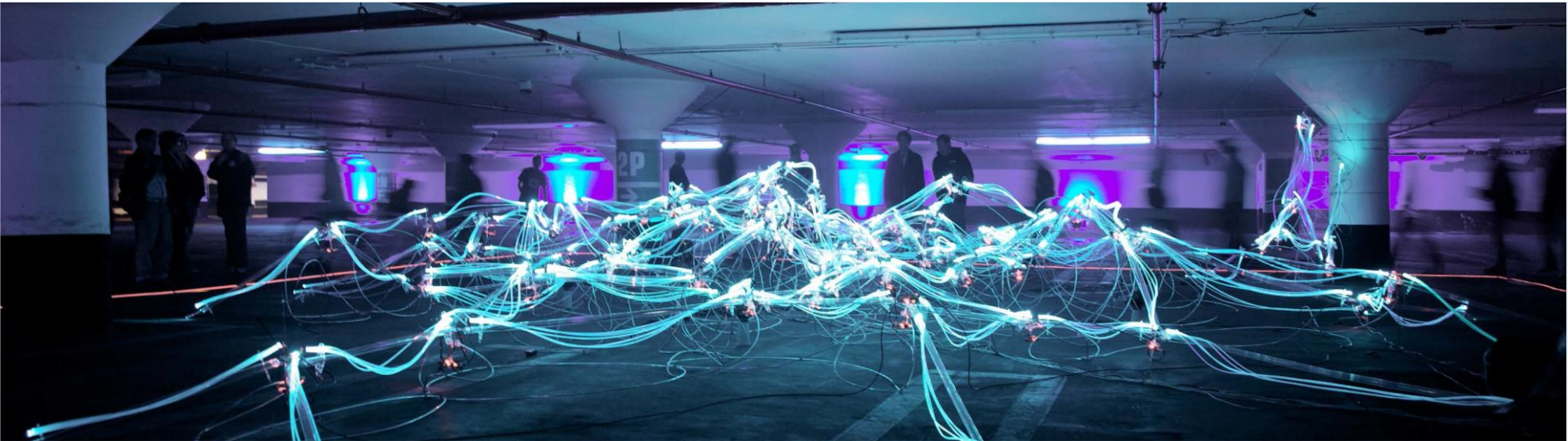


PELS RIJCKEN



Drafting standard clauses for the procurement of AI

Jeroen Naves

25 May 2023



Background on the AI Clauses

- The AI Clauses are based on the Standard Clauses for Procurement of Trustworthy Algorithmic Systems that were developed by the City of Amsterdam in 2018.
- After the European Commission published its proposal for the AI Act in 2021, a first draft of a European version of the clauses was prepared in consultation with the EC.
- This version is based on the EC's proposal for the AI Act, supplemented with articles from the Amsterdam Clauses. This version targets in particular AI systems classified as 'high-risk'.
- In preparation for these workshops, a new draft was prepared (version 0.9.1), in which minor improvements were made based on feedback received.
- A first draft of a light version was also prepared. This light version of the standard contractual clauses targets in particular non-high risk AI systems.



Purpose of the AI Clauses

- The AI Clauses are intended for public organizations wanting to procure an AI System and anticipating the enactment of the AI Act.
- They can, of course, also be used by non-governmental organizations.
- The AI clauses are written in such way that they can be appended to a contract with more generic (general) terms and conditions.



Services
contract



General
terms and
conditions



AI Clauses



Content of the AI Clauses

- The clauses are divided into six sections (Section A – Section F). Section A contains the definitions.
- Section B (Essential requirements in relation to the AI-system) is largely based on Chapter II of the proposed AI Act (Requirements for High-risk AI Systems), supplemented by a provision on explainability from the Amsterdam Clauses (Article 7).
- Section C (Obligations of the Supplier in relation to the AI System) contains some provisions based on Chapter III of the proposed AI Act (Obligations of Providers and Users of High-risk AI Systems).
- Section D (Rights to use the Data Sets) contains provisions on the use of Data Sets, based on the Amsterdam Clauses.
- Section E (AI register and audit) and section F (Costs) are more generic in nature.



