination, member States can ensure that legal and policy reform accurately and comprehensively responds to new challenges. Targeted outreach will be required to make stakeholders, including citizens, aware of consultations on legal or policy initiatives and how to contribute to them. Member States are encouraged to facilitate the provision of information through multiple media and different platforms to ensure inclusion. Meaningful participation should also include being informed, after participating, of the outcome. The Recommendation specifies that those most affected by discrimination should be consulted. Whilst not exhaustive, this may involve women, people at risk of racism, LGBTI people, youth, children, older people and people with a disability and their representatives. This is particularly important for amplifying the voices of the most underrepresented groups and strengthening democratic accountability in AI governance.⁶⁰

56. See ECRI [General Policy Recommendation No. 2 \(revised\) on equality bodies to combat racism and intolerance at national level](#), paragraph 60.

57. See Chapter 4 of the Norwegian Act relating to equality and a prohibition against discrimination ([Equality and Anti-Discrimination Act](#)) 2018.

58. Council of Europe [Gender Equality Strategy \(2024- 2029\)](#), p. 41.

59. [Human rights by design - future-proofing human rights protection in the era of AI](#) (2023), pp. 18-20.

60. See further ‘Improving Artificial intelligence Standards for an Equitable Future – Revised version submitted by the Secretariat after member States consultations, UNECE, 26 September 2025.

III. Promotion of equality by public and private actors

39. This Chapter focuses on the positive potential of AI systems to promote equality, including gender equality. It explores concrete actions which can be used to realise this potential when designing, developing and deploying AI systems.

40. This Chapter contains many recommendations which target the activities of private sector actors. This approach is consistent with the approach of the Framework Convention,⁶¹ and also follows earlier recommendations of the Council of Europe, for example, Recommendation [CM/Rec\(2020\)1](#) on the human rights impacts of algorithmic systems, which requires that “private sector actors that design, develop or implement algorithmic systems [...] follow a standard framework for human rights due diligence to avoid fostering or entrenching discrimination throughout all life-cycles of their systems” and that “[t]hey seek to ensure that the design, development and ongoing deployment of their algorithmic systems do not have direct or indirect discriminatory effects on individuals or groups that are affected by these systems, including on those who have special needs or disabilities or who may face structural inequalities in their access to human rights.” Private sector actors have an increasingly powerful role in relation to activities within the lifecycle of AI systems, particularly design development and deployment, and so an acute impact on non-discrimination and equality. These obligations are addressed in more detail in Chapter VII of the Recommendation and the corresponding parts of this Explanatory Memorandum.

On paragraph 9

41. In relation to paragraph 9, policies and codes of conduct would be two potential mechanisms by which private actors may take measures to promote equality, including gender equality, in their activities in the lifecycle of AI systems. Member States may wish to draw inspiration from Article 95(2) of the EU AI Act on Codes of conduct for voluntary application of specific requirements, which provides that member States should facilitate the drawing up of codes of conduct concerning the voluntary application, including by deployers, of specific requirements to all AI systems, on the basis of clear objectives and key performance indicators to measure the achievement of those objectives, including elements such as, but not limited to “promoting AI literacy, in particular that of persons dealing with the development, operation and use of AI”; “facilitating an inclusive and diverse design of AI systems, including through the establishment of inclusive and diverse development teams and the promotion of stakeholders’ participation in that process”; and “assessing and preventing the negative impact of AI systems on vulnerable persons or groups of vulnerable persons, including as regards accessibility for persons with a disability, as well as on gender equality.” Other measures may include external audits of AI systems and early assessments of positive impact on human rights and of risks, as well as measures that seek the views of individuals and groups at risk of discrimination, including marginalised groups, and integrate them into the design of AI systems.

On paragraph 10

42. Paragraph 10 invites member States to encourage and support public and private providers and deployers of AI systems to promote and maintain gender equality and diversity in their workforce at all levels. The lack of diversity and inclusion in professional communities involved in the development of AI has been identified as an important dimension of the problem of discrimination arising from activities in the lifecycle of AI systems.⁶² This can result in AI systems not catering to the needs of people belonging to disadvantaged, minority and under-represented groups.⁶³ In addition, AI systems are increasingly being used in selection procedures to determine access to employment.⁶⁴ Evidence has shown that recruitment processes can be negatively affected by the use of AI systems, for example in cases where the identification of candidates relying on machine learning led to discriminatory outcomes, or where AI-powered face recognition and emotion analysis systems have resulted in racial discrimination.⁶⁵ AI tools used for recruitment and selection of candidates should be objective, neutral and free from bias including gender-based bias. Workplace policies of AI actors may also include specific content focusing on fostering inclusion and re-integration following career breaks.⁶⁶ Hiring and promotion policies should aim to achieve a balanced representation of people at risk of discrimination in decision-making, including at higher levels, and support programmes to help

61. Framework Convention, Article 3(1)(a).

62. Discriminating Systems: Gender, Race, and Power in AI – Report, [Sarah Myers West](#), AI Now Institute, April 2019.

63. CDADI/GEC Study (2023), pp. 36-37.

64. [Resolution 2343 \(2020\)](#) ‘Preventing discrimination caused by the use of artificial intelligence’, paragraph 1. See also Recommendation [CM/Rec\(2020\)1](#) on the human rights impacts of algorithmic systems, paragraph 8.

65. CDADI/GEC Study (2023), pp. 19-21.

66. CDADI/GEC Study (2023), p. 89.

position them for success, including a requirement to hire and promote women to fill 50% of the upper and highest-level positions in the tech sector.⁶⁷ Similarly, member States should ensure that such sectors, as all other employers, provide equal remuneration for equal work or for work of equal value, including through addressing the gender pay gap and possible pay gaps linked to other grounds listed in paragraph 2 of the Recommendation.⁶⁸ Furthermore, in relation to paragraph 10.2, member States should encourage public and private actors to actively promote equality and diversity. This can be achieved *inter alia* through sectoral and/or company-wide policies on addressing stereotypes, sexism, racism, LGBTI-phobia and other forms of intolerance, discrimination, harassment and violence based on personal characteristics and status. Member States may also encourage public and private actors to raise awareness among their workforce of bias and risk of discrimination in AI systems and training to address structural inequality, stereotyping and ensure gender and equality mainstreaming.⁶⁹

On paragraphs 11 and 12

43. Paragraph 12 of the Recommendation encourages member States to create the conditions necessary to address the root causes of bias in AI systems, by supporting an inclusive and transformative use of AI systems to advance equality, including gender equality. As explained by Sandra Fredman, transformative equality pursues four-overlapping dimensions: (i) redressing social and economic disadvantage; (ii) addressing stigma, stereotyping, prejudice and violence; (iii) enhancing participation; and (iv) accommodating difference by achieving structural change.⁷⁰ Gender-transformative approaches seek to challenge gender inequality by transforming harmful gender norms, roles and relations, while working towards redistributing power, resources and services more equally.⁷¹ These approaches actively promote equality and explicitly address the underlying causes of gender inequalities. As such, they should be tailored to the context in which they are applied. While gender-responsive approaches seek to address gender inequalities resulting from discriminatory root causes, they do not address the root causes themselves. In contrast, a gender-sensitive approach considers gender norms, roles and relations but does not address the inequalities that result from them.⁷² The Recommendation also aims to be inclusive, therefore the transformative approach can be applied to the range of grounds of discrimination referred to in paragraph 2.

44. The Recommendation gives a non-exhaustive list of examples of such initiatives and invites member States to consider promoting adequate funding, which could include the establishment of dedicated funding streams for AI research, startups, and community initiatives led by women and persons at risk of discrimination. Importantly, such initiatives should be built around inclusive design principles from the earliest stage of AI development, ensuring that systems are usable and beneficial for all. To that end, providers and deployers of AI systems should be encouraged to implement participatory design practices by involving affected persons, notably from underrepresented or historically discriminated groups, in the conception, testing and deployment phases.

45. One example given by the Recommendation is the capacity of AI systems to identify and remedy previously undetected technical and social bias in data sets, designs, processes and decision criteria, and patterns of discriminatory outcomes. This relates to the ability of AI systems to analyse large volumes of data and detect, where prompted to do so, bias which may be “invisible” to the human eye. AI systems may also be used to improve accessibility of documents and other outputs, for example, speech-to-text and transcription functions and personalised accessibility and language simplification tools. Smaller start-ups and private actors are developing tools in this domain and the Recommendation aims to create the conditions for such research to come to fruition. AI image recognition technologies could be used to analyse large amounts of data and assess representations of women and minorities across different media sectors ranging from TV programmes to films or online and physical advertising, among others.

46. Secondly, the Recommendation notes that AI systems may be used to identify, prevent the dissemination of and combat online hate speech, including sexist, racist and LGBTI-phobic hate speech, and more broadly stereotyping, technology-facilitated violence against women and girls and other individuals and groups based on their actual or perceived personal characteristics and status. As noted in the Explanatory Memorandum to

67. Ibid, pp. 38, 89.

68. Article 4 of the revised European Social Charter (ETS No. 163); Recommendation [CM/Rec\(2007\)17](#) on gender equality standards and mechanisms, paragraph 28; and Recommendation No. R (85) 2 on legal protection against sex discrimination.

69. See Recommendation [CM/Rec\(2019\)1](#) on preventing and combating sexism, in particular II.E.4.

70. Sandra Fredman, ‘Substantive Equality Revisited’ (2016) 14(3) Int’l J of Con L 712.

71. See Technical note ‘Gender-transformative approaches to achieve gender equality and sexual and reproductive health and rights’, UNFPA, 2023, p.7 as quoted in the Gender Equality Strategy 2024-2029, p. 45.

72. Ibid.

Recommendation CM/Rec(2022)16, hate speech has proliferated exponentially in online spaces. In FRA's 2018 survey on perceptions of antisemitism, the highest single incidence rate of reported antisemitic harassment was related to cyber-harassment. Furthermore, FRA's 2012 survey on violence against women showed that cyber-harassment against women is widespread in the EU, with 1 in 20 women in the EU reporting having experienced cyber-harassment.⁷³ According to Recommendation CM/Rec(2022)16, member States should limit the harm done by online hate speech by enacting effective legislation for preventing its publication and for ensuring its removal where it has already been published. Given the large amount of online hate speech and the speed with which it can spread, quick preventive action, including awareness campaigns, is required to avoid its proliferation, and so Recommendation CM/Rec(2022)16 calls upon member States to ensure that internet intermediaries also contribute to this task. This Recommendation also provides that member States should ensure that mechanisms are in place for reporting cases of online hate speech to public authorities and private actors, including internet intermediaries, as well as clear rules for the processing of such reports. Such reporting mechanisms should be user-friendly, age-appropriate, easily accessible, time-sensitive, multi-lingual and effective. Appropriateness entails that reporting mechanisms are tailored to the nature of online abuse, including technology-facilitated violence against women and girls, ensuring that they capture relevant forms of harm, their gender-specific forms and impacts, and that appropriate referral pathways are provided. In addition, those responsible for handling reports should be sensitised to the specific needs of victims of online abuse, in particular women and girls targeted by technology-facilitated violence.

