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Article 77

Powers of Authorities Protecting Fundamental Rights

Plixavra Vogiatzoglou & Laura Drechsler

ARTICLE 77. POWERS OF AUTHORITIES PROTECTING FUNDAMENTAL RIGHTS

1. National 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. The relevant public authority or body shall inform the market surveillance authority of the Member State concerned of any such request.
2. By 2 November 2024, each Member State shall identify the public authorities or bodies referred to in paragraph 1 and make a list of them publicly available. Member States shall notify the list to the Commission and to the other Member States, and shall keep the list up to date.
3. Where the documentation referred to in paragraph 1 is insufficient to ascertain whether an infringement of obligations under Union law protecting fundamental rights has occurred, the public authority or body referred to in paragraph 1 may make a reasoned request to the market surveillance authority, to organise testing of the high-risk AI system through technical means. The market surveillance authority shall organise the testing with the close involvement of the requesting public authority or body within a reasonable time following the request.
4. Any information or documentation obtained by the national public authorities or bodies referred to in paragraph 1 of this Article pursuant to this Article shall be treated in accordance with the confidentiality obligations set out in Article 78.

RECITALS

(157) This Regulation is without prejudice to the competences, tasks, powers and independence of relevant national public authorities or bodies which supervise the 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. A specific safeguard procedure should be set for ensuring adequate and timely enforcement against AI systems presenting a risk to health, safety and fundamental rights. The procedure for such AI systems presenting a risk should be applied to high-risk AI systems presenting a risk, prohibited systems which have been placed on the market, put into service or used in violation of the prohibited practices laid down in this Regulation and AI systems

which have been made available in violation of the transparency requirements laid down in this Regulation and present a risk.

RELATED ARTICLES

Article 2 (Scope); Article 3 (Definitions); Article 5 (Prohibited AI Practices); Article 6 (Classification rules for high-risk AI systems); Article 70 (Designation of national competent authorities and single points of contact); Article 73 (Reporting of serious incidents); Article 74 (Market surveillance and control of AI systems in the Union market); Article 78 (Confidentiality); Article 79 (Procedure at national level for dealing with AI systems presenting a risk); Article 82 (Compliant AI systems which present a risk); Article 84 (Union AI testing support structures).

RELATED LAWS

Race Equality Directive; Equal Treatment in Goods and Services Directive; Equal Treatment Directive; Audiovisual Media Services Directive; GDPR; Law Enforcement Directive; TFEU; Charter; Market Surveillance Regulation; Digital Services Act.

RELATED CASE LAW

Åkerberg Fransson (Case C-617/10): Case C-617/10, *Åklagaren v. Hans Åkerberg Fransson*, 7 May 2013, ECLI:EU:C:2013:105.

Meta Platforms and Others (Case C-252/21): Case C-252/21, *Meta Platforms Inc., formerly Facebook Inc., Meta Platforms Ireland Limited, formerly Facebook Ireland Ltd, Facebook Deutschland GmbH v. Bundeskartellamt*, 4 July 2023, ECLI:EU:C:2023:537.

Schrems II (Case C-311/18): Case C-311/18, *Data Protection Commissioner v. Facebook Ireland Limited and Maximilian Schrems*, 16 July 2020, ECLI:EU:C:2020:559.

SCHUFA (Joined Cases C-26/22 and C-64/22): Joined Cases C-26/22 and C-64/22, *SCHUFA Holding*, 7 December 2023, ECLI:EU:C:2023:958.

COMMENTARY

1 Purpose

Chapters VII-IX of the AI Act set up the governance and enforcement systems at the EU and national levels.¹ Article 77, in particular, addresses the national public authorities and bodies already tasked under EU law with protecting fundamental rights at the domestic level. The AI Act is not meant to interfere with the existing system and allocation of powers of ex-post enforcement of obligations regarding fundamental rights in the Member States.² Instead, the provision clarifies what powers these authorities or bodies may exercise under the AI Act and defines requirements of publicity and confidentiality.

Article 77(1) establishes the power to request and access any documents created or maintained in line with the AI Act obligations. For example, under Article 11 of the AI Act, technical documentation of high-risk AI systems must be drawn up before that system is placed on the market or put into service. This power is vested in national public authorities or bodies which supervise or enforce the respect of obligations under Union

¹ See also AI Act Commission Proposal, Title VI, at 15.

