

## Learning resources<sup>1</sup>

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### Equinet Training, Opening AI’s Black Box: How to find cases of algorithmic discrimination

#### Session 1: Uncovering automated bias: Equality Bodies in action

- **German Federal Antidiscrimination Agency-funded “AutoCheck” Project** (developed by AlgorithmWatch) – tool enabling antidiscrimination counsellors to identify cases of suspected algorithmic discrimination on the basis of questions asked to the complainant. Clarification: in the German context, antidiscrimination counsellors are frontline caseworkers who are the first point of contact for complainants and handle the complaints at that first phase.
- **Swedish Social Insurance Inspectorate’s Report “[Profiling as a selection method for directed controls](#).”**
- **Equinet Report “[Regulating for an Equal AI: A New Role for Equality Bodies](#)”** (2020), written by Robin Allen QC & Dee Masters. Finding cases - *specific excerpts of relevance*: p. 34-35 and Appendix 1.
- **Equinet Good Practice Guide on AI and Equality Bodies** (2020), developed to the support the promotion of Equinet AI Report (see above). *Specific excerpts of relevance*: p 7-8.
- **Case study\*** “[Algorithmic allocation of school places by local authorities in England and Wales](#)”, UK Equality and Human Rights Commission, [Legal analysis](#) and litigation strategy developed as part of Equinet’s [AI Clinic for equality bodies](#) (February 2022).

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<sup>1</sup> Materials referenced or shared during the AI Training and AI Cluster meeting in December 2022.

- Relevance in the context of this training: example of how to **identify different types of algorithms used in a case as well as possible relevant data sets** and examine connection with protected grounds. Mention of the implications of an algorithmic system potentially discriminating on the ground of **disability** (suspected discrimination against children with special learning needs).
    - \* Note that the example used is fictional but based on a composite of real cases.
- **Equality Ombudsman of Sweden**, [Transparency, training and data. Government use of AI and automated](#) - summary in English. For more information, see [presentation](#) and contact Christina Jönsson ([Christina.Jonsson@do.se](mailto:Christina.Jonsson@do.se)), Equality Ombudsman of Sweden.
- **Equality Ombudsman of Sweden**, [Report on transparency, training and data](#) - summary in English. Relevance: analysis of the applicability of the Swedish non-discrimination legislation to AI discrimination cases. For more information, see [presentation](#) and contact Christina Jönsson ([Christina.Jonsson@do.se](mailto:Christina.Jonsson@do.se)), Equality Ombudsman of Sweden.
- **Case study** “[Automated decision-making systems used by the Dutch Tax Authorities to calculate the amount of child care benefits](#), (Syri case),” The Netherlands Institute for Human Rights, [Legal analysis](#) and litigation strategy developed as part of Equinet’s [AI Clinic for equality bodies](#) (February 2022). For a summary of the case and further resources, see [here](#).
  - Relevance in the context of this training: example of how to **identify different types of algorithms used in a case as well as possible relevant data sets**. Example of how to analyze and make sense of the underlying **algorithmic code** for the purpose of identifying discrimination.
- [Equinet Handbook on Strategic Litigation](#) (2018). Finding cases - *specific excerpts of relevance*: chapter 5 on sourcing cases.
- [Stanford AI Index Report 2021](#). For a global overview of where most private investment in AI goes by industry see Chapter 3.
- [R \(Edward Bridges\) v. South Wales Police](#) (a UK challenge to police use of facial recognition technology) – example of **effective use of expert** to prove (among other things) that, without **access to the training data** for the technology, the police would not be able to sufficiently convince itself that the technology was not biased on the basis of race or gender. **Data protection case** with separate discussion on **equality implications**.

## Session 2: Critical alliances: media and civil society partners

- **Amnesty Tech Programme** projects uncovering human rights breaches by algorithmic systems:
  - Ban the Scan Campaign - <https://banthescan.amnesty.org/>
  - Pegasus investigations – <https://forbiddenstories.org/about-the-pegasus-project/>
  - Surveillance Giants which hold’s big tech to account on their use of targeted (surveillance) advertising: <https://www.amnesty.org/en/documents/pol30/1404/2019/en/>
- **Amnesty Tech, Xenophobic machines**: [Discrimination through unregulated use of algorithms in the Dutch childcare benefits scandal](#) - detailed analysis of the case as part of Equinet’s [AI Clinic for equality bodies](#) (February 2022). See more detailed reference above.