47. Using AI systems in this task can limit the interaction of humans with online hate, and so limit their exposure to hateful content, and it can also improve the rate of moderation and its efficiency. However, the task is complex and delicate, both due to the difficulties of identifying hate online (for example, due to the use of different media and the identification of context), and the fundamental rights which are engaged by over or under-moderation.⁷⁴ In difficult cases, the final decision to block or not to block content before its publication should therefore be made by a human, though the sheer volume of online hate means that AI systems will increasingly be required to support this task if it is to be done effectively. As noted in the report of FRA on bias and algorithms (*ibid*), algorithms may rely heavily on certain words as indicators of offensiveness, which can vary significantly across languages and models. In that Report, the terms 'Muslim', 'gay' and 'Jew' lead to considerably higher predictions of offensiveness than others. There is therefore a fear that such tools could increase or introduce certain biases. The Study further explores the problem of content moderation applying inadequate semantic filters modelled on majority groups to minority groups, with silencing effects that could unfairly restrict minority groups' ability to communicate via social media. For example, the stereotypical association of words associated with the word 'lesbian' with pornographic content often results in so-called 'shadow-bans' that limit the reach of social media posts, or in the outright impossibility to use certain words in account names and handles. The silencing effects of content moderation have a severe negative impact on the visibility and reach of organisations, activities and events aimed at countering hateful and discriminatory narratives targeting people belonging to minority communities.⁷⁵ There is much ongoing research to try to mitigate bias in available general-purpose AI language tools, for example by using different strategies to reduce societal biases in the original model.⁷⁶ Member States are encouraged to ensure funding to public and private actors investigating initiatives in this field in order to improve the technology and ensure that such limitations can be addressed.

48. AI systems can also be purposefully designed to benefit marginalised, at-risk, or underserved communities, such as those which improve access to information, goods, and services, or which enhance automated translation for regional or minority languages.⁷⁷ For example, the Welsh government's 2018 language technology plan is part of its broader strategy to promote the use of Welsh and increase active speakers. The plan supports projects such as Welsh language learning apps for children, a Welsh version of OpenStreetMap, a Welsh speech database, and the development of Macsen, a Welsh-language digital assistant. It also encourages the use of existing linguistic tools, as well as the organisation of annual conferences and

73. FRA, Bias in Algorithms.

74. For a detailed overview of the issues raised in relation to content moderation, see Explanatory Memorandum to Recommendation CM/Rec(2026)2 on Accountability for technology-facilitated violence against women and girls, paras 145-159.

75. For example, the Eurocentralasian Lesbian Community (EL*C), an organisation created in 2017 to advocate for the rights of LGBTI women, reports that it was unable to use the word "lesbian" in its username on Facebook whereas other words associated with the LGBTI community (such as "gay" or "queer") could be used. See EL*C, 'Lesbophobia: An intersectional form of violence' (2021): available at <https://europeanlesbianconference.org/wp-content/uploads/2021/10/Lesbophobia-3.pdf>

76. FRA, Bias in Algorithms (*ibid*), citing Bolukbasi et al. (2016); Manzini et al. (2019); Zhao et al. (2018); Caliskan et al. (2017); Krause et al. (2020); and Dathathri et al. (2020).

77. See CDADI/GEC Study (2023), p. 77.

the opening of dedicated research positions at universities.⁷⁸ AI tools could also be developed to detect forms of structural inequality (such as multiple and intersectional forms of discrimination, and discrimination by proxy), including those stemming from or exacerbated by the use of AI, as well as environmental impacts and digital exclusion and these insights could be used to inform proactive public policy and regulation.

49. Technology-facilitated violence, in particular against women and girls as well as individuals at risk of discrimination, is increasingly prevalent due to the rapid development of digital technologies and their widespread use. Generative AI, which makes it possible to generate hyper-realistic images or videos (digital forgeries)⁷⁹, is mostly used to produce sexual or pornographic content (95% of the sexual digital forgeries - image or video - in circulation are of a sexual or pornographic nature, according to several studies)⁸⁰. Although the images are virtual, their impact on the victims is real, especially when the content is published on public online platforms. AI systems can reproduce, perpetuate, and exacerbate existing bias, stereotypes, stigma, and prejudice, contributing to the persistence of harmful narratives and discriminatory outcomes. This, in turn, may lead to an increase in online and offline violence against women in particular, who are disproportionately targeted due to sexism, stereotypes and entrenched gender inequalities and power imbalances that AI systems may inadvertently amplify. Addressing these risks requires proactive measures, including identifying and mitigating bias in AI systems, preventing the dissemination of and moderating online sexist hate, prohibiting the non-consensual creation and sharing of intimate images and digital forgeries, and tackling broader patterns of technology-facilitated violence.⁸¹

50. While good practices such as the examples above should be commended, it should also be noted that it is essential to avoid over-reliance on AI as a standalone solution for addressing inequality and discrimination (techno-solutionism). Social issues require social solutions, and while AI can support equality, including gender equality, and non-discrimination, it should complement well-funded, carefully designed equality policies rather than replace them.⁸² Moreover, member States should keep in mind that even when such positive initiatives are implemented, the use of AI systems still carries a risk of discrimination.

IV. Prevention of discrimination

On paragraph 13

51. This Chapter gives guidance to member States to avoid fostering or entrenching bias in AI systems and thus mitigate the resulting risk of discrimination contrary to Article 14 of the Convention and other Convention rights. It is organised by subheadings corresponding to three sets of principles which are drawn from the Framework Convention (Articles 8 – 10). For all measures, as in Chapter II, member States should use the principle of proportionality as expressed in paragraph of the Recommendation to scale these obligations to the extent of the risk to subjects' rights to equality and non-discrimination, taking into account the size, capacity and economic power of providers and deployers. Paragraph 13 also specifically highlights the graduated and differentiated approach, as explained in Paragraph 24 of the present Explanatory Memorandum.

52. Paragraph 13 draws upon the language of Article 16 of the Framework Convention, namely to “adopt or maintain measures for the identification, assessment, prevention and mitigation of risks posed by artificial intelligence systems by considering actual and potential impacts to human rights, democracy and the rule of law”, and aims to be comprehensive. Such measures could be taken or maintained by member States or by providers and deployers of AI systems, as appropriate.

On paragraph 14

53. Regarding paragraph 14, member States are encouraged to investigate the new forms of algorithmic or AI-based vulnerability that may emerge with the use of AI systems and to encourage research into methodologies for legal protection against such vulnerability. All such investigations should be compliant with the principles of data privacy and data protection, as captured in paragraph 5.4 of the Recommendation. The Recommendation encompasses both studies undertaken by member States, as well as support for

78. [Facilitating the implementation of the European Charter on Regional and Minority Languages through artificial intelligence](#), Council of Europe Secretariat of the European Charter for Regional or Minority Languages, February 2022, p. 6.

79. Sexual digital forgery refers to what is also commonly known as ‘deepfake pornography’. Due to the inaccuracy of the reference to ‘pornography’ and its potential to cause further harm to victims, this Explanatory Memorandum uses the term ‘sexual digital forgery’, not ‘deepfake pornography’. In a similar way, in a non-sexual context, this Explanatory Memorandum uses ‘digital forgery’.

80. See the study on ‘Tackling deepfakes in European policy’, European Parliamentary Research Service, July 2021.

81. On the topic of technology-facilitated violence against women and girls, reference is made to Recommendation CM/Rec(2026)2 of the Committee of Ministers to member States on accountability for technology-facilitated violence against women and girls.

82. See CDADI/GEC Study (2023), p. 78.

study by researchers, including academics, or other private parties. Support is not limited to funding, and also includes, for example, creating an environment which is favourable to research. The deployment of AI systems can generate social sorting and differentiation that question the boundaries of discrimination law. Such social sorting can create new forms of social vulnerability, for example by subjecting certain groups to systematically worse economic conditions or exclusion from certain goods and services. These new forms of social differentiation can create “emergent discrimination” and socio-economic inequalities.⁸³ Member States are encouraged to clarify that the prohibition of discrimination in Article 14 covers multiple and intersectional discrimination and indirect discrimination, including discrimination by proxy, as these are forms of discriminatory harms that AI systems can generate, and to investigate other socio-economic inequality caused by the digital divide, among other features. Member States are further encouraged to publish the results of such research, with a view to ensuring its availability to other member States and the wider public, including social partners and interested researchers.

54. Relatedly, member States are encouraged to review their policy and legal frameworks regarding the collection of equality data with a view to improving the availability and quality of such data which is useful for a range of equality protective measures such as, for example, positive action and monitoring or profiling practices. Member States may be inspired by the approach recommended in the Explanatory Memorandum of [CM/Rec\(2024\)1](#) on Equality of Roma and Traveller women and girls (paragraph 233-240). However, the Recommendation is mindful of the limitations that member States may face in this context. For example, the collection of data relating to protected characteristics is restricted in some member States, and even if there is access to such data, there may be restrictions regarding its use. In such cases, qualitative research methods or socio-demographic proxies could be used. Member States should respect data protection law when allowing the use of equality data and in particular, member States should strengthen confidentiality measures regarding sensitive data related to sexual orientation, gender identity and expression and sex characteristics as well as affiliation with an ethnic, cultural, linguistic or religious group, to prevent any risk of exposure or misuse. Any developments made in this area should also be in consultation with groups most at risk of discrimination to ensure that no such data collection is carried out in contrast to the wishes of those groups.

Transparency, explainability and oversight regarding equality and non-discrimination

On paragraph 15

55. Transparency refers to openness and clarity in the governance of activities within the lifecycle of AI systems. It means that the decision-making processes and general operation of AI systems should be understandable and accessible to appropriate AI actors and, where necessary and appropriate, relevant stakeholders. In certain cases, transparency could also refer to providing additional information, including, for example, on the algorithms, data sets and decision criteria used, subject to commercial and intellectual property, national security, and other considerations.⁸⁴ Transparency ideally includes social context considerations, such as stakeholder engagement in the development process and the outcome of any impact assessment.

56. Explainability is an important component of transparency. AI systems based on machine learning (ML) or deep learning (DL) systems use algorithms learned by their own process of training, rather than by explicit human programming. During the process of training, AI models can discover new correlations between certain input features and can make decisions or predictions based on highly complex models involving a large number of interacting parameters (possibly millions), making it difficult even for AI experts to understand how their outputs are subsequently produced.⁸⁵ In these situations, the reasons why systems have made certain decisions may be unclear, both to the deployers/providers of the systems and to those affected by the systems. The resulting “black box” effect could lead to either misplaced trust or over-reliance on AI systems, both of which could have negative consequences for individuals.⁸⁶ This opacity not only makes decisions more difficult to understand, but it can also have direct impact on individuals since it can hide deficiencies in AI systems, such as the existence of bias, inaccuracies, or so-called “hallucinations”.

