



EU gender equality law
Seminar for members of the judiciary

ARTIFICIAL INTELLIGENCE AND GENDER EQUALITY

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*recruiting software has an **impact** on future **career prospects** and the livelihoods of persons*

WHAT IS THE ROLE OF EU LAW IN ENSURING NON-DISCRIMINATION?

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OVERVIEW

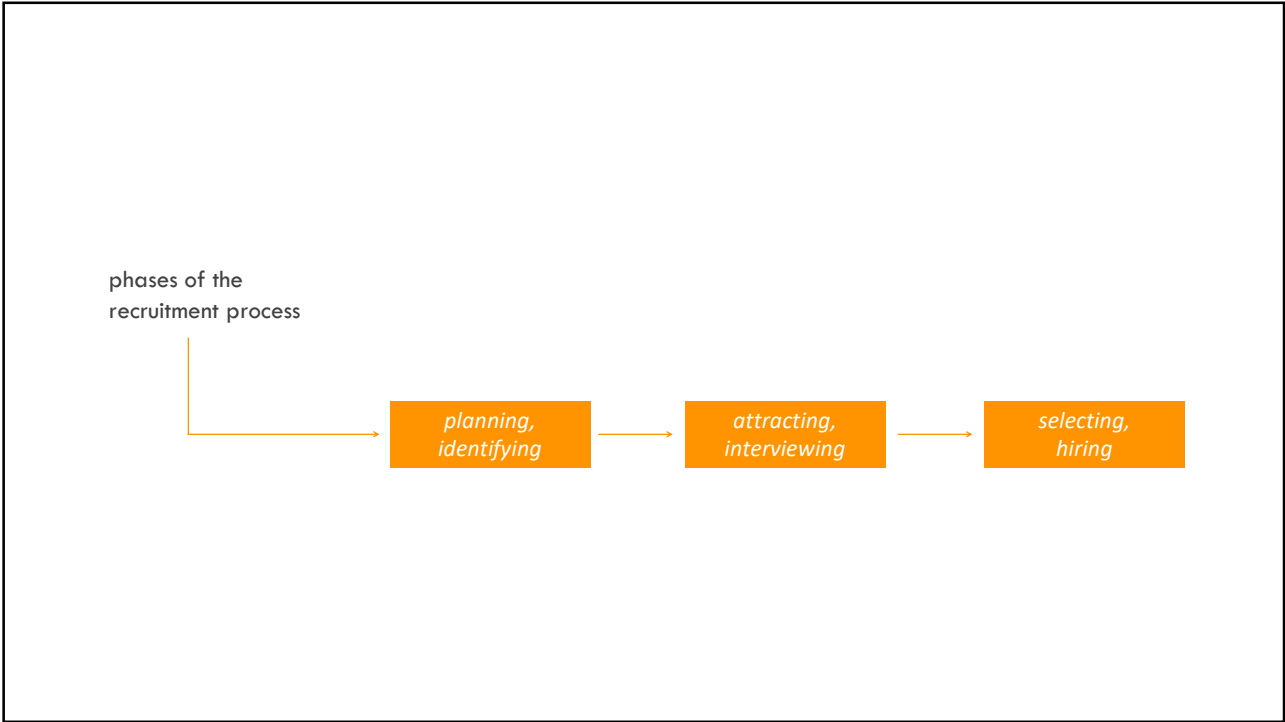
- 1  AUTOMATING RECRUITMENT AND SELECTION PROCESSES
- 2  RISKS
- 3  REGULATORY CHALLENGES
- 4  RECENT DEVELOPMENTS