- **Amnesty’s Algorithmic Accountability Lab (AAL) – Research Project** “Automated-Decision Making Systems in the EU and their impact on economic, social and cultural rights – 3 case studies”, For more information contact: Hellen Mukiri-Smith, Researcher/Adviser on AI and Human Rights, [hellen.mukiri-smith@amnesty.org](mailto:hellen.mukiri-smith@amnesty.org)
- **Algorithmic Accountability Lab (AAL)**, Project “Technical investigations of algorithmic decision-making systems - **algorithmic auditing**”, For more information contact: David Nolan, Senior Investigative Data Scientist, [david.nolan@amnesty.org](mailto:david.nolan@amnesty.org)
- **Amnesty International Litigation Work**, [Serbia: Social Card law could harm marginalized members of society – legal opinion](#). **Opinion of the Serbian Commission for the Protection of Equality** on the case sent to all registered training participants (will be made available in the password-protection section of the AI website).
- [AlgorithmWatch forced to shut down Instagram monitoring project after threats from Facebook](#), Nicolas Kayser-Bril
- [Automating poverty](#) Investigative Journalism Series, The Guardian
- [Big Tech - Investigating how the government is gathering and using our data and the companies it is paying to do so](#), The Bureau of Investigative Journalism.
- [AlgorithmWatch Automating Society Report](#), (2021). For specific case studies by country, see [here](#).
- [AlgorithmWatch Newsletter “Automated Society”](#) – subscribe to receive regular updates.

### Session 3: Critical alliances: Equality Bodies working with national public regulatory bodies and with government

- [Council of Europe Course on Algorithmic Discrimination](#) (specifically targeting and involving equality bodies) – **Important:** potential funding available for the course to be developed (in national language and involving national stakeholders) in cooperation of with other equality bodies across Europe (thus far the French Defender of Rights and the UK Equality and Human Rights Commission have benefitted from funding to develop this course for their own staff and building general awareness on how non-discrimination law applies to cases of algorithmic discrimination). **CoE contact:** [menno.ettema@coe.int](mailto:menno.ettema@coe.int)
- [Councill of Europe’s Work on AI systems: overview](#)
- **Defender of Rights of France**, [Report “Biometrics: the urge to safeguard fundamental rights” \(2021\)](#)
- **Defender of Rights of France**, [Survey “Perception of the development of biometric technologies in France – Between lack of information and request for supervision” \(2022\)](#) (in French, accessible through automatic translation tools). Targeting the general population and evidencing, among other things, the lack of awareness by the majority of the population on the use of biometric technologies.
- **Defender of Rights of France and French Data Protection Authority**, [Recommendation to government on algorithmic discrimination \(2020\)](#)
- **Equality and Anti-discrimination Ombud of Norway**, Participation in government-established regulatory sandbox (issuing guidance to AI system developers – example for a healthcare system application)
  - **Video presentation** by Kathinka Theodore Aakenes-Vik, Equality and Anti-discrimination Ombud of Norway - will be made available in the [password-protection section](#) of the AI website.

- For more information **contact:** Kathinka Theodore Aakenes-Vik, [kathinka.vik@ldo.no](mailto:kathinka.vik@ldo.no)
- **AI4Belgium**, Belgian government-established and coordinated Grassroot Community of AI Experts enabling Belgian Citizens and Organizations to capture the Opportunities of AI.
  - **Belgian Interfederal Centre for Equal Opportunities (UNIA)** is a member of AI4Belgium's *Working Group AI Ethics & Law*.
  - Powerpoint **presentation** of this government-led platform was sent to all registered training participants and will be made available in the password-protection section of the AI website. For more information **contact:** Nele Roekens, [Nele.Roekens@unia.be](mailto:Nele.Roekens@unia.be)
- **Swedish Gender Equality Agency** – work on two sandbox-projects with central government and issued a report on their impact assessment method. For further information **contact:** Ragnar Andersson ([Ragnar.Andersson@do.se](mailto:Ragnar.Andersson@do.se))
- **British Trade Union Congress**, [Work and the AI Revolution](#) (2021)
- **UNI Global Union's** "[Algorithmic management - a trade union guide](#)" (2022)
- [EU Digital Economy and Society Index \(DESI\)](#), which tracks digital progress made in EU Member States in key areas, thus pointing you where [your respective member state](#) is developing AI capacities and focusing future investments.
- [Digital Public Administration factsheets Infographics per EU member states](#) (2021) – short and accessible summaries about the state of public services digitalization in your respective EU member state. Unlike the reports under the DESE index above, this only focuses on public services as one subset of state-driven digitalization areas.
- [Digital Public Administration factsheets Infographics per EU member states](#) – 2021, to find about the state of public services digitalization in your state thus where to look for cases
- [Transformer States: A Series on Digital Government and Human Rights](#), New York University School of Law, The Center for Human Rights and Global Justice.
- [OECD.AI Policy Observatory](#) (2021) – helpful, among many things, to identify relevant public regulators in national AI policy documents in order to receive cases through them.
- "[Review into Bias in Algorithmic Decision-Making](#)" Summary (2020), UK Centre for Data Ethics and Innovation. *Specific excerpts of relevance:* see p. 23 for an example of mapping of relevant national public and private sector regulators, including their different tools for tackling AI discrimination.