83. See Matthias Leese, *The new profiling: Algorithms, black boxes, and the failure of antidiscriminatory safeguards in the European Union*, 45 SECURITY DIALOGUE 494–511, 501 (2014); Monique Mann & Tobias Matzner, *Challenging algorithmic profiling: The limits of data protection and anti-discrimination in responding to emergent discrimination*, 6 BIG DATA & SOCIETY, 5–6 (2019).

84. See the Explanatory Report to the Framework Convention, paragraph 57.

85. [TechDispatch: Explainable Artificial Intelligence, European Data Protection Supervisor](#) (2023), citing Peters, U. ‘Explainable AI lacks regulative reasons: why AI and human decision-making are not equally opaque’, (AI and Ethics 2023).

86. [TechDispatch: Explainable Artificial Intelligence](#) (2023).

57. Explainability therefore refers to the capacity to provide, subject to technical feasibility and taking into account the generally acknowledged state of the art, sufficiently understandable explanations about why an AI system provides information, produces predictions, content, recommendations or decisions, which is particularly crucial in sensitive domains such as healthcare, finance, migration, border services and criminal justice, where understanding the reasoning behind decisions produced or assisted by an AI system is essential, both for individuals and to allow adequate review by the judiciary where relevant. In such cases transparency could, for instance, take the form of a list of factors which the AI system takes into consideration when informing or making a decision (see, paragraph 60 of the Explanatory Report of the Framework Convention), which could include inferences from data. The need for clear explanations is also underlined by Article 86(1) of the EU AI Act on the Right to explanation of individual decision-making, which provides that “[a]ny affected person subject to a decision which is taken by the deployer on the basis of the output from a high-risk AI system listed in Annex III [...] and which produces legal effects or similarly significantly affects that person in a way that they consider to have an adverse impact on their health, safety or fundamental rights shall have the right to obtain from the deployer clear and meaningful explanations of the role of the AI system in the decision-making procedure and the main elements of the decision taken.” In the EU AI Act, this obligation applies only to high-risk systems; however, as for all paragraphs in the Recommendation, the prohibition of discrimination and the principle of proportionality apply and can be employed to adopt a graduated approach based on risk and other contextual factors.

58. Some technical information produced with the goal of achieving transparency or explainability may remain unintelligible to the general public but may be understood by oversight bodies, Equality Bodies or civil society actors and organisations operating in the field, including through the involvement of experts. Any obligations and systems put in place by member States should therefore be mindful of the different levels of understanding of different recipients of information and be tailored accordingly. In general, where information is communicated to natural persons, the explanations provided should be in simple and common language, avoiding advanced technical terms where possible.

59. The concrete measures set out in paragraph 15 are intended to assist member States in improving transparency and explainability of AI systems. Such principles should be addressed in the design and development phase. An obligation to publish statistical data can allow interested parties to assess the discriminatory effects of a given system. The data should be disaggregated to show how the system affects women and the groups identified in paragraph 2 of the Recommendation, including potential intersectional discrimination. As appropriate, data should also be made available regarding the functioning of AI systems including, when possible, the decision criteria used, and, where relevant, information about the training and validation data used and its processing. Transparency obligations should be balanced against privacy and the protection of personal data, confidentiality, trade secrets and national security rules. In particular, member States are encouraged to establish legal requirements for users of AI systems to provide consumers and public oversight bodies with a meaningful explanation upon request, especially in the context of legal disputes.

60. Mechanisms for transparency may include reporting of AI use in national, regional and local authorities and government; a process for companies to report on responsible AI use, including equality impacts, through their reporting processes; and the use of registers of AI systems. [The Cities Coalition for Digital Rights](#), a coalition of 39 cities in the EU and the US, has also taken steps to ensure that cities use technology in an open and transparent way. In its declaration, the coalition affirms several broad principles including the transparency, accountability, and non-discrimination of algorithms. This means in practice that the public “should have access to understandable and accurate information about the technological, algorithmic, and artificial intelligence systems that impact their lives,” and they should be able to “question and change unfair, biased or discriminatory systems”.

61. In addition, in line with Article 15(2) of the Framework Convention, affected persons should be informed when they are interacting with a machine rather than a human, as appropriate for the context.⁸⁷ Paragraph 15.3 is inspired by Article 50(1) of the EU AI Act, which provides that “Providers shall ensure that AI systems intended to interact directly with natural persons are designed and developed in such a way that the natural persons concerned are informed that they are interacting with an AI system, unless this is obvious from the point of view of a natural person who is reasonably well-informed, observant and circumspect, taking into account the circumstances and the context of use.” Article 50(2) further provides that providers of AI systems, including general-purpose systems, generating synthetic audio, image video or text content, shall ensure

87. See, for example, [Administration and You, A Handbook, 3rd Edition](#), Principles of administrative law concerning relations between individuals and public authorities, Council of Europe, at page 25.

that the outputs of the AI system are marked in a machine-readable format and detectable as artificially generated or manipulated. In a similar vein, the Recommendation further states that, member States may also raise public awareness on how to recognise communication with AI systems or how to recognise AI systems that process personal data in different areas. Where a state or local government institution uses AI systems in its work, such institutions may, as appropriate, consider training employees to provide explanations on the criteria used by AI systems in decision-making.

On paragraph 16

62. Public registries listing AI systems would enhance transparency, accountability and informed public scrutiny of the use of AI systems which may pose risks to equality including gender equality. The EU AI Act already provides for the establishment of a database for the registration of high-risk AI systems used in certain areas, as well as their deployment by public authorities. The city of Amsterdam, for example, introduced such a voluntary register to provide an overview of AI systems and algorithms used by the city at local level.⁸⁸ The creation of new registries may imply significant administrative and financial burden for member States. The Recommendation recognises that some member States may already have in place frameworks capable of responding to this recommendation, for example, through registries held by data protection authorities, or through other registries which are not specific to AI systems, which could be adapted to include them to reduce cost and delay.

On paragraph 17

63. Moreover, the Recommendation seeks to improve the ability of affected persons to identify discrimination and overcome difficulties posed by a combination of personalisation, automation, and opacity of decision-making processes. Comparison with similarly placed individuals and social interactions are important heuristic devices for identifying and claiming discrimination. Yet, reading social cues or making a comparison with other loan applicants in the context of an online credit service, for example, has become near impossible. This information asymmetry makes it difficult to suspect discrimination in the first place. Even when suspicion arises, collecting evidence is a further challenge because decisions or the recommendations supporting them are not readily available to consult and often not disclosed by users of AI systems. Hence, presenting proof to establish a presumption of discrimination in courts is a key legal challenge. Member States are therefore also advised to ensure that obligations pertaining to documentation of activities within the lifecycle of AI systems are conducive to affected persons being able to access this information and use it in the context of discrimination claims, to redress information asymmetries. The Recommendation draws upon Article 86 of the EU AI Act, set out above. The Recommendation uses the broad language of “asserting rights.” This may include, for example, contesting decisions or lodging complaints, as referenced in paragraph 100 of the Explanatory Report to the Framework Convention. Complaint mechanisms should be easily accessible.

On paragraph 18

64. The Recommendation takes as its starting point that rights to procedural guarantees and effective remedies are guaranteed by the Convention, as well as other international and domestic laws and standards applicable to discrimination, and recalls their application in the context of AI systems. Where a decision is made by an AI system, the Recommendation advises member States to encourage providers and deployers of AI systems to enable human oversight of those outcomes at the request of a person who suspects that discrimination has occurred. Such a possibility would be particularly important where there is a significant impact upon the enjoyment of the human rights of an individual. Human oversight should be meaningful and entail the active involvement of at least one trained and properly resourced human operator who can monitor an outcome and evaluate the system’s decisions, and who has the ability to intervene if necessary in a way that improves the quality of the decisions taken by the system, rather than as a merely procedural formality, or symbolic gesture.⁸⁹ Importantly, whilst human oversight can provide an additional layer of investigation into decision making and can improve accountability, it cannot resolve issues relating to systemic bias and should not replace design which takes into account the impact of AI systems on equality including gender equality. Human oversight is not infallible and care must be taken to avoid automation bias.⁹⁰ Further, and aside from litigation, as in other contexts not involving AI systems, individuals could be informed of procedures which

88. [City of Amsterdam Algorithmic Register](#), Gemeente Amsterdam.

89. See, European Data Protection Supervisor TechDispatch 2/2025 – Human Oversight of Automated Decision-Making.

90. According to the Explanatory Report of the Framework Convention, paragraph 75 e): ‘automation or confirmation biases, whereby humans may place unjustified trust in machines and technological artefacts or situations where they select information that supports their own views, in both cases ignoring their own potentially contradictory judgements and validating algorithmic outputs without questioning them.’

may enable them to address suspected discrimination caused by an AI system, for example, by making a complaint or requesting assistance from an Equality Body, national human rights institution, Ombudsperson or consumer protection body. In that case, such information should be provided in a clear and accessible format.

On paragraph 19

65. Finally, the Recommendation recognises that evidence is key to determining whether discrimination has taken place and it is often not in the possession of the subject. To assist in redressing information asymmetries and to inform the wider role of Equality Bodies, National Human Rights Institutions, Ombudspersons, competent authorities and public interest organisations, the Recommendation invites member States in paragraph 18 to consider providing them with rights to access information and to test AI systems. In respect of Equality Bodies, the Recommendation draws upon ECRI [General Policy Recommendation No. 2 \(revised\) on equality bodies to combat racism and intolerance at national level](#),⁹¹ [Directive 2024/1499](#)⁹² and [Directive 2024/1500](#)⁹³, which provide that member States shall ensure that equality bodies are empowered to conduct an inquiry into whether a breach of the principle of equal treatment as laid down in various Directives has occurred, in particular by providing a framework for conducting inquiries which enables Equality Bodies to carry out fact-finding, to provide them with effective rights to access information and documents that are necessary to establish whether discrimination has occurred, and to provide mechanisms for Equality Bodies to cooperate with relevant public bodies for that purpose. Similarly, under the EU AI Act, Article 77(1) on powers of authorities protecting fundamental rights provides that “[n]ational public authorities or bodies which supervise or enforce the respect of obligations under Union law protecting fundamental rights, including the right to non-discrimination, in relation to the use of high-risk AI systems referred to in Annex III shall have the power to request and access any documentation created or maintained under this Regulation in accessible language and format when access to that documentation is necessary for effectively fulfilling their mandates within the limits of their jurisdiction”. Recital 157 of the Preamble notes that “national public authorities or bodies which supervise the application of Union law protecting fundamental rights, including application of Union law protecting fundamental rights, including equality bodies and data protection authorities. Where necessary for their mandate, those national public authorities or bodies should also have access to any documentation created under this Regulation.”

