

The determination of the risk of algorithmic systems in a future horizontal regulation on artificial intelligence should be based on a combination of the severity of the potential damage and the probability of its occurrence and comprise at least four different risk categories entail different legal obligations. An increased risk potential of an algorithmic system must be accompanied by a higher degree of regulatory intervention. For the algorithmic systems in the lowest risk category, no further legal obligations should apply. A pre-defined set of criteria should be used to define the risk potential of an application or a scope of application. These criteria should include:

1. The quality and integrity of the collected and processed data
2. The intensity of the possible violation of rights, by taking into account:
 - a) the depth of the potential damage caused;
 - b) the number of persons affected;
 - c) the sum of potential damages, since on the one hand, there may be particularly intensive individual cases of rights violations and, on the other hand, there may be particularly frequent minor rights violations whose sum nevertheless has social relevance.
3. The impact on fundamental rights and freedoms;
4. The impact on society and the environment, including:
 - a) material/monetary damage and welfare effects for individuals or groups, for example in the allocation of resources or access to markets;
 - b) social implications, such as social, psychological, cultural and economic dimensions;
 - c) the systemic relevance for the functioning of society and democracy, such as elections, the formation of public opinion or the creation of socially useful infrastructure;
 - d) the impact on environmental sustainability, such as its energy consumption, the use of raw materials or effects on the climate.
5. The likelihood of the occurrence of damage including:
 - a) the role of the algorithm in taking the decision;
 - b) the dependence of the persons impacted, for example private sector services in competitive environments versus public services provided by the state or services by a market dominant company;
 - c) the reversibility of the consequences of a decision.