² *Ibid.*

law protecting fundamental rights, such as data protection supervisory authorities and equality bodies. Where these public authorities or bodies need information on the use of high-risk AI systems to be able to perform their tasks and fulfil their mandate, they should be able to access that documentation in an accessible language and format.³ Any request must be notified to the national market surveillance authority (MSA), which, according to Article 3(26), is the national authority carrying out the activities and taking the measures pursuant to Market Surveillance Regulation.

Article 77(2) seeks to ensure that information on the provisions' personal scope of application, that is, the national public authorities or bodies subject to it, is publicly available. To that end, Member States are called upon to identify these authorities and provide a list to the Commission and other Member States. Additionally, this list must be kept up to date.

Article 77(3) enables the national public authorities or bodies to request the testing of a high-risk AI system under specific conditions. First, such a request may be made after access to documentation has been provided and said documentation has proven insufficient to ascertain whether there has been a violation of fundamental rights obligations under EU law. Second, the request must be reasoned. The testing is to be organized by the responsible market surveillance authority within a reasonable time.

Finally, according to Article 77(4) and as broadly prescribed within the AI Act, the national public authorities or bodies must adhere to confidentiality requirements when handling any documentation provided to them in line with the Regulation regarding the use of high-risk AI systems.

2 Legal Background

2.1 *International*

The CAI has been working on the Council of Europe's AI Convention. The preparatory 'Zero Draft', which served as the basis for the Convention, foresaw the establishment or designation of national supervisory authorities tasked with overseeing and supervising compliance with the risk and impact assessment requirements prescribed by the draft.⁴ The provision did not discuss the issue of accessing documentation regarding the use of AI systems. The final text of the AI Convention refers instead to effective remedies and effective oversight mechanisms.⁵ Accordingly, contracting parties must adopt or maintain measures:⁶

to ensure that relevant information regarding artificial intelligence systems which have the potential to significantly affect human rights and their relevant usage is documented, provided to bodies authorised to access that information.

The AI Convention provides rather vaguely described mechanisms of effective oversight, which, if 'different from existing human rights structures', must effectively cooperate with the latter 'where practicable'.⁷

Insofar as data protection supervisory bodies specifically are concerned, the Council of Europe Convention for the protection of individuals with regards to the processing of personal data (Convention 108 +) similarly foresees investigatory powers, obligations

3 *Ibid.*

4 AI Convention, Revised Zero Draft (6 Jan. 2023), Art. 29.

5 AI Convention, Arts 14 and 26. This difference of approach was already documented in the previous versions, that is CAI, Consolidated Working Draft of the AI Convention (7 Jul. 2023), Arts 13 and 25; AI Convention, 2nd reading (18 Dec. 2023), Arts 14 and 26.

6 AI Convention, Art. 14(2)(a).

7 *Ibid.*, Art. 26(4).

of confidentiality concerning information they have access to, and the agreement of cooperation and mutual assistance between the national data protection supervisory authorities.⁸ To that end, the designated authorities must be communicated to the Secretary General of the Council of Europe.

In the international legal landscape, it is also worth noting the Principles relating to the Status of National Human Rights Institutions, also referred to as the Paris Principles, defined in 1991 and endorsed by the UN General Assembly in 1993.⁹ The importance of these principles is widely recognized, including at the EU level.¹⁰ The requirement to ‘obtain any information and any documents necessary for assessing situations falling within [the national human rights institution’s] competence’ is included amongst the principles.¹¹

2.2 EU

Prior guidance on AI at an EU level did not address external governance and oversight questions. For instance, the HLEG only refers to the need to ensure communication channels with public oversight groups and mechanisms that:¹²

can complement but cannot replace legal oversight (e.g. in the form of the appointment of a data protection officer or equivalent measures, legally required under data protection law).

At the time, it seems that it was data protection supervisory authorities that were primarily envisaged as taking up the role of overseeing the implementation of the ethics guidelines for trustworthy AI systems by organizations.

National data protection supervisory authorities (DPAs) have long been established in the EU, first through the Data Protection Directive and subsequently through the EU data protection reform package.¹³ The latter, comprising the GDPR and the LED, reinforced the powers, tasks and internal coordination of DPAs. The establishment of (independent) data protection authorities to oversee compliance with data protection rules is also foreseen in EU primary law, under Article 16(2) TFEU and Article 8(3) of the Charter.

