AI and fundamental rights: implications for the work of law enforcement

Jana Gajdosova
Head of Programme Just, Digital and Secure Societies

EU Agency for Fundamental Rights

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A rights-based approach

• Several guidelines and recommendations on an ethical approach for the use of AI
  – European Commission HLEG on AI
  – Council of Europe CEPEJ Ethical Charter

• Human rights-based approach: always a starting point
  – Human rights are binding
  – Human rights put the responsibility on the state
  – Vast experience in human rights protection
  – Focus on harm (McGregor et al. 2019)
FRA’s work on AI and its fundamental rights implications

• Focus paper on discrimination (May 2018)
• FRA’s guide on preventing unlawful profiling (December 2018)
• Focus paper on data quality and AI (June 2019)
• Focus paper on facial recognition technology (November 2019)
• Larger project on the use of AI in EU Member States (results in 2020) ...
Fundamental rights impacted on by AI

• Private and family life and data protection (articles 7 and 8)
• Non-discrimination (Article 21)
• Gender equality (Article 23)
• Right to effective remedies and fair trial (Article 47)
• Presumption of innocence and right of defence (Article 48)
• Good administration (Article 41)
• Freedom of expression and information (Article 11)
• ...
Discrimination when using algorithms

- Strong legal basis in European and international law
  - European Union (TEU, TFEU, Charter of FR)
  - Council of Europe (ECHR Protocol 12)
  - United Nations
- Using data for prediction can lead to discrimination against protected groups, including the grounds of
  - sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation
Discrimination against individuals

- Discrimination due to several reasons
  - Biased data
  - Low quality data
  - Different base rates
Ways forward?

• **Increase our knowledge and the literacy** of people involved in and affected by the use of AI

• **Algorithms must be audited**, to demonstrate their lawfulness and compliance with fundamental rights

• At the level of policy development, we need a strong collaboration across different actors, institutions and disciplines
Thank you!

Jana.Gajdosova@fra.europa.eu
@JGajdosovaFRA

fra.europa.eu