## Equinet Cluster on Artificial Intelligence, Second Meeting, 2 December

### Session 1: Updates by members\*

**\*Summary of national updates by all meeting participants will be developed later and sent to all participants (please check [this article](#) in the dedicated AI website for updates)**

**Finish Government Working Group** for the coordination of research, foresight and assessment activities ( under the leadership of the Prime Minister's Office), [Study](#) and Impact Assessment Tool "[Promoting equality in the use of Artificial Intelligence – an assessment framework for non-discriminatory AI](#)"

**Austrian Public Employment Service (litigation), [Austrian court case against the deployment of an algorithmic system profiling job-seekers](#) (further updates to follow from Austrian colleagues)**

**UK Equality and Human Rights Commission, [Guidance on AI for public authorities](#)**

- **Equality Ombudsman of Sweden**, New governmental assignment to map the use of automatic decision-making and AI in **Swedish working life** and assess **employers' knowledge about discrimination risks**. The reports should be finished in November 2023. For further information **contact**: Ragnar Andersson ([Ragnar.Andersson@do.se](mailto:Ragnar.Andersson@do.se))
- **UN Report “[Digital technology, social protection and human rights](#)”** (2019), **Special Rapporteur for extreme poverty**. For a critical analysis of the digitalization of public services across the world with recommendations that are relevant also for the effective enforcement of non-discrimination law. Emphasis on the **digital divide** (that is, lack of access to digital technology and lack of digital literacy by much of the population).
- **[UN Special Rapporteur on Disability's recent report on AI and disability](#)** – this report addresses the applicability of the UN human rights framework inter alia to cases of algorithmic discrimination. Discussion on the **digital divide**.

## Session 2: Using the General Data Protection Regulation to tackle algorithmic discrimination

- **FRA publications on AI and algorithms:**
  - [Bias in algorithms - Artificial intelligence and discrimination | European Union Agency for Fundamental Rights \(europa.eu\)](#) (**just released – December 2022**) – specific recommendations on equality bodies
  - [Getting the future right – Artificial intelligence and fundamental rights](#) (2020)
  - [Facial recognition technology](#) (2019)
  - [Handbook on European data protection law](#) (2018)
  - [Discrimination and algorithms](#) (2018)
  - [Data quality and AI](#) (2019)
- **EU Data Protection Law:**
  - [Regulation \(EU\) 2016/679](#) on the protection of natural persons with regard to the processing of personal data and on the free movement of such data.
  - [Directive \(EU\) 2016/680](#) on the protection of natural persons regarding processing of personal data connected with criminal offences or the execution of criminal penalties, and on the free movement of such data.
  - [Regulation 2018/1725](#) sets forth the rules applicable to the processing of personal data by European Union institutions, bodies, offices and agencies
- [Understanding the algorithmic black box: Discriminatory effects of pricing algorithms – what protection do data protection law and anti-discrimination law provide?](#), E-lecture by Juan Carlos Benito Sánchez, European Rights Academy (ERA).

## Session 3: European Union's Proposal for a Regulation on Artificial Intelligence: state of play and potential implications for the legal protection against discrimination

**AWO AI Act weekly newsletter** – write to [laureline@awo.agency](mailto:laureline@awo.agency) to subscribe. Recommended by Amnesty Tech representative as a trustworthy and helpful sources of all updates on the Act.

[Proposal for a Regulation on laying down harmonised rules on Artificial Intelligence](#)

[Legislative Train Schedule](#) - content rich and easy to understand way to visualise the development of the EU AI Act

**European Parliament Legislative Observatory**, [Artificial Intelligence Act](#)

[Issue papers drafted by Civil Society Organisations on the different priorities under the AI Act](#)

[Joint CSO Open letter on the draft Council Compromise](#)

[An EU Artificial Intelligence Act for Fundamental Rights - A Civil Society Statement](#). The following organizations issued this statement: EDRI, Bits of Freedom, Panoptykon Foundation, European Disability Forum (EDF), Platform for International Cooperation on Undocumented Migrants (PICUM), Algorithm Watch, Access Now, European Center for Not-for-Profit Law (ECNL), Fair Trials

Further resources on **liability and digital technology** (mentioned during the discussion on the future AI Act):

- [EU Product Liability Directive](#), Consolidated text: Council Directive 85/374/EEC of 25 July 1985 on the approximation of the laws, regulations and administrative provisions of the Member States concerning liability for defective products.
- European Commission, [Inception impact assessment on adapting the EU liability rules to the digital age and circular economy](#), 30 June 2021.
- European Commission, Overview of [EU legislation on liability for defective products](#).
- European Commission, [Comparative law study on civil liability for artificial intelligence](#), November 2020.
- European Commission, [Report on safety and liability implications of AI, the Internet of Things and Robotics](#), 19 February 2020
- European Parliament, European Parliament Research Service, [Civil liability regime for artificial intelligence](#), September 2020
- European Parliament, commissioned by Directorate-General for Internal Policies of the Union, [Artificial intelligence and civil liability](#), 20 October 2020.
- European Parliament, [Resolution on a civil liability regime for artificial intelligence](#), (2020/2014(INL))
- European Law Institute, [Innovation Paper on Guiding Principles for Updating the Product Liability Directive for the Digital Age](#), 2021.
- European Law Institute, [Webinar on the need for updating the EU Product Liability Directive](#), 23 February 2021.