3

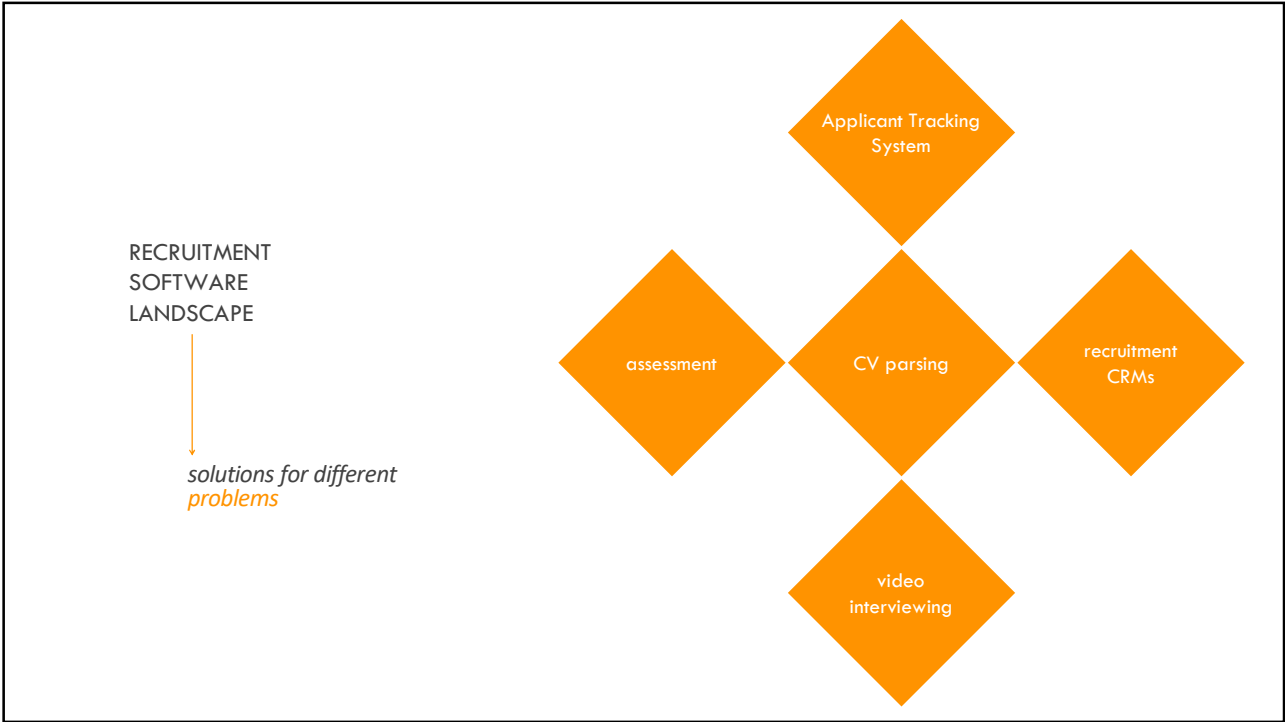
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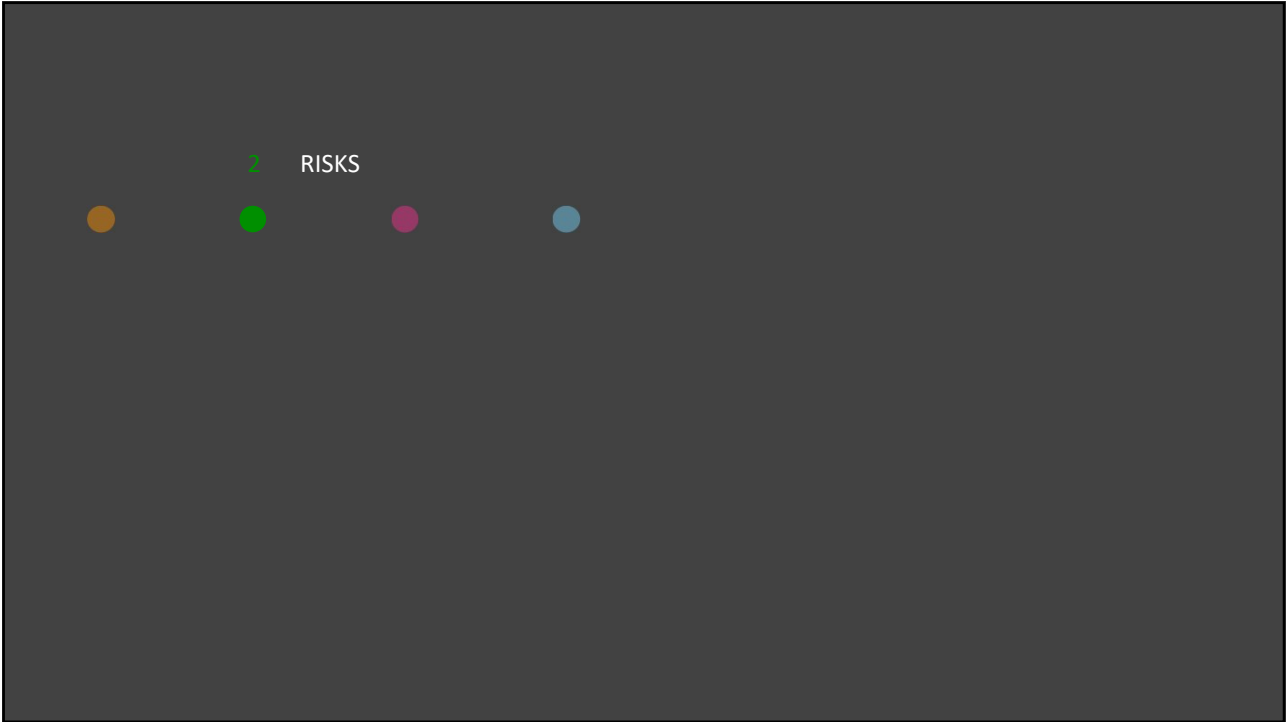