Member States may task DPAs with enforcing both the GDPR and the LED, as is mainly the case across the EU or provide for different authorities controlling the two instruments, respectively.¹⁴ DPAs are vested with investigatory powers, including obtaining any information required and accessing all personal data necessary to perform their tasks.¹⁵ As also confirmed by the CJEU, the investigatory powers that the DPAs enjoy are extensive.¹⁶ Publicity requirements are not as explicit; under the GDPR, Member States have a broad obligation to notify the Commission of all domestic laws that are adopted pursuant to the GDPR Chapter on the supervisory authorities (Chapter VI). Cooperation with other public authorities or bodies is not regulated by EU data protection law either. Conversely, the confidentiality requirement for DPAs is repeated under both the GDPR and the LED.¹⁷

8 Convention 108+, Arts 15(2), (8) and 16.

9 UN, General Assembly Resolution 48/134, Principles relating to the Status of National Human Rights Institutions (Paris Principles) (20 Dec. 1993).

10 FRA 2010, at 11–12.

11 Paris Principles, Methods of Operation.

12 HLEG Guidelines, 23.

13 GDPR, ch. VI; LED, ch. VI.

14 LED, Art. 41(3). Commission LED Report 2022, 11.

15 GDPR, Art. 58(1); LED, Art. 47(1).

16 See *SCHUFA* (Joined Cases C-26/22 and C-64/22), para. 57; *Schrems II* (Case C-311/18), para. 111.

17 GDPR, Art. 54(2); LED, Art. 44(2).

Other highly relevant public authorities or bodies that supervise or enforce the respect of obligations under Union law protecting fundamental rights, including the right to non-discrimination, are, evidently, the national equality bodies. The latter are established in line with several EU directives adopted to promote and safeguard the principle of equality and the right to non-discrimination.¹⁸ However, EU law does not specify investigatory powers or methods of cooperation for equality bodies. Albeit equality is to be implemented through an entire title and numerous rights under the Charter, supervision by equality bodies is not explicitly foreseen therein either.¹⁹

Potentially pertinent for Article 77 are also regulatory and supervisory authorities in the media and digital services sectors. Under the recently agreed European Media Freedom Act (EMFA) and in line with the Audiovisual Media Services Directive, dedicated regulatory authorities or bodies at a national level must be in charge of ensuring compliance with the EU rules seeking to safeguard the freedom of expression and information and other Charter rights in the media sector.²⁰ The EMFA similarly foresees that such authorities or bodies are empowered to request access to ‘information and data that are proportionate and necessary for carrying out [their] tasks’.²¹ Competent authorities must also be appointed to supervise and enforce the Digital Services Act, which seeks to ensure that citizens exercise their fundamental rights, as guaranteed in the Charter, in the online environment.²² Under the Digital Services Act, Member States must designate one of their national competent authorities as the Digital Services Coordinator, and communicate their names to the public and the Commission.²³ As of late, national Digital Services Coordinators range from telecommunications, media, competition, consumer and other authorities.²⁴

Besides, there are national public authorities or bodies tasked with supervising or enforcing the respect of fundamental rights at large. Also referred to as National Human Rights Institutions (NHRIs), in line with the Paris Principles mentioned above, these bodies vary in status and nature.²⁵ At the EU level, a permanent European Group of NHRIs is established to facilitate the work and cooperation of NHRIs and their effective engagement with the UN, the Council of Europe, and the EU.²⁶ As identified in a 2020 report by the EU Agency for Fundamental Rights (FRA), AI poses both opportunities and challenges for NHRIs.²⁷ Accordingly, NHRIs can be crucial in establishing effective enforcement mechanisms and facilitating access to justice for individuals negatively affected by automated decisions. However, the report also identifies several challenges in handling complaints, such as the potential need for more expertise in NHRIs and establishing strong collaboration across different actors, institutions, and disciplines, including cooperation with the bodies overseeing AI-related issues.

Article 77 regulates how the various national fundamental rights authorities or bodies may collaborate with the MSAs. In principle, those are set up according to Market Surveillance Regulation, which provides a broader framework for market surveillance and product compliance in the internal EU market. Insofar as high-risk systems are used for law enforcement purposes or purposes listed in sections 6, 7 and 8 of Annex III, MSAs

18 Race Equality Directive, Art. 13; Equal Treatment in Goods and Services Directive, Art. 12; Equal Treatment Directive, Art. 20.