66. It is recommended that these bodies be permitted to engage in testing, notably through participation in coordinated AI ‘regulatory sandboxes’. A regulatory sandbox is a tool allowing the exploration and experimentation with new and innovative products, services or businesses under a regulator’s supervision, in a controlled environment. Where they are adopted, these bodies should be consulted and provided with an opportunity to provide human rights guidance and promote the integration of human rights safeguards throughout the AI lifecycle.⁹⁴

Equality and non-discrimination impact assessment, certification, evaluation and monitoring

On paragraph 20

67. This subsection focuses on assessment and evaluation of AI systems in relation to equality and non-discrimination. There are several existing standards from which member States may take inspiration when introducing a risk and impact assessment which has a specific focus on equality and non-discrimination. Recommendation [CM/Rec\(2020\)1](#), in its paragraph 5.2, provides that member States should ensure that they, as well as any private actors engaged to work with them or on their behalf, regularly and consultatively conduct human rights impact assessments prior to public procurement, during design and development, at regular milestones, and throughout their context-specific deployment in order to identify the risks of rights-adverse outcomes. Recommendation [CM/Rec\(2022\)17](#) on protecting the rights of migrant, refugee

91. See ECRI [GPR No. 2 on equality bodies to combat racism and intolerance at national level](#), paragraph 21.

92. Council Directive (EU) 2024/1499 of 7 May 2024 on standards for equality bodies in the field of equal treatment between persons irrespective of their racial or ethnic origin, equal treatment in matters of employment and occupation between persons irrespective of their religion or belief, disability, age or sexual orientation, equal treatment between women and men in matters of social security and in the access to and supply of goods and services, and amending Directives 2000/43/EC and 2004/113/EC.

93. Directive (EU) 2024/1500 of the European Parliament and of the Council of 14 May 2024 on standards for equality bodies in the field of equal treatment and equal opportunities between women and men in matters of employment and occupation, and amending Directives 2006/54/EC and 2010/41/EU.

94. [Human rights by design - future-proofing human rights protection in the era of AI](#) (2023) pp. 18-20, follow up to [Unboxing Artificial Intelligence: 10 steps to protect Human Rights](#) (2019) p. 35.

and asylum-seeking women and girls, in its paragraph 22, provides that member States should ensure that a human rights impact assessment, with a gender equality perspective, is conducted before the introduction of AI and automated decision-making systems in the field of migration. So too, Article 16 of the Framework Convention contains a dedicated provision prescribing the need to identify, assess, prevent and mitigate *ex ante* and iteratively throughout the lifecycle of an AI system the relevant risks and potential impacts to human rights, democracy and the rule of law, through the development of a methodology with concrete and objective criteria for such assessments. The HUDERIA (methodology for the risk and impact assessment of AI systems from the point of view of Human Rights, Democracy and the Rule of Law) is one methodology which may be employed, and member States should take care to ensure that equality and non-discrimination concerns are integrated throughout the use of the methodology. Such *ex-ante* accountability and justification obligations could, for example, require deployers and providers of AI systems to perform preliminary discrimination risk and equality impact assessments independently or as part of a broader human rights impact assessment. Such impact assessments could include or be complemented by gender impact assessments and, depending on the context, child rights impact assessments. Equality impact assessments ideally include an intersectional analysis and disaggregated equality data considering how discriminatory impacts interact with the grounds listed in paragraph 2 of the Recommendation and other structural and social factors. Disaggregation of data allows researchers to compare inequalities impacts between different population groups. Simple averages of data can mask underlying disparities; disaggregated data, by contrast, can show differential human rights impacts between groups. For example, national averages may show that the workforce as a whole makes adequate wages to meet living costs; disaggregated data, by contrast, may show that women earn significantly less than their male peers, impacting their ability to afford food, housing and other necessities.⁹⁵ In line with paragraph 5.4. of the Recommendation, privacy and data protection rights should be respected during this process.

68. The main elements of such assessment could be:

1. Impact Identification: identification of opportunities for using the AI system to support positive actions that advance equality and non-discrimination together with relevant risks for equality, including gender equality, and non-discrimination;
2. Impact Assessment: assessment of the impact, taking into account the likelihood and severity of the effects on equality, both positive and negative;
3. Governance Assessment: assessment of the roles and responsibilities of duty-bearers, rights holders and stakeholders in implementing and governing the mechanisms to strengthen the positive impact and mitigate any negative impact;
4. Response, Mitigation and Evaluation: identification of suitable measures to enhance positive impact, measures to mitigate risk, and ensuring a continuous evaluation.

69. Member States are encouraged to render such assessments legally binding or to create a strong incentive by making such impact assessments an element to be considered in legal proceedings regarding claims of discrimination involving AI systems, for example, when assessing whether positive obligations pertaining to equal treatment have been met, or when assessing the burden of proof. The results of discrimination risk and equality impact assessments could also determine whether a given system can enter the market and be used. Such a “pre-approval system” obliges providers and users of potentially risky systems to take preventive measures and possibly submit their systems to certification or a licensing. The legal principle of proportionality could help scale these obligations to the size, capacity and economic power of providers and users, and the considerations outlined at paragraph 23 of this Explanatory Memorandum should also weigh in the balance⁹⁶, taking into account the level of positive impact and risk of discrimination which has been identified. Such risk and impact assessments should be made public and easily accessible where appropriate. They should assess the potential discriminatory impact of AI systems throughout their entire life cycle and across the range of grounds protected in paragraph 2 of the Recommendation. One way of ensuring oversight may be to empower an equality body or a regulatory body to monitor whether the operation of AI systems is disadvantaging individuals and contributing to structural inequality throughout their lifecycle.

70. Member States may also wish to take inspiration from the risk management system contained in Article 9 of the EU AI Act, which provides that “a risk management system shall be established, implemented, documented and maintained in relation to high-risk AI systems”. This system “shall be understood as a continuous iterative process planned and run throughout the entire lifecycle of a high-risk AI system, requiring

95. [Danish Institute for Human Rights: Human rights impact assessment guidance and toolbox Report A4 \(p 67\)](#).

96. Citing in particular paragraphs 57-65 of the Explanatory Report to the Framework Convention.

regular systematic review and updating". When implementing the risk management system, providers shall give consideration to whether in view of its intended purpose the high-risk AI system is likely to have an adverse impact on persons under the age of 18 and, as appropriate, other vulnerable groups. Moreover, Article 79(2) on the Procedure at national level for dealing with AI systems presenting a risk, provides that the national market surveillance authority should investigate any AI system suspected of presenting a risk as defined in Article 3, point 19 of Regulation (EU) 2019/1020, in so far as they present risks to the health or safety, or to fundamental rights, of persons. Here, "[p]articular attention shall be given to AI systems presenting a risk to vulnerable groups." Moreover, "[w]here risks to fundamental rights are identified, the market surveillance authority shall also inform and fully cooperate with the relevant national public authorities or bodies referred to in Article 77(1)." Article 27 of the EU AI Act also provides for a fundamental rights impact assessment for high-risk AI systems.

71. Some jurisdictions, for example the Netherlands,⁹⁷ have already developed comprehensive fundamental rights and algorithms impact assessments as a tool to bring accountability to the AI systems increasingly used in everyday life.

72. Paragraph 18.3 also addresses the introduction of standards for discrimination audits of AI systems. Standards for assessment of discrimination, including audits, can comprise technical standards, which are agreed sets of rules that ensure products, services, or processes are safe, reliable and compatible, and are regarded as industry best practices, including standards such as the International Organization for Standardisation (ISO), the International Electrotechnical Commission (IEC), the European Committee for Standardisation (CEN), the European Committee for Electrotechnical Standardisation (CENELEC), or the European Telecommunications Standards Institute (ETSI). In addition to technical standards to inform the assessment process, socio-technical or other standards could be developed. The Recommendation calls upon member States to initiate the development of standards for discrimination audits of AI systems, which may help to ensure a consistent and effective approach to addressing bias arising from activities within the lifecycle of AI systems while also supporting innovation in developing technical solutions and policies to tackle discrimination in the context of AI systems. This would also foster public trust in AI systems. Harmonised regulatory standards would also enhance companies' responsibility regarding the risks of discrimination, which would in turn provide useful information for potential victims to assess the opportunity of taking (legal) action and comprehensible evidentiary material to judges in discrimination claims.

73. External auditing for risks of discrimination should be carried out by independent bodies, while internal auditing need not be. Audits for risks of discrimination, particularly when carried out by third parties, can identify and assist in addressing bias which can enter the lifecycle of an AI system at various points, thereby mitigating the risk of discrimination and of perpetuating systemic inequality. The findings from external audits, as well as findings from impact assessments, should be made publicly available where appropriate.

74. Member States should also explore whether certification mechanisms could be used in addition to ensure that the positive potential of AI systems has been explored and that biases have been mitigated and risks of discrimination eliminated as far as possible for well-defined uses. Such *ex-ante* promotion and prevention measures could be used to assert the non-discriminatory nature of domain-specific systems. Such certifications should be issued by independent accredited bodies staffed with qualified professionals experienced in AI, human rights, and equality matters. Additionally, certifications should be subject to periodic renewal after a reasonable interval, to ensure continuous compliance with relevant standards over time, and to guarantee that certified systems maintain ongoing adherence to principles of equality and non-discrimination. Certification should enjoy a degree of publicity. For example, certifications should be made accessible and intelligible to users and end-users of AI systems (in view of possible legal defence and risk assessments for certain applications) as well as to public institutions (for example, Equality bodies, National Human Rights Institutions, data protection officers, or other competent authorities) and to civil society organisations with a legitimate interest (as defined in the EU equality directives and national equality law). By way of inspiration, Recommendation [CM/Rec\(2020\)1](#) provides that "certification schemes based on regional and international standards should be designed and applied to guarantee the provenance and quality of datasets and models" and that they "should also form part of procurement processes and should be informed by, and compliant with, regulatory frameworks that ban certain uses of algorithmic systems."

75. Member States may also wish to encourage the adoption of technical standards and validation methods that measure and mitigate bias in AI systems. Such tools may help to ensure a consistent and effective

⁹⁷. See further, [Fundamental Rights and Algorithms Impact Assessment \(FRAIA\)](#) Ministry of the Interior and Kingdom Relations, The Netherlands (March 2022).

approach to addressing bias arising from activities within the lifecycle of AI systems while also supporting innovation in developing technical solutions and policies to tackle discrimination in the context of AI systems.