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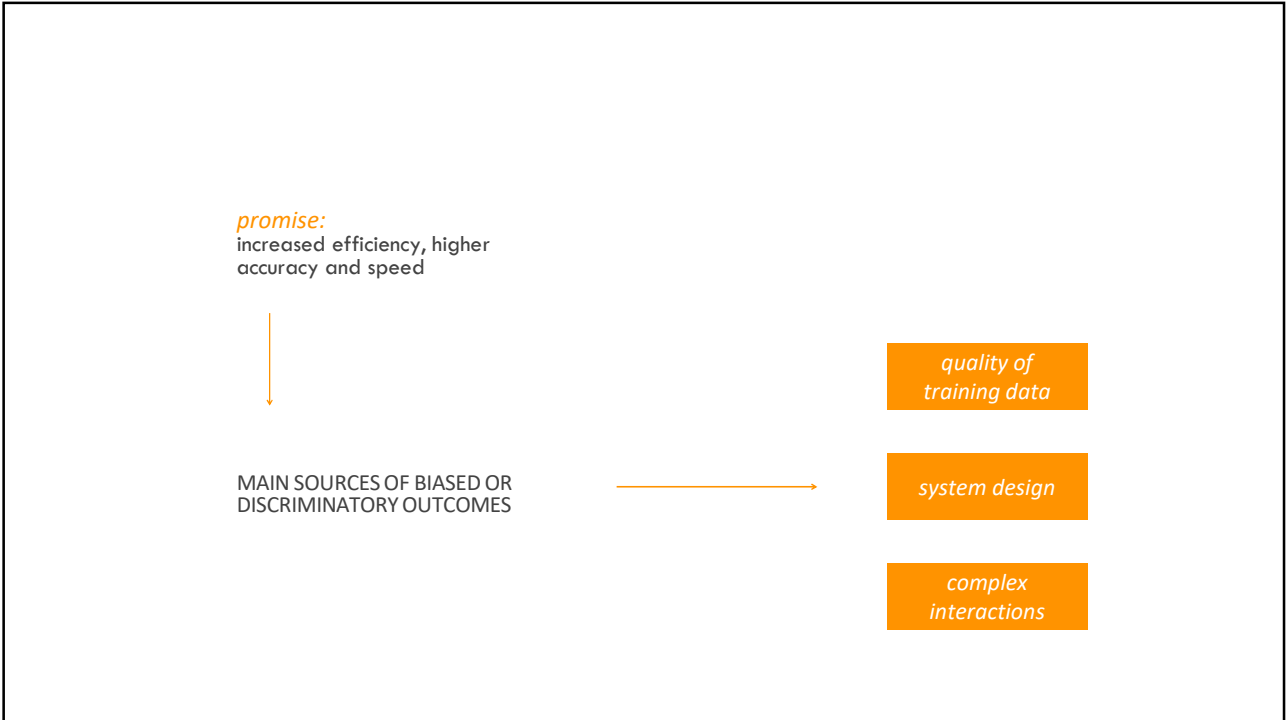
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3 REGULATORY CHALLENGES