19 CFR, Title III.

20 Council EMFA 2024, Rec. 6 and Arts 2(12) and 7; AVMSD, Art. 30.

21 EMFA, Art. 7(4).

22 DSA, Rec. 3 and Art. 49.

23 *Ibid.*, Art. 49(3).

24 Commission DSC 2024.

25 FRA 2020a, 5–9.

26 *Ibid.*, at 9.

27 *Ibid.*, at 90–91.

may be either the competent DPAs under the GDPR or the LED, ‘or any other authority designated pursuant to the same conditions laid down in Articles 41 to 44 [LED]’.²⁸

2.3 National

As discussed in the 2020 FRA report mentioned above, some NHRIs have started to consider how digitalization and AI may affect them in carrying out their tasks.²⁹ For instance, one of the core topics of the Dutch NHRI’s Strategic Plan 2020–2023 is to demonstrate how digitalization can impact an array of human rights beyond privacy and data protection, such as labour market discrimination. Going a step further, the Equality Ombudsman in Sweden may obtain information on AI-relevant circumstances and, in principle, supervise AI-relevant situations.

2.4 Case Law

Insofar as Article 77 addresses national public authorities or bodies supervising or enforcing fundamental rights obligations under EU law, the room for relevant European jurisprudence is narrow. On the one hand, there are no CJEU rulings regarding the functioning of equality bodies established in line with the aforementioned equality directives.³⁰ On the other hand, the more prolific case law on DPAs primarily focuses on the independence requirements and intra- and extra-EU cross-border cases.³¹ Nevertheless, a recent CJEU court ruling commented on the cooperation between national competition authorities and national data protection supervisory authorities.³² More specifically, in the *Meta Platforms and Others* case, the CJEU highlighted that:³³

the various national authorities involved are all bound by the duty of sincere cooperation enshrined in Article 4(3) TEU. Under that principle, in accordance with settled case-law, in areas covered by EU law, Member States, including their administrative authorities, must assist each other, in full mutual respect, in carrying out tasks which flow from the Treaties, take any appropriate measure to ensure fulfilment of the obligations arising from, inter alia, the acts of the institutions of the European Union and refrain from any measure which could jeopardise the attainment of the European Union’s objectives.

Therefore, the principle of sincere cooperation should equally bind the collaboration between national public authorities or bodies supervising or enforcing fundamental rights obligations under EU law and MSAs.

3 Analysis

Article 77 forms part of the enforcement section of the AI Act and is particularly targeted at improving the framework of protection of human rights affected by high-risk AI systems. However, the drafting of Article 77 is dense and leaves several issues unaddressed, namely (1) the exact scope of application in relation to the subjected human rights bodies; (2) the type of testing these bodies can require from MSAs; and (3) how the interaction of all these authorities will function in practice.

28 AI Act, Art. 74(8). For the functioning and powers of the MSAs, *see*, in particular, commentaries on Arts 70 and 74 in this volume.

29 FRA 2020b, 92.

30 According to a search performed by the authors within the CJEU database.

31 *See, for example*, CJEU 2021, 56–64.

32 *Meta Platforms and Others* (Case C-252/21), para. 53.

33 *Ibid.*

3.1 *Scope of Application: Public Authorities and Bodies (Article 77(1) and (2))*

The most apparent difference between the proposed formerly numbered Article 64 and the final text of the now-numbered Article 77 is the title change and deletion of the first two paragraphs.³⁴ In particular, the scope of the article shifted from ‘access to data and documentation’ to ‘powers of authorities protecting fundamental rights’. As a result, the provision no longer regulates investigatory powers by supervisory authorities at large; instead, it is dedicated solely to national public authorities or bodies tasked with protecting fundamental rights. These revisions were put forth by the Council without explicit justification.³⁵ However, by moving the first two paragraphs into the now-numbered Article 74 (under the newly added paragraphs 12 and 13,³⁶ the intention seems to be to clearly distinguish between the MSAs on the one hand and the rest public authorities and bodies enforcing human rights obligations on the other.

It should nonetheless be noted that a different approach had been suggested by, i.e., the EDPB and EDPS. Accordingly, their Joint Opinion considered that, given the interconnection of competencies between supervisory authorities, the DPAs should act as MSAs.³⁷ It can be questioned to what extent the final approach clearly distinguishes between the powers of the different supervisory authorities.