Relevance of the proposed AI Act

- Despite the fact that the proposed AI Act is subject to ongoing negotiations and the text of the AI Act is thus not final, the AI Act contains best practices in the field of the regulation of AI that can be used when contracting on AI.
- Using some of the obligations of the proposed AI Act in contractual clauses, is a way of minimising the risks to health, safety or fundamental rights that may emerge when AI is used at this time. This is particularly relevant for AI systems identified in the proposed AI Act as high-risk AI systems.
- By using particular obligations of the proposed AI Act in contractual clauses, you anticipate on the AI Act.
- For now, the AI Clauses will in principle follow the AI Act as proposed by the EC. Once a final version of the AI Act is available, a new version of the AI Clauses will be drafted.

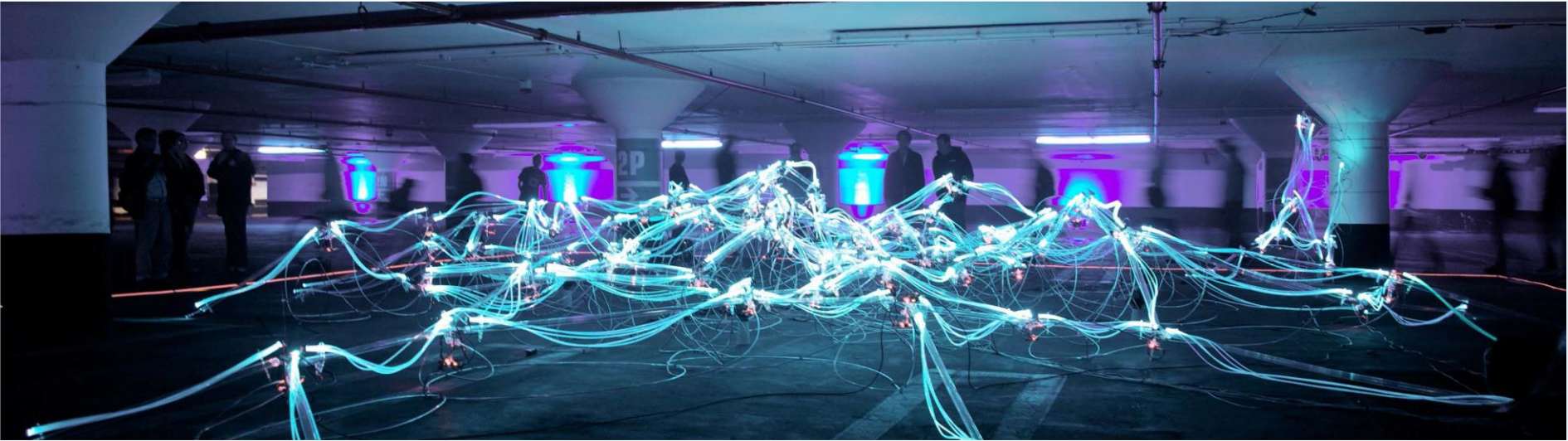


Purpose and approach of the workshops

- The purpose of the workshops is to gather feedback that can be used in the preparation of a new draft of the AI Clauses (version 1.0).
- We are looking for all kinds of feedback:
 - Are the AI Clauses practicable?
 - How to deal with vague terms from the AI Act?
 - Are any clauses missing?
 - What terms should be part of the light version of the AI Clauses?
 - Etc.



- Feedback will be collected in two ways:
 - During the breakout sessions we will discuss key parts of the AI Clauses.
 - Feedback can also be sent after the workshops.
- The feedback will be written down on a Miro board.
- There will be three rounds with three breakout sessions:
 - Breakout session round 1: Section B and Section C of the AI Clauses (today)
 - Breakout session round 2: Section D and Section E of the AI Clauses (June 7)
 - Breakout session round 3: other aspects of the AI Clauses (the structure, annexes, light version, how to deal with vague terms, missing clauses etc.) (June 7)
- The breakout sessions will be moderated by myself and my colleagues Bram Kleinhout and Hèlen Haaijer.