76. These mechanisms of assessment and evaluation further provide objective criteria which can be used to inform public procurement processes, which should have clear eligibility and selection criteria aiming to ensure that AI systems used by public authorities or other organisations are not discriminatory and promote equal outcomes (see, in this context, paragraph 9 of ECRI's GPR No. 7⁹⁸). Some member States have taken steps to create guidelines for government agency procurement of AI-enabled systems. In the UK, the government published a [Guide to using AI in the Public Sector](#) to enable public agencies to adopt AI-enabled systems in a way that benefits society. The World Economic Forum have also published guidance entitled [Adopting AI Responsibly: Guidelines for Procurement of AI Solutions by the Private Sector](#) and the organisation Data Ethics have published a [white paper](#) on data ethics in public procurement. The EU's High Level Expert Group (AI HLEG) has also [recommended](#) strategically using public procurement to fund innovation and ensure trustworthy AI, by introducing "clear eligibility and selection criteria in the procurement rules and processes of EU institutions, agencies and Member States that require AI systems to be trustworthy".

Accountability, liability and rules on the burden of proof in the field of equality and non-discrimination

On paragraphs 21-26

77. This subsection focuses on ways in which member States may optimise their procedural rules in the context of discrimination claims and litigation to ensure that affected persons have access to justice and effective remedies. The application of this part of the Recommendation to criminal proceedings is dependent on the national context and rules. The principles of accountability and responsibility refer to the need to provide mechanisms to ensure that individuals, organisations, or entities responsible for the activities within the lifecycle of AI systems are answerable for the adverse impacts on human rights, democracy or the rule of law resulting from the activities within the lifecycle of those systems. This may include administrative, judicial and other procedures and measures, as well as civil, criminal and other liability regimes so that decisions can be contested and discriminatory outcomes corrected, or the placement of specific responsibilities and obligations on operators. Paragraph 66 of the Explanatory Report to the Framework Convention clarifies that Parties are required to establish new frameworks and mechanisms, or to maintain existing frameworks and mechanisms as may then be applied to activities within the lifecycle of AI systems to give effect to the principle of accountability and responsibility. Furthermore, in line with the Guidelines of the Committee of Ministers of the Council of Europe on the efficiency and the effectiveness of legal aid schemes in the areas of civil and administrative law,⁹⁹ member States are encouraged to ensure that legal aid is available where appropriate.

78. In some member States, the introduction of collective routes of action or strict liability would be incompatible with the existing national legal framework. Notwithstanding, subject to the national context, it may be appropriate for member States to introduce new procedures or adapt existing procedures so that they ensure effective access to justice and remedies in the face of particular challenges posed by AI systems. For example, the information asymmetry which will often arise in the context of discrimination claims against a decision made by or using an AI system means that procedural time limits in particular may disadvantage claimants.¹⁰⁰ Collective routes of action in paragraph 23 refers to legal action brought by a group of claimants that have been affected by an occurrence in the same way, whether it be negligence, an incident or other cause. Such actions may be particularly advantageous to claimants in the context of discrimination caused by AI systems, where information asymmetries as well as a lack of awareness of purported discrimination, together with the financial implications of undertaking litigation against a provider or employer, mean that they risk not having effective remedies.

79. Rebuttable presumptions regarding the (lack of) respect for equality, including gender equality, and non-discrimination obligations could be explored. Some member States have existing evidentiary rules

98. ECRI [General Policy Recommendation N°7 \(revised\) on national legislation to combat racism and racial discrimination](#).

99. [Guidelines of the Committee of Ministers of the Council of Europe on the efficiency and the effectiveness of legal aid schemes in the areas of civil and administrative law, CM\(2021\)36-add2final](#), adopted on 31 March 2021.

100. See, regarding the three-month time limit in judicial review proceedings in the United Kingdom, Cobbe, Jennifer, *Administrative Law and the Machines of Government: Judicial Review of Automated Public-Sector Decision-Making* (August 6, 2018). Pre-review draft published as Jennifer Cobbe (2019) 'Administrative law and the machines of government: judicial review of automated public-sector decision-making', *Legal Studies*, 39 (4), Available at SSRN: <https://ssrn.com/abstract=3226913> or <http://dx.doi.org/10.2139/ssrn.3226913>.

providing for a shift of the burden of proof in discrimination cases, or other methods to redress information asymmetries, see for example the established case law of the German judiciary that there can be a shift of the burden of proof when a violation results from the area of risk for which one party is liable (*Beweislast nach Gefahrenbereichen*), as well as disclosure obligations (*sekundäre Darlegungslast*) or a shift in the burden of proof if experience shows that there is a recurrent pattern that is usually at work and produces discriminatory results (*Anscheinsbeweis*). The Recommendation invites member States to consider introducing a provisional reversal of the burden of proof or of the presumption of lawfulness of AI systems. Other adaptations to rules of evidence could be considered to facilitate legal action by persons alleging discrimination related to the lack of preventive measures taken by the providers or deployers of AI systems or to their insufficiency. Flanked by disclosure obligations, and following a graduated and differentiated approach, such a reversal of the burden of proof or presumption would alleviate victims' burden of proof when it comes to showing discrimination *prima facie*. Providers and deployers of AI systems would, for example, be able to prevent such a reversal of the burden of proof or presumptions of bias arising where they can show that they have taken meaningful and sufficient preventive measures. Such measures would include, for example, discrimination risk and equality impact assessments, and certification (see paragraph 18). Where such preventive measures have not been taken, a provisional presumption of algorithmic bias could be posited, with the effect of shifting the burden of proof towards the defendant. This could be achieved by relying on existing national rules regarding the reversal of the burden of proof. Users and/or providers of AI systems would then need to show that the system complies with anti-discrimination law requirements. Such techniques could reflect both the pervasiveness and foreseeability of bias and the power shifts inherent in the use of AI systems between providers/deployers and affected persons.

80. Member States may also wish to take inspiration from Article 18 on Shift of burden of proof of [Directive \(EU\) 2023/970](#) on strengthening the principle of equal pay for equal work or work of equal value between men and women through pay transparency and enforcement mechanisms, which provides that Member States shall take the appropriate measures, in accordance with their national judicial systems, to ensure that, when workers who consider themselves wronged because the principle of equal pay has not been applied to them establish before a competent authority or national court facts from which it may be presumed that there has been direct or indirect discrimination, it shall be for the respondent to prove that there has been no direct or indirect discrimination in relation to pay. Importantly, in its paragraph 2, this article clarifies that Member States shall ensure that, in administrative procedures or court proceedings regarding alleged direct or indirect discrimination in relation to pay, where an employer has not implemented certain pay transparency obligations, it is for the employer to prove that there has been no such discrimination.

81. Such *ex-ante* accountability mechanisms would also assist judges and equality bodies with a decision-making function in applying the proportionality test in cases of discrimination and to evaluate the adequacy of preventive safeguards taken. This mechanism would create incentives for users and providers of AI to translate technical choices into legally intelligible information which can then be used to assess whether a given system fulfils a legitimate aim, and whether the means employed are reasonably proportionate to the aim pursued. Enhanced disclosure obligations could accompany such accountability mechanisms. These obligations could include the information referred to in paragraph 15 of the Recommendation.

82. Paragraph 26 underlines that member States should ensure that effective remedies are available for affected persons. Article 13 of the Convention secures the granting of an effective remedy before a national authority to everyone whose Convention rights and freedoms have been violated. To be effective, the remedy must be capable of directly remedying the impugned situation¹⁰¹ and be sufficient and accessible, fulfilling the obligation of promptness.¹⁰² Effective remedies include compensation for non-pecuniary damage (paragraph 12 of ECRI's GPR No. 7 on national legislation to combat racism and racial discrimination). In the context of the European Union, payment of compensation to victims can also be a sanction for the purposes of Article 15 of Council Directive 2000/43/EC of 29 June implementing the principle of equal treatment between persons irrespective of racial or ethnic origin.

83. Regarding liability, existing tort law regimes are technology-neutral and may already adequately cover damages caused by AI systems. In particular, member States should consider the existing concept of breaches of duties of care. Where no preventive measures against algorithmic bias have been taken by providers and/or deployers of a discriminatory system, this might qualify as a breach of a duty of care under existing liability law of Member States. In many cases it might be more beneficial for victims to rely on existing technology-neutral liability regimes including existing non-discrimination law, as they might not require the victim to

101. *Pine Valley Developments Ltd and Others v. Ireland*, Commission decision, 1989.

102. *Paulino Tomás v. Portugal* (dec.), 2003; *Çelik and İmret v. Turkey*, 2004, § 59.

prove whether an AI system or another kind of algorithm was involved in the case in question. In cases of discrimination arising from activities within the lifecycle of AI systems, deployers and providers should not be exempted from liability solely because the discrimination has been ‘autonomously’ produced by the discriminatory system. Failure to reasonably prevent discrimination resulting from the activities within the lifecycle of AI systems should be regarded as a breach of a duty of care. Strict liability has previously been introduced in certain well-defined fields to cope with risks arising from technologies that can cause disproportionate harm to others.

On paragraph 27

84. Paragraph 27 leaves open the possibility for member States, where consistent with their existing legal obligations, to consider whether a moratorium or ban is appropriate in respect of certain AI systems where the risk to equality and non-discrimination is considered so high as to be unacceptable and that it is not possible to mitigate this risk by other preventive measures. As explained in paragraphs 111-112 of the Explanatory Report to the Framework Convention, the determination of what is “incompatible” in this context is made by the member State, as is the assessment of whether such a scenario would require a moratorium or ban, on the one hand, or another appropriate measure, on the other.

On paragraph 28

85. Finally, paragraph 28 refers to a number of bodies, including competent authorities which in this context include data protection authorities. Member States may, depending on the national context and the level of independence of these bodies, facilitate their cooperation.

V. Democratic participation, public awareness raising and capacity building

On paragraph 29

86. Paragraph 29 of the Recommendation underscores the need for member States to ensure that activities within the lifecycle of AI systems by public authorities are subject to adequate scrutiny. As highlighted in paragraph 31 of the present Explanatory Memorandum, where the importance of parliamentary oversight in the adoption of measures to promote equality and prevent discrimination in AI contexts is addressed, this can include, for example, regular parliamentary debates. Parliamentary oversight is essential to ensure that public authorities remain transparent and accountable in the development and deployment of AI systems, and to safeguard against potential risks arising from activities within the lifecycle of AI systems carried out by public or private actors, with a view to promoting equality, including gender equality, and preventing discrimination throughout the lifecycle of AI systems.