Among the phrasings that remained almost identical between the Commission proposal and the final text is the reference to:³⁸

[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.

The subjective scope of application of the provision is ambiguous. In particular, it is unclear to what authorities and bodies the provision is meant to provide the power to access available documentation. The question can be raised whether Article 77 addresses authorities or bodies that supervise or enforce the respect of human rights obligations only insofar as those obligations are set up under EU law (excluding national law). The phrase added by the Council explicating that the right to non-discrimination is included in the protected fundamental rights is equally confusing. The reference to one specific fundamental right is not further motivated. As broadly recognized, AI in general, and high-risk AI in particular, can gravely impact various fundamental rights. Perhaps the addition is motivated by the fact that equality bodies established under the EU directives, as discussed above, do not enjoy a wide range of powers and, indeed, not investigatory powers. As such, the Council might have intended to ensure that equality bodies, too, have the power to access documentation under the AI Act. Read that way, however, the scope of the provision seems restricted to authorities or bodies established on the basis of primary or secondary EU law, excluding any other human rights bodies established through national law. On the other hand, obligations to protect fundamental rights at

34 Apart from narrowing down its scope, the provision remained largely unaltered throughout the heavy negotiatory period. The minor additions primarily seek to clarify and strengthen the text, for instance, by adding a reference to the right to non-discrimination and requiring access to documentation to occur ‘in accessible language and format’ under Art. 77(1).

35 AI Act Council Proposal.

36 See Drechsler & Vogiatzoglou, Art. 74, in this volume.

37 EDPB-EDPS 2021, 14–15. See also Ebers et al. 2021, 600. See also Schmidl & Rohner, Art. 70; and Drechsler & Vogiatzoglou, Art. 74, in this volume.

38 AIA, Art. 77(1).

a domestic level broadly emanate from the Charter.³⁹ In that sense, potentially, any public authority or body tasked with safeguarding fundamental rights guaranteed in the Charter should fall under the scope of application of Article 77, regardless of the existence of a dedicated provision under EU law. This would include, for example, public authorities safeguarding the fundamental right to a high level of consumer protection under Article 38 of the Charter, which are set in accordance with domestic law.⁴⁰ Such a broader interpretation of Article 77 scope of application would better align with the AI Act's purpose of:⁴¹

ensuring a high level of protection of ... fundamental rights enshrined in the Charter of Fundamental Rights.

The lack of clarity born by the phrasing of Article 77(1) is partly compensated by the fact that Member States are obliged to communicate to the Commission a list of authorities or bodies falling in its scope as per Article 77(2). The notification of these lists must happen within three months of the entering into force of the AI Act, while the lists must also be published at the national level. Still, given the above-described uncertainties, there is a risk that Member States will come to different conclusions regarding the domestic public authorities or bodies to which Article 77 refers. It remains to be seen whether the Commission will seek to ensure a widely harmonized interpretation of this article and intervene when Member States over- or under-include such authorities and bodies in their lists.

3.2 *Powers and Obligations: Access to Data and Documentation and Testing (Article 77(1), (3) and (4))*

Article 77 enables public authorities or bodies 'to request and access any documentation created or maintained under this Regulation' and to request the organization of testing concerning 'the use of high-risk AI systems referred to in Annex III'. Commendably, the AI Act creates various obligations to develop and maintain documentation about high-risk AI systems for an extended period of time under its Chapter III, Section 2. Those include, for instance, technical documentation and the automatic recording of events (logs).⁴² These obligations should ensure that sufficient documentation on high-risk AI systems is, in principle, available to help human rights bodies in their investigations.

Regrettably, the power to access documentation and request system testing is limited to high-risk systems. However, it has been noted that GPAI may still raise fundamental rights concerns.⁴³ In this vein, human rights authorities should have been awarded a broader power to access documentation on all AI systems, in order to be able to properly investigate systems that may be considered as general-purpose AI but still risk violating rights. Furthermore Article 77(1) only refers to Annex III instead of Article 6, according to

39 In line with CFR, Art. 51, Member States must respect the rights, freedoms and principles guaranteed therein both when implementing EU law into their national legal order and when derogating from EU law as foreseen in the EU Treaties. *See, for example, Åkerberg Fransson (Case C-617/10)*, paras 17–21.