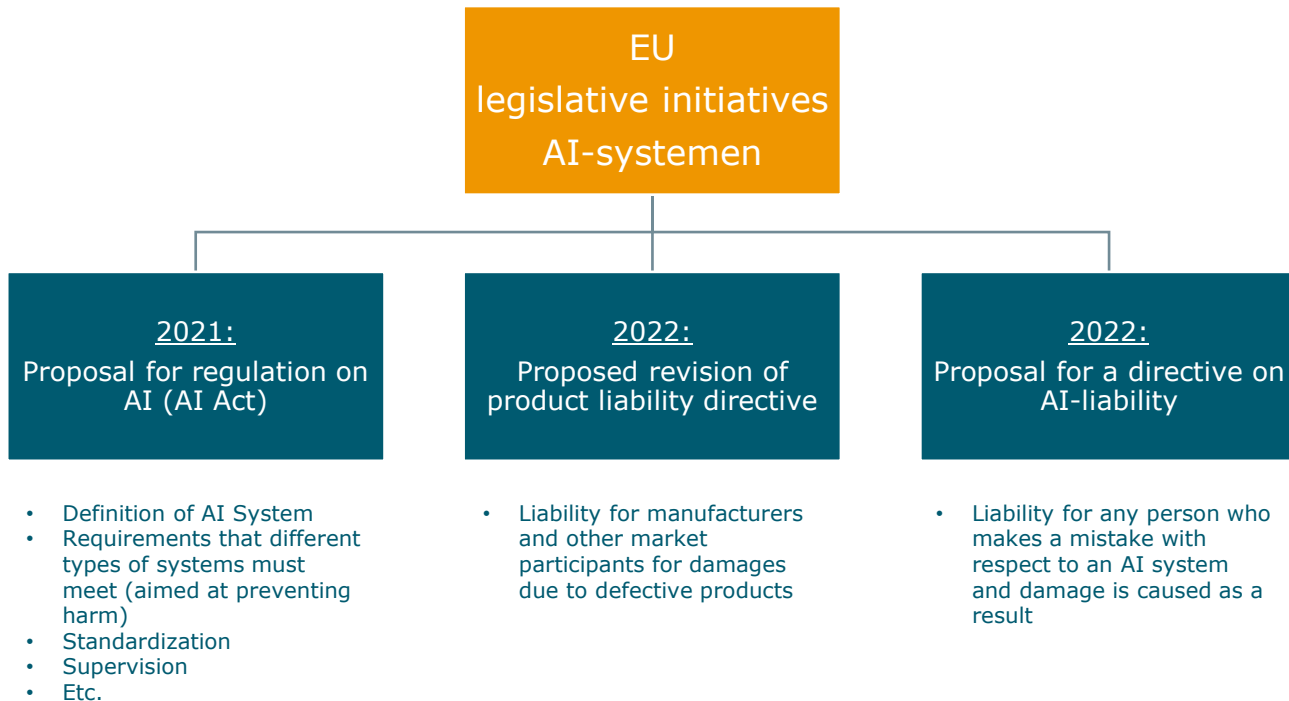
Latest status of the AI Act

Bram Kleinhout

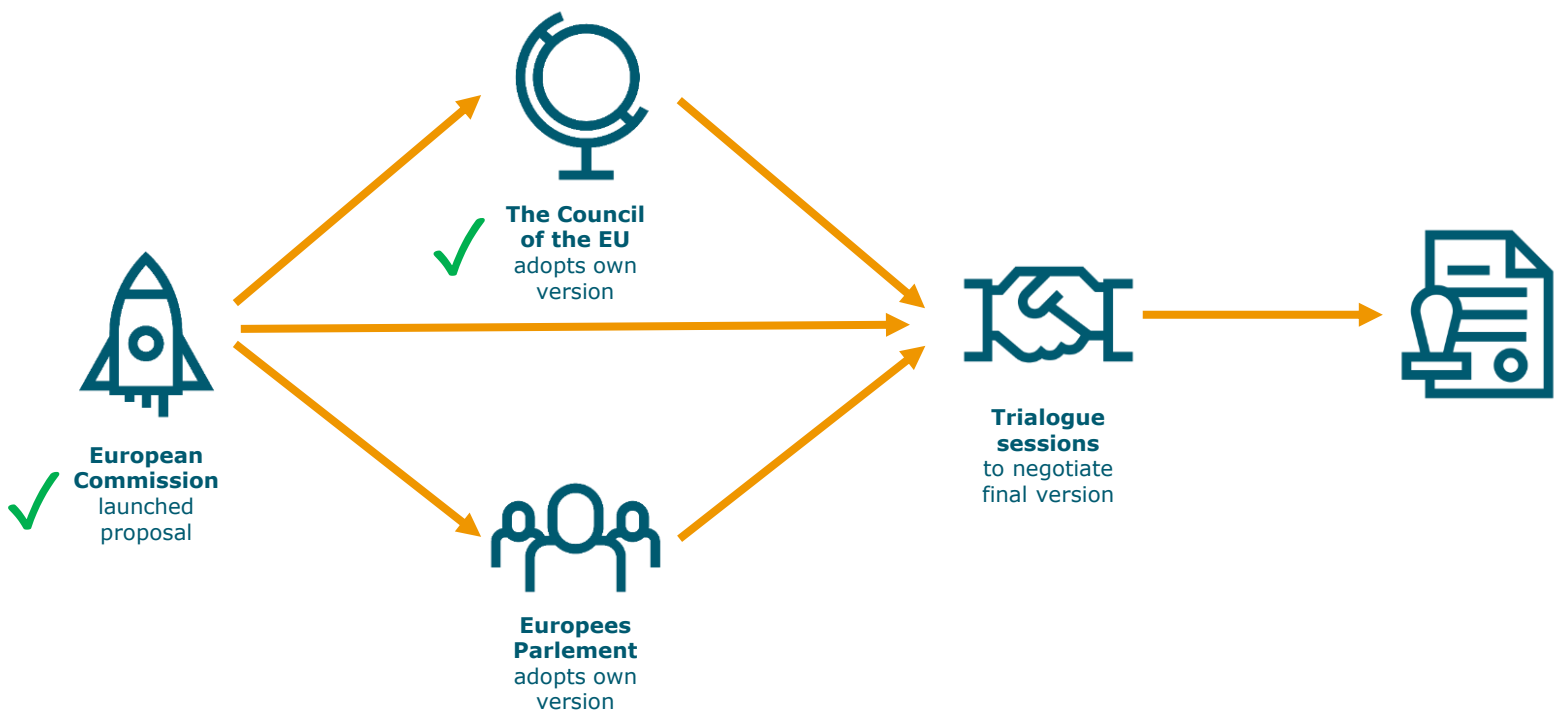