On paragraphs 30-31

87. The Recommendation is intended to reduce the impact of the digital divide, including the gender digital divide, meaning the gap between those who have access to digital technologies (including the internet and AI systems) and those who do not, which often arises due to systemic discrimination. The Recommendation also recognises that those marginalised by the digital divide include not only individuals without adequate access to digital tools, but also those who lack the opportunities to learn how to use them effectively. Limited access to AI systems and tools and to the educational programmes providing digital literacy to users can prevent individuals or groups from experiencing the benefits and advantages which they may offer, resulting in disadvantages in various sectors including education, employment, access to social welfare and healthcare. This in turn may limit social mobility and employability and entrench inequality, especially among young people from whom digital proficiency is most often expected or even required. It would also limit the impact of measures taken to increase diversity in employment in the tech sector. In the context of equality, including gender equality, and non-discrimination, if certain groups or individuals experience barriers to accessing AI tools, they will also likely be absent in datasets used to train AI systems, increasing the risk of biased outcomes being confirmed and amplified. It also makes it less likely that their needs will be reflected in the design and development of new systems. Member States should therefore consider how to overcome digital divides and ensure that all sections of society, in particular those at risk of discrimination have safe and reliable access to the internet and to opportunities ensuring digital literacy.¹⁰³ Such programmes should be supported by

¹⁰³. ‘Human rights by design – future-proofing human rights protection in the era of AI’, Recommendation of the Council of Europe Commissioner for Human Rights, 2023, p. 35.

adequate funding. Specific measures may include financial support to overcome paywalls for access to AI tools, allocating funding and resources for infrastructure development, digital literacy programmes, and initiatives aimed at reducing disparities, or the possibility for participation (for example, in consultations) in offline settings. Digital literacy programmes should be available in formal and non-formal education, and member States should consider providing them from an early age, as appropriate.

On paragraph 32

88. Technical standard setting can have a particularly acute impact on equality and non-discrimination as it can influence the definition and interpretation of legal standards in practice. However, such standard setting often takes place far from public scrutiny and involvement of organisations and individuals. Regarding the participation of civil society, underlined in paragraph 30 of the Recommendation, reference is made to Recommendation [CM/Rec\(2018\)11](#) on the need to strengthen the protection and promotion of civil society space in Europe. This instrument recommends that member States ensure everyone, including human rights defenders, can effectively participate in decision-making by providing full access to information and by conducting timely and transparent public consultations, particularly when policy development or draft legislation may affect civil society.¹⁰⁴ Additionally, the Heads of State and Government of the Council of Europe have reaffirmed, in the Reykjavik Declaration, that civil society is a prerequisite for a functioning democracy and committed to supporting and maintaining a safe and enabling environment in which civil society and human rights defenders can operate free from hindrance, insecurity and violence.¹⁰⁵ These commitments are directly relevant to the governance of AI systems, where civil society's participation in standard-setting processes is vital to ensuring that the legal and societal impacts of AI technologies, including on equality, are fully considered. Particular attention should also be given to the participation of young people or organisations representing them. To encourage young people to participate, member States could provide targeted educational programmes and engage in awareness-raising initiatives that would begin from an early age, aiming to develop their understanding and critical thinking regarding AI, equality, and non-discrimination. Awareness-raising materials should be available in multiple languages and be culturally adapted, including for populations with limited digital literacy.

89. By holding public consultations and providing transparent channels for input, member States can ensure that the development of AI systems is inclusive and transparent, and that it takes into account their broader societal implications in terms of equality, including gender equality, and non-discrimination.

90. Regarding targeted capacity building and training referred to in paragraph 30.3, such initiatives could particularly involve staff from providers and deployers of AI systems, as well as from independent oversight bodies.

VI. Competences and powers of independent oversight bodies

On paragraph 33

91. This Chapter focuses on competences and powers of independent bodies overseeing the application and implementation of anti-discrimination law such as Equality Bodies and as relevant other national human rights structures ("independent oversight bodies") in the context of activities in the lifecycle of AI systems. The institutional arrangements as well as the mandates of these bodies differs across Council of Europe member States, though in general, Equality Bodies have a more specific mandate and specialise in preventing and combating discrimination, whereas National Human Rights Institutions also address broader human rights issues.¹⁰⁶ Some member States also integrate all functions in to one institution.¹⁰⁷ Such bodies should have institutional and/or functional independence from member State authorities¹⁰⁸ and can often act as a more user-friendly mechanism for individuals to seek redress for discrimination, as well as challenging structural discrimination and inequality.

104. Recommendation [CM/Rec\(2018\)11](#) of the Committee of Ministers to member States on the need to strengthen the protection and promotion of civil society space in Europe, i.e. and f.

105. [United around our values - Reykjavik Declaration](#) (2023), p.16.

106. See ECRI's [General Policy Recommendation No.2 \(revised\) on equality bodies to combat racism and intolerance at national level](#), paragraphs 4 et seq.

107. See ECRI's GPR No.2 paragraph 7.

108. See ECRI's GPR No.2 paragraph 22.

On paragraph 34

92. The Recommendation takes as its starting point ECRI's GPR No. 2 on equality bodies to combat racism and intolerance at national level which provides that Equality Bodies should be assigned: the function to promote equality and prevent discrimination (promotion and prevention function); the function to support people exposed to discrimination and intolerance and to pursue litigation on their behalf (support and litigation function); and may also be assigned the function to take decisions on complaints (decision-making function). Support and litigation competences may include, for example, the functions of paragraph 14 of ECRI's GPR No. 2. The decision-making function can be shared between equality bodies and the judiciary or be assigned entirely to the judiciary. [Recommendation CM/Rec \(2021\)1 on the Development and Strengthening of Effective, Pluralist and Independent National Human Rights Institutions](#) states that member States should ensure that the mandate given to National Human Rights Institutions to protect and promote human rights is as broad as possible and in full compliance with the Paris Principles, and provides detailed guidance as to the content of such a mandate.

93. Taking account of ECRI's GPR No.2 and the variation in member States, paragraph 34 of the Recommendation provides a list of powers with which member States should, subject to the national context, endow independent oversight bodies. Importantly, the Recommendation also recognises that the corollary of assigning such rights and powers to these institutions is the provision of adequate resources and adequate operational independence and the ability to cooperate with other oversight bodies and organisations.

On paragraphs 35-37

94. It is also recommended that independent oversight bodies can participate in testing of new and innovative technologies, including through regulatory sandboxes, as above, if they choose to do so. Monitoring could take the form of situation testing where these authorities test the outcomes of a given system by comparing results for different groups. For instance, they could submit test CVs or credit applications from majority and minority groups to try and reveal discrimination in contexts where companies use AI systems. They could also conduct audits to detect potential bias if granted access to relevant systems. Such methods could support victims by mitigating existing obstacles to establishing *prima facie* discrimination. Such bodies may be able to prevent discrimination by co-operating with users of AI systems, for instance companies using such systems to support recruitment procedures – to collect relevant data on the impact of their decisions and eliminate bias. Independent oversight bodies could also be empowered to issue early warnings and recommendations in instances where algorithmic practices raise potential red flags regarding equality, even in the absence of individual complaints. Finally, they could assist potential victims in relation to obtaining redress. Civil society may also contribute to this exercise, depending on the national context.

VII. Further provisions

On paragraph 38

95. AI systems are increasingly relied upon as an information and decision-making tool in everyday life. In some sectors, the use of AI systems may have a particularly acute impact on equality, including gender equality, and non-discrimination. The Recommendation therefore calls for specific measures to be taken by member States in these sectors that are listed in paragraph 38 of the Recommendation, noting that this list is not exhaustive and that it may be appropriate for member States to adopt measures in relation to other sectors. In this context, member States should take measures to ensure that an appropriate level of human oversight is provided.

96. To promote transparency, Member States are encouraged to make available clear and accessible information regarding the use of AI systems across relevant sectors set out in paragraph 38 of the Recommendation. These could include national AI strategies and reports detailing the use of AI systems in specific domains and their actual or potential impact on equality including gender equality.

97. Member States should engage in gender mainstreaming and equality mainstreaming in order to effectively promote equality and prevent and combat discrimination in activities within the lifecycle of AI systems, in particular in sectors mentioned in paragraph 38 of the Recommendation.

98. The Gender Equality Strategy 2024-2029 explains that ensuring gender equality must be understood as a key component of a larger struggle to safeguard human rights and ensure social justice. It is essential to recognise the interdependence of these issues and work together to build a more equal, inclusive and sustainable society. Furthermore, the Strategy underlines that the integration of an intersectional approach

is crucial to ensure that the combined forms of discrimination and oppression experienced by some groups are addressed.¹⁰⁹ Equality mainstreaming is the systematic incorporation of equality and anti-discrimination considerations into all stages of the policy process at the level of the member States and of the Council of Europe.

99. Equality mainstreaming is based on the continuous assessment of the impacts on equality and non-discrimination of planned or implemented measures and decisions from the perspective of various groups and adjusting them accordingly. As such, it is a process that should be followed from the outset to the end of any given activity, including in its evaluation. The Committee of Ministers Recommendation on gender equality standards and mechanisms (CM/Rec(2007)17) emphasises the importance of adopting methodologies for implementing the gender mainstreaming strategy. Gender mainstreaming should be implemented in policy making, policy implementation and policy review.

100. To mainstream equality, a similar methodology is needed, which should provide clear guidelines and steps to incorporate the equality perspective into new policies and laws and to conduct an equality screening and assessment of existing ones to ensure equality in practice for all. These steps may include equality impact screening and assessment, equality planning, equality duties,¹¹⁰ integrating the equality perspective in budgeting, consultation and participation of disadvantaged groups and civil society, implementation, and monitoring.

Education

101. Access to education is a human right for all children and adults, on an equal basis and with equal opportunities, to ensure gender equality at all levels of education.¹¹¹ Children, due to their stage of development, have specific needs and rights that distinguish them from adults. As such, there is a need for child-focused regulations in the procurement and use of educational technology.¹¹² Moreover, the latest data highlights a persistent gender gap in research and innovation, with only 21% of doctoral graduates in information and communication technologies (ICTs) being women.¹¹³ Women remain underrepresented in STEM studies, making them in turn less likely to take advantage of labour opportunities in this field, including AI.¹¹⁴ Member States should therefore prioritise the participation of girls and young people in these educational fields.¹¹⁵ Member States should also facilitate the transition to the AI job market by providing access to training programmes, particularly for young women and young people from under-represented groups, granting funding and scholarships and supporting mentoring programmes.¹¹⁶ Furthermore, as gender stereotypes often lead to career choices that are shaped by stereotypical role assignments, member States should support programmes for stereotype-free career guidance.

102. Furthermore, member States should ensure that education institutions use AI systems in a way that is compatible with provision of a quality and inclusive education.¹¹⁷ For instance, facial recognition software, used as part of proctoring software designed to monitor student behaviour during online exams, can exhibit biases and lead to intersectional discrimination, including on grounds of race and gender.¹¹⁸ Particular attention should therefore be paid to the use of AI systems in selection and exam procedures, in the interest of avoiding discriminatory outcomes.

103. Member States should ensure the availability of digital literacy in education curricula, containing content to improve awareness of the right to equality, including gender equality in the context of AI systems.¹¹⁹

109. Council of Europe [Gender Equality Strategy \(2024- 2029\)](#), pp. 50-51.

110. Equality duties are positive legal obligations to promote equality and prevent discrimination, going beyond the general obligation to refrain from discrimination.

111. Recommendation [CM/Rec\(2007\)17](#) of the Committee of Ministers to member States on gender equality standards and mechanisms, paragraphs 24-25.

112. Preparatory study for the development of a legal instrument on regulating the use of artificial intelligence systems in education, Revised draft (March 2024), Digital Transformation Unit of the Education Department, Council of Europe.