40 Secondary consumer protection law does not set up a dedicated public authority as, for example, data protection law foresees. Under the Regulation on the enforcement of consumer protection laws, a competent authority is 'any public authority established either at national, regional or local level and designated by a Member State as responsible for enforcing the Union laws that protect consumers' interests'. Reg. (EU) 2017/2394 of the Parliament and of the Council of 12 Dec. 2017 on cooperation between national authorities responsible for the enforcement of consumer protection laws and repealing Reg. (EC) No 2006/2004, OJ. L. 345, 1-26 (27 Dec. 2017), Art. 3(6).

41 AIA, Art. 1(1).

42 *Ibid.*, Arts 11 and 12.

43 Edwards 2022, 21–22.

which AI systems covered by the Union harmonization legislation listed in Annex I, can be considered high-risk when certain conditions are met. This aligns with Article 2(2), according to which only parts of the Regulation apply to these high-risk systems. Therefore, public authorities or bodies can only exercise their powers in relation to high-risk AI systems listed in Annex III.

National human rights bodies are further entitled to request to the MSA to organize a testing of the high-risk AI system, when the accessed documentation is insufficient to ascertain whether an infringement of EU fundamental rights law obligations has occurred. In this context, however, a likely oversight relates to the testing public authorities or bodies protecting fundamental rights can request from MSAs. The AI Act foresees testing high-risk AI systems in real world conditions, inside or outside regulatory sandboxes.⁴⁴ The lack of reference to any of these provisions alludes to the possibility of any testing being requested by the human rights authority or body.

Finally, Article 77(4) reiterates the requirement to treat all accessed documentation with confidentiality as per Article 78. This requirement, albeit meant to protect intellectual property,⁴⁵ might also hinder accessing and communicating with, for example, civil society, important information that is restricted for security purposes.⁴⁶

3.3 *Potential Barriers to the Enforcement of the AI Act by National Human Rights Authorities and Bodies*

The impact of Article 77 and these newly found powers will depend on the entire structure of the AI Act.⁴⁷ Besides potential barriers to accessing documentation due to the abovementioned confidentiality requirement, for public authorities or bodies to use their powers, they must become aware of a potential breach. However, as set out in the regulation, the providers of high-risk AI systems must comply with their duty of information and notify the MSAs.⁴⁸ There is no equivalent duty of information towards the public authorities or bodies subject to Article 77. It can be questioned to what extent this provision will actually be made use of or only create hypothetical powers. In other words, insofar as these bodies are unaware of the risk that AI systems might violate rights, they are unlikely to use these powers.

More generally, a crucial concern raised before the text was finalized concerned the existence of individual redress or complaint mechanisms.⁴⁹ This is partially addressed by the final AI Act, with the newly added Article 85 enshrining the right to lodge a complaint with an MSA. This right is without prejudice to other administrative or judicial remedies.⁵⁰ In practice, citizens who seek redress for potential breaches of their fundamental rights by AI systems will likely face a complex landscape of authorities and bodies with different competencies for different procedures and remedies. Adding to that, it can be questioned whether the national authorities protecting fundamental rights are ready to exercise their newly afforded powers. It has been broadly noted how national authorities lack the substantive standards to evaluate potential breaches of the AI Act.⁵¹ While DPAs may have a better understanding of AI and its impact on fundamental rights, particularly the right to personal data protection, those, too, run the risk of becoming ‘overwhelmed, under-resourced and inaccessible to those who are impacted

44 See AIA, Arts 57–60.

45 AI Act Commission Proposal, 11.

46 See also Erdoğan, Art. 78, in this volume.

47 See in reference to the proposed Art. 64, Busuioc et al. 2023, 96–97.

48 AIA, Art. 21.

49 Veale & Borgesius 2021; Ebers et al. 2021, 599.

50 See Kotschy, Art. 85, in this volume.

51 Ebers et al. 2021, 599.

by AI systems'.⁵² Even more so, the structure, functions and powers of equality bodies throughout the EU vary immensely.⁵³ The EU equality directives have been criticized for not providing sufficient thresholds of independence, resources and powers, resulting in fragmentation across national equality bodies, with some lacking tools that are crucial for effectively performing their tasks.⁵⁴

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⁵² Edwards 2022, 22.

⁵³ Kádár 2018, 3–4 and 8 (2018).

⁵⁴ *Ibid.*

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