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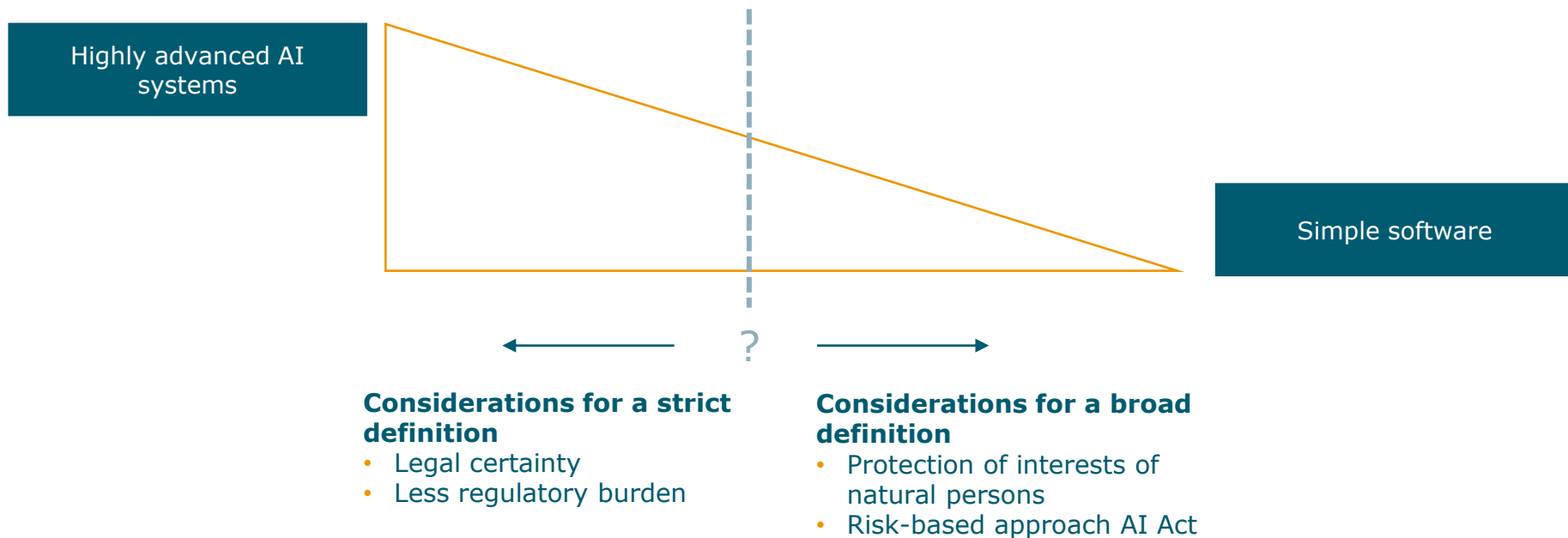
Legislative initiatives AI systems