113. European Commission: Directorate-General for Research and Innovation, *She Figures 2024 – Gender in research and innovation – Statistics and indicators*, Publications Office of the European Union, 2025.

114. CDADI/GEC Study (2023), p. 89; [Resolution 2343 \(2020\)](#) 'Preventing discrimination caused by the use of artificial intelligence', paragraph 6; and Gender Equality Index 2023, European Institute for Gender Equality (EIGE), pp. 12, 37.

115. Recommendation [CM/Rec\(2019\)1](#) on preventing and combating sexism, II.B.7.; [Resolution 2343 \(2020\)](#) 'Preventing discrimination caused by the use of artificial intelligence', paragraph 12.1.

116. CDADI/GEC Study (2023), p. 89.

117. Recommendation [CM/Rec\(2019\)1](#) on preventing and combating sexism, in particular II.G. 'Education institutions'.

118. CDADI/GEC Study (2023), p. 24.

119. Recommendation [CM/Rec\(2019\)1](#) on preventing and combating sexism, in particular II.B.2. See also CDADI/GEC Study (2023), p. 90; [Resolution 2343 \(2020\)](#) 'Preventing discrimination caused by the use of artificial intelligence', paragraph 12.3.; and [Human rights by design - future-proofing human rights protection in the era of AI](#) (2023) pp. 21-22.

Member States may wish to consider facilitating the co-design of digital literacy programmes with their target audience to ensure inclusivity. Children and young people, in particular, should be educated in an age-appropriate manner regarding the risks of online surveillance, cyberbullying, and data exploitation, as well as the implications of the use of AI systems for equality and non-discrimination more generally. Teachers at all levels should be provided with appropriate training and resources to facilitate this. Additionally, digital literacy should also be promoted through non-formal and informal education to complement formal education by offering accessible, community-based learning opportunities to ensure that lifelong digital competence is fostered beyond the classroom setting. Member States should make particular efforts to reach out to marginalised groups, as well as people at risk of discrimination and disadvantage, regarding digital literacy.¹²⁰ More broadly, they should promote knowledge of AI systems, including their impact on equality, including gender equality, and non-discrimination.¹²¹

Justice, the judiciary and law enforcement

104. The police and justice systems in Council of Europe member States are using AI systems, including applications such as predictive policing and risk assessment on remand, sentencing and parole.¹²² There are, however, a number of ways in which the use of AI systems in such fields may lead to discrimination.¹²³ For example, facial recognition is increasingly deployed for crime detection and prevention, but its accuracy has been shown to be biased in several cases, resulting in the misidentification of suspects and, in some instances, the wrongful incarceration of innocent individuals.¹²⁴ In relation to law enforcement and security, member States should therefore exercise caution with respect to identifying, assessing, preventing, and mitigating risks of discrimination arising from the use of facial recognition technologies or remote biometric identification systems in the law enforcement and security sectors, including where relevant by prohibiting their use. Predictive models used in policing, for example determining ‘hot spots’¹²⁵, sentencing decisions and predictive risk assessments used by police, courts or probation¹²⁶ may also result in a risk of discrimination. If more than one system is used this may result in a ‘chaining effect’ which happens when multiple systems feed each other.¹²⁷

105. The European Commission for the Efficiency of Justice (CEPEJ) adopted the first European text setting out ethical principles relating to the use of AI in judicial systems.¹²⁸ This text identifies the principle of non-discrimination as a core principle to be respected on the field of AI and justice, noting in particular the importance of specifically preventing the development or intensification of any discrimination between individuals or groups of individuals. The text underlines the potential risks of prediction in criminal matters, using AI tools that can reproduce unjustified and already existing inequalities in the criminal justice system.¹²⁹ With due regard for the independence of the judiciary and the right to a fair trial (Article 6 of the Convention), member States should therefore ensure that the use of AI systems within the judicial system prevents the development or perpetuation of any discrimination between individuals or groups of individuals, in particular through data analysis, training and exchange of information on practices relevant to the use of AI systems in court proceedings. More broadly, to enhance access to redress where appropriate, member States should strengthen transparency regarding the use of AI by public authorities, including judicial and law enforcement authorities.¹³⁰ Safeguards should be put in place to ensure that the use of AI systems in judicial proceedings does not lead to retraumatisation of victims and that AI systems are deployed using a trauma-informed and victim-centred approach.

120. Council of Europe Commissioner of Human Rights, [Unboxing Artificial Intelligence: 10 steps to protect Human Rights](#), 2019, p. 14.

121. ‘Human rights by design – future-proofing human rights protection in the era of AI’ (2023), pp. 21-22.

122. CDADI/GEC Study (2023), p. 22-23; [Resolution 2342 \(2020\)](#) ‘Justice by algorithm – The role of artificial intelligence in policing and criminal justice systems’, Parliamentary Assembly of the Council of Europe, paragraph 6.

For an example of good practice, see the adoption by the United Kingdom government of legislation requiring the public sector to disclose information on the role of algorithms in supporting decisions affecting individuals, as highlighted in ‘[Human rights by design – future-proofing human rights protection in the era of AI](#)’ (2023), p. 17.

123. Recommendation [CM/Rec\(2024\)5](#) of the Committee of Ministers to member States regarding the ethical and organisational aspects of the use of artificial intelligence and related digital technologies by prison and probation services, in particular paragraphs 3, 19 and 25.

124. CDADI/GEC Study (2023), pp. 22-23. More examples can be found in [Resolution 2342 \(2020\)](#) ‘Justice by algorithm – The role of artificial intelligence in policing and criminal justice systems’, paragraph 7.

125. [Fundamental Rights Agency, Bias in Algorithms – Artificial Intelligence and Discrimination](#) (2022).

126. [Algorithmic risk assessment policing models: Lessons from the Durham Constabulary HART model](#), OSWALD, Marion, GRACE, Jamie, URWIN, Sheena and BARNES, Geoffrey (2018), *Information and Communications Technology Law*, 27 (2), 223-250.

127. <https://research.northumbria.ac.uk/probablefutures/wp-content/uploads/2025/05/PROBABLE-Futures-Jan-13-Opening-Slides.pdf>

128. [European ethical Charter on the use of Artificial Intelligence in judicial systems and their environment](#), European Commission for the Efficiency of Justice (CEPEJ), 2018.

129. *Ibid.*, pp. 9, 79.

130. CDADI/GEC Study (2023), p. 85.

106. Law enforcement may be regarded as an area where discrimination is likely to arise and member States should therefore assess whether new regulations are necessary or if specific measures should be implemented to prevent discrimination.¹³¹

Electoral processes

107. AI systems provide an opportunity to improve democratic processes, in particular by making them more inclusive. For example, they can help citizens to gain a better understanding of politics and engage more easily in democratic debate, as well as improve the accessibility of electoral processes. In a similar way to that described in paragraph 46 of this Explanatory Memorandum, AI systems can also be used to identify or remove misinformation, which may target individuals or groups at risk of discrimination. However, significant risks are posed by the production and dissemination of disinformation and inaccurate information circulated, in particular during election periods, with the intention to mislead, including with regard to persons at risk of discrimination. AI is becoming more prevalent within applications used by voters to find information, whether they are aware or not, either through AI-enhanced search or productivity tools. AI-generated information may seem plausible, but it is often inaccurate. This lack of accuracy may be particularly harmful to voters and could be easily instrumentalised to the detriment of individuals or groups at risk of discrimination. The use of AI systems is also linked to the generation of digital forgeries and the amplification of societal biases. These can disrupt political campaigns, impact the broader public trust and discourage electoral participation and representation, which particularly affects women.¹³²

Labour and employment

108. In relation to labour and employment, member States should ensure that AI systems do not introduce, reproduce or amplify existing and emergent patterns of inequality and structural discrimination, and are used in a way that promotes equality including gender equality, diversity and inclusion in the workplace. In particular, this could consist of regular auditing of the outcomes of the use of AI in recruitment, promotion and other procedures; the involvement of employees and their representative organisations in policies or choices regarding the use of AI in decision-making in the workplace; monitoring of the impact of the introduction of AI systems in the workplace on gender equality and diversity in the workforce; and training and awareness-raising for the workforce on data bias, stereotypes and risks of discrimination in using AI systems. In addition, individuals at risk of discrimination are particularly exposed to poor or precarious working conditions which may be worsened by the growing use of AI systems in the workplace. Moreover, according to recent studies, many AI systems rely on labour-intensive data preparation, often outsourced under poor working conditions in the Global South, but also in Europe. Workers in data labelling and content moderation are exposed to severe exploitative conditions, including low wages, excessive monitoring, and exposure to distressing content. Many AI training datasets rely on underpaid or informal labour, exacerbating inequalities.¹³³ Member States should take measures to address exploitative working practices. Women are still largely underrepresented in the digital industry, the digital economy, and in research and science, and more exposed to job loss as a result of automation by generative AI.¹³⁴ However, women and individuals at risk of discrimination should be empowered to actively shape AI innovations and a gender-equal digital world. Member States should consider measures to help establish women as active players and decision-makers in the digital industry and economy. To this end, it is essential to promote the access of women to management positions and to support women as entrepreneurs in the digital industry.

109. More generally, when regulating the use of remote surveillance or monitoring software in relation to employees and students, member States should take into account the rise of working or studying from home and the particular challenges which this poses for privacy rights as well as the potential for discrimination.

110. There are also examples of AI systems being used to promote equality, including gender equality, in recruitment processes, by putting an emphasis on transparency, privacy, and accountability. For instance, removing potential points of bias from job applications, such as age, gender, nationality, and location. More generally, AI systems can be used to promote accessibility through disability-centred solutions such as live captioning algorithms for individuals who are deaf or hard-of-hearing, environment adaptation solutions to

131. See also EU AI Act (33).

132. *Freedom of Expression, Artificial Intelligence and Elections*, UNESCO, United Nations Development Programme (2025) CI-2025/FEJ/ME-1.

133. *Valuing Data Enrichment Workers: the Case for a Human-Centric Approach to AI Development*, United Nations (2023); *Artificial Intelligence for Workers, Not Just For Profit: Ensuring Quality in Jobs in the Digital Age*, European Trade Union (2025); *the Human Cost of DeepSeek*: Antonio A. Casilli, Thomas Le Bonniec, Julian Posada. *The Human Cost of DeepSeek*.1(1), DiPLab. 2025, pp.10 fffhal-04952735.