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profiling:
abstract nature &
drawing of inferences



TO WHAT EXTENT DO (A COMBINATION OF DIFFERENT) ATTRIBUTES
BELONG TO THE PROTECTED GROUNDS?



*not all biased decisions can be classified as discriminatory within a
legal sense*

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QUESTIONS

- *How to balance the different interests of the (successful) job applicants at stake?*
- *Can profiling and inferences made about an individual be considered as 'personal data' within the GDPR?*
- *How to deal with so-called 'proxy discrimination'?*

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4 RECENT DEVELOPMENTS



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COM (2021) 206 FINAL

European Commission proposal of 21 April 2021
on a 'Regulation Laying Down Harmonised Rules on
Artificial Intelligence'

- »»» primary aim: proper functioning of internal market
- »»» harmonising rules on the *development, placing on the Union market and the use of products and services making use of AI technologies or stand-alone AI systems*

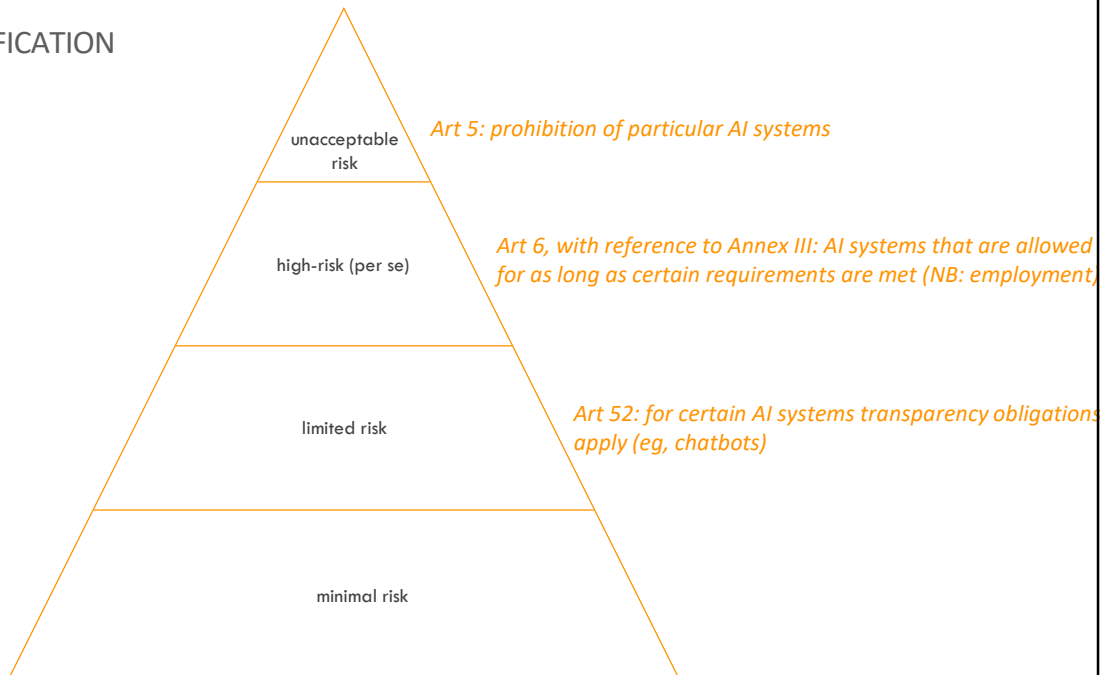
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issues being raised:



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RISK CLASSIFICATION



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REQUIREMENTS

provider, ie company developing recruiting software (Art 16):

- ▶ requirements set out in Art 8-15
- ▶ quality management system (Art 17)
- ▶ technical documentation
- ▶ automatically keeping logs
- ▶ assessment procedure, prior to its placing on the market or putting into service
- ▶ registration (Art 51, 60)
- ▶ corrective actions if not in conformity with Art 8-15

user, ie any natural or legal person, public authority, agency or other body using an AI system under its authority (Art 29):

- ▶ use high-risk AI systems in accordance with provider's instructions
- ▶ ensure that input data is relevant in view of purpose of high-risk AI system
- ▶ monitor operation of system on basis of instructions
- ▶ keep the logs automatically generated
- ▶ use information provided under Art 13 to comply with obligation to carry out data protection impact assessment under Art 35 GDPR

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THANK YOU