Status of the AI Act



Definition of AI system – sliding scale





Definition of AI system (EC proposal)

AI system =

developed with one or more techniques and approaches

can generate outputs, for a given set of human-defined objectives

Article 3(1) AI Act

Definition of AI system (EC proposal)

AI system =

developed with techniques
and approaches

can generate outputs, for a given set of
human-defined objectives

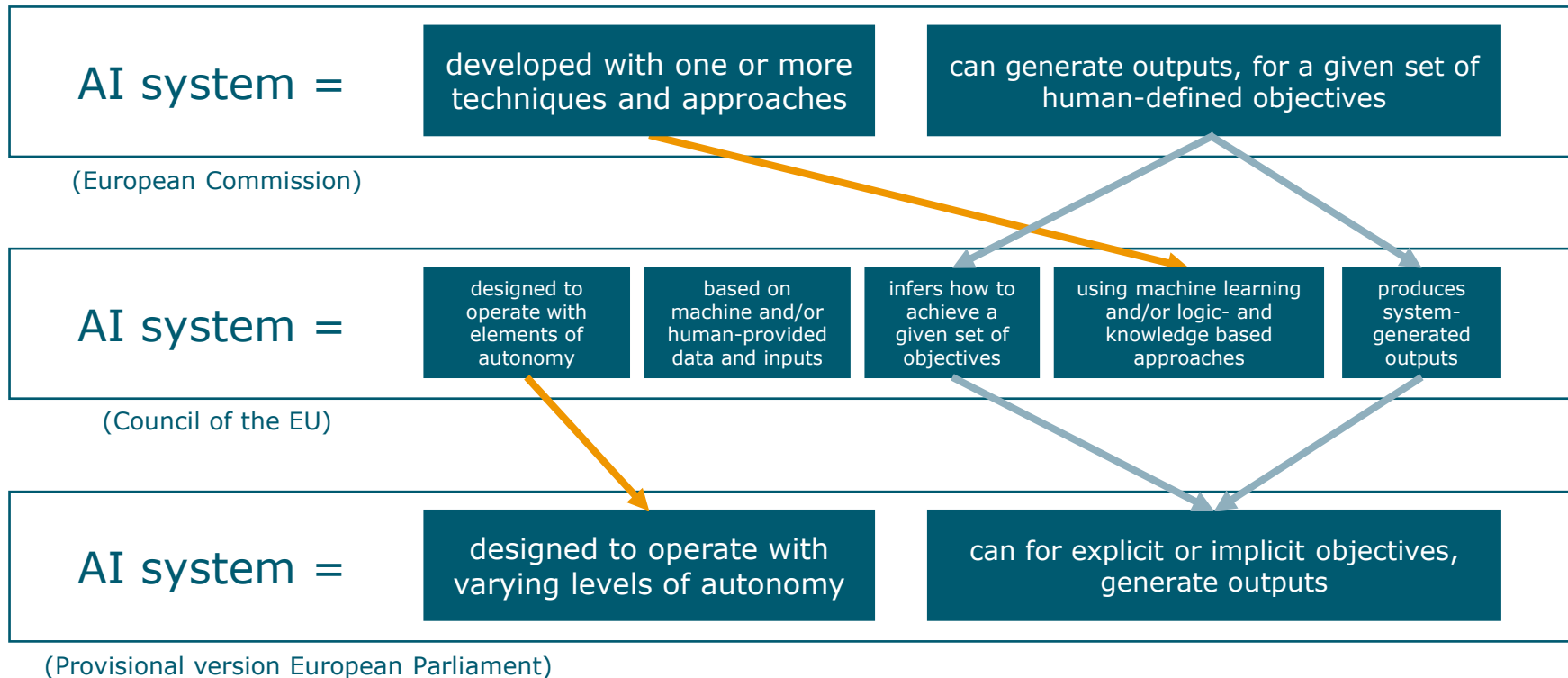
TECHNIQUES AND APPROACHES

- Are listed in Annex I of the AI Act.
- European Commission may amend Annex I (Article 4 jo. Article 73).

ANNEX I