134. *Generative AI and Jobs: A Refined Global Index of Occupational Exposure*, ILO, May 2025.

make content and workplaces accessible, or solutions unlocking new work opportunities for people with disability, for example the targeted recruitment of neurodiverse people by data labelling companies.¹³⁵

Social services, housing and welfare

111. In relation to social services and welfare, the use of AI systems can lead to excluding or denying individuals access to and benefit from public services.¹³⁶ As underlined in the EU AI Act, “if AI systems are used for determining whether such benefits and services should be granted, denied, reduced, revoked or reclaimed by authorities, including whether beneficiaries are legitimately entitled to such benefits or services, those systems may have a significant impact on persons’ livelihood and may infringe their fundamental rights.”¹³⁷ In addition, the lack of accountability and transparency around the use of AI systems can lead to depriving affected persons from an explanation or the opportunity to appeal against the decisions.¹³⁸ Member States should ensure that when AI systems are used for determining whether social benefits, social services, housing assistance or welfare support should be granted, denied, reduced, revoked or reclaimed, including whether beneficiaries are legitimately entitled to such benefits or services, such uses do not cause discrimination or amplify existing inequalities.¹³⁹ The use of AI systems could take into account possible vulnerabilities of users of such services, including but not limited to their age, and necessary safeguards should be ensured.

Healthcare

112. The benefits of AI systems have been noted in relation to improving diagnostic and therapeutic outcomes for patients,¹⁴⁰ as well as in relation to the provision of medical services, including mental health services. At the same time, a number of issues resulting in a breach of equality, including gender equality, and discrimination have been identified in this field.¹⁴¹ These include, for example, the gender data gap in the healthcare sector, which leads to less reliable predictive systems when it comes to diagnosing female and gender diverse patients.¹⁴² Public policymaking for healthcare and further technological progress should be grounded in full respect for human rights, including social rights.¹⁴³ Consequently, member States should make all necessary efforts to mitigate the potential for discriminatory access to healthcare related to the use of AI systems.¹⁴⁴ Member States should also take measures to improve the reliability of analytic and predictive AI systems in the healthcare sector by addressing data gaps with regard to personal characteristics listed in paragraph 2 of the Recommendation and by ensuring that more diverse models are used to assess the risks and efficacy of drugs, therapies and other healthcare tools.

Migration

113. In the context of border control and management, and among other applications, AI systems are being employed for predictive purposes.¹⁴⁵ As underlined in the EU AI Act, “AI systems used in migration, asylum and border control management affect persons who are often in particularly vulnerable position and who are dependent on the outcome of the actions of the competent public authorities. The accuracy, non-discriminatory nature and transparency of the AI systems used in those contexts are therefore particularly important to guarantee respect for the fundamental rights of the affected persons, in particular their rights to free movement, non-discrimination, protection of private life and personal data, international protection and good administration.”¹⁴⁶ The Parliamentary Assembly has also stressed that AI should support – not replace –

135. [Using AI to support people with disability in the labour market: opportunities and challenges](#), OECD Artificial Intelligence Papers, No. 7, 2023.

136. CDADI/GEC Study (2023), p. 23.

137. [EU AI Act](#) (58).

138. CDADI/GEC Study (2023), p. 24, and ‘[Human rights by design – future-proofing human rights protection in the era of AI](#)’ (2023), p. 6.

139. CDADI/GEC Study (2023), pp. 22-23.

140. [Reply of the Committee of Ministers to Recommendation 2185 \(2020\)](#) on ‘Artificial intelligence in health care: medical, legal and ethical challenges ahead’ of the Parliamentary Assembly of the Council of Europe, paragraph 3.

141. CDADI/GEC Study (2023), pp. 25-26 and [Recommendation 2185 \(2020\)](#) on ‘Artificial intelligence in health care: medical, legal and ethical challenges ahead’.

142. CDADI/GEC Study (2023), p. 25, citing Criado Perez C, ‘Invisible women: Exposing data bias in a world designed for men’ (Random House 2019).

143. [Reply of the Committee of Ministers to Recommendation 2185 \(2020\)](#) on ‘Artificial intelligence in health care: medical, legal and ethical challenges ahead’, paragraph 2.

144. [Report on the ‘Application of AI in healthcare and its impact on the ‘patient-doctor’ relationship’](#), Steering Committee for Human Rights in the fields of Biomedicine and Health (CDBIO), noting the risk for bias and discrimination in the use of AI systems in health-care, in particular p. 27.

145. Recommendation [CM/Rec\(2020\)1](#) on the human rights impacts of algorithmic systems, paragraph 8.

146. [EU AI Act](#) (60).

human decision making in migration and asylum processes, even if in some cases, AI may offer greater security and effectiveness than human decision making alone, by reducing the scope for human error, and that AI systems in migration and asylum procedures should undergo human rights, democracy, and rule of law impact assessments before their deployment.¹⁴⁷ Member States should ensure that the use of AI systems in migration, asylum and border control and management is not discriminatory, or does not result in discrimination, by identifying, assessing, preventing and mitigating risks of discrimination. They should pay particular attention to the rights of women and girls and other individuals at risk of discrimination on the grounds listed in paragraph 2 of the Recommendation.¹⁴⁸

Banking, finance, insurance and other service sectors

114. There are a number of examples showing how algorithmic bias influences decision-making in the banking, financial, insurance and other service sectors where AI systems are used, leading to discrimination against service users.¹⁴⁹ Member States should therefore take measures to ensure that a framework is in place to prevent and identify biases and monitor outcomes of decision-making on customers as regards equality and non-discrimination. At the same time, AI systems can also be used to detect biased decisions.¹⁵⁰

Other areas in which the possible negative impact of AI systems should be monitored and, where appropriate, addressed

115. Beyond the sectors identified as carrying a risk to have particularly acute impact on equality, including gender equality, and non-discrimination, the Recommendation draws attention to other areas where member States are encouraged to monitor and, where appropriate, address the potential negative impacts of the use AI systems, such as media and advertising, and sports and culture.

116. AI is increasingly used in the sector of media and advertising, which may give rise to specific risks for equality, including gender equality, and non-discrimination, such as biased representations or the amplification of harmful stereotypes. In this regard, it is noted that AI systems could also be used to analyse large amounts of data and assess representations of women and people at risk of discrimination in online and physical advertising.¹⁵¹ To address potential negative impacts, member States could consider taking measures to ensure that where legislation, policies and regulatory frameworks to prevent and combat discrimination in media and advertising exist, such frameworks cover the use of AI systems, while respecting the independence of the media.¹⁵² Such measures could be complemented by specific training for journalists and other professionals in the sector on how to identify and combat sexism, racism, LGBTI-phobia and other hateful content, as well as other forms of discrimination, and on how to promote inclusive, positive and non-stereotypical portrayals of individuals and groups in media and in advertising.¹⁵³

117. AI systems are increasingly being used in sports due to their ability to quickly analyse large amounts of data, detect athletic patterns and trends, analyse performance, and produce and analyse statistics. In the field of injury prevention, for example, predictive analytics systems can generate alerts about possible muscle injury and significantly advance athlete performance, and in contact sports, AI systems have been used to develop monitoring systems that detect impacts and automatically assess their severity, thereby mitigating the risk of concussion for athletes. AI systems can also be used to analyse sports commentaries and demonstrate racial biases. In the United States, a research project using language processing algorithms revealed patterns of biased language that disproportionately attributed physical prowess to black athletes while white athletes were more often described using terms associated with intellect.¹⁵⁴ Moreover, if certain

147. [Resolution 2628 \(2025\) on AI and migration](#), Parliamentary Assembly of the Council of Europe, in particular paragraphs 4, 7, 15, 20, 28 and 29.

148. Recommendation [CM/Rec\(2022\)17](#) of the Committee of Ministers to member States on protecting the rights of migrant, refugee and asylum-seeking women and girls, in particular paragraphs 22-23.

149. *Ibid.*, pp. 21-22; 'Human rights by design – future-proofing human rights protection in the era of AI' (2023), p. 6; and EU AI Act (58).

150. CDADI/GEC Study (2023), p. 63.

151. CDADI/GEC Study (2023), p. 77.

152. Recommendation [CM/Rec\(2019\)1](#) on preventing and combating sexism, in particular II.B.1. and II.C. 'Media, advertising and other communication products and services'; Recommendation [CM/Rec\(2013\)1](#) of the Committee of Ministers to member States on gender equality and media, in particular Guideline A.1.; Recommendation [CM/Rec\(2007\)17](#) on gender equality standards and mechanisms, paragraph 47; and Recommendation [CM/Rec\(2022\)16](#) of the Committee of Ministers to member States on combating hate speech.

153. Recommendation [CM/Rec\(2019\)1](#) on preventing and combating sexism, in particular II.C.6., and Recommendation [CM/Rec\(2022\)16](#) on combating hate speech.

154. See "Can artificial intelligence help us understand racial bias in sports?", C. Brandon Ogbunu, 8 January 2020, available at <https://andscape.com/features/artificial-intelligence-racial-bias-in-sports/>.

groups are underrepresented in datasets used to train AI systems, these systems may reflect pre-existing biases, including gender biases, in sports culture and fail to produce inclusive and objective analysis. This could affect their health, but also impact decisions on recruitment, athletes' performance assessment, and resource allocation, leading to disadvantages for certain athletes or groups of athletes, such as emerging talent from underrepresented groups being overlooked, and thereby perpetuating inequalities in sports.

118. In relation to culture, AI systems can unintentionally perpetuate stereotypes, including gender stereotypes, for instance if the data used to train algorithms is biased toward dominant cultural narratives. AI systems can also replicate systemic inequalities, which can be further compounded by concerns surrounding copyrights and intellectual property where content is extracted from minority cultures, without the knowledge, involvement and consent of affected groups.¹⁵⁵ At the same time, by featuring individuals from diverse backgrounds and regions in their outputs, AI systems have the potential to enhance cultural representation of historically under-represented persons and groups. The potential for the promotion of regional and minority languages has already been mentioned. In fields where women are underrepresented in media coverage or where their achievements are undervalued, such as sports,¹⁵⁶ AI systems can contribute to the equal visibility of women by challenging gender stereotypes and traditional gender biases.

On paragraph 39

119. The Recommendation emphasises that member States remain bound by their existing human rights obligations, notably those concerning non-discrimination and equality, including gender equality and whilst they are encouraged to do so, notes that they are not required to apply the Recommendation to activities within the lifecycle of AI systems which directly concern the protection of their national security interests. Such limitations should not go further than those set out in Article 3(2) of the Framework Convention and its Explanatory Report.¹⁵⁷

155. See, for example, Guidelines given the latest technological developments, such as AI, complementing Council of Europe standards in the fields of culture, creativity and cultural heritage, March 2025.

156. "All In Plus: Promoting Greater Gender Equality in Sport", Analytical report of the data collected: insights into trends and progress, February 2025, Joint European Union - Council of Europe project, which highlights both progress and persistent disparities in gender equality across European sport.

157. See further, Explanatory Report to the Framework Convention paragraph 32.

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The Council of Europe is the continent's leading human rights organisation. It comprises 46 member states, including all members of the European Union. All Council of Europe member states have signed up to the European Convention on Human Rights, a treaty designed to protect human rights, democracy and the rule of law. The European Court of Human Rights oversees the implementation of the Convention in the member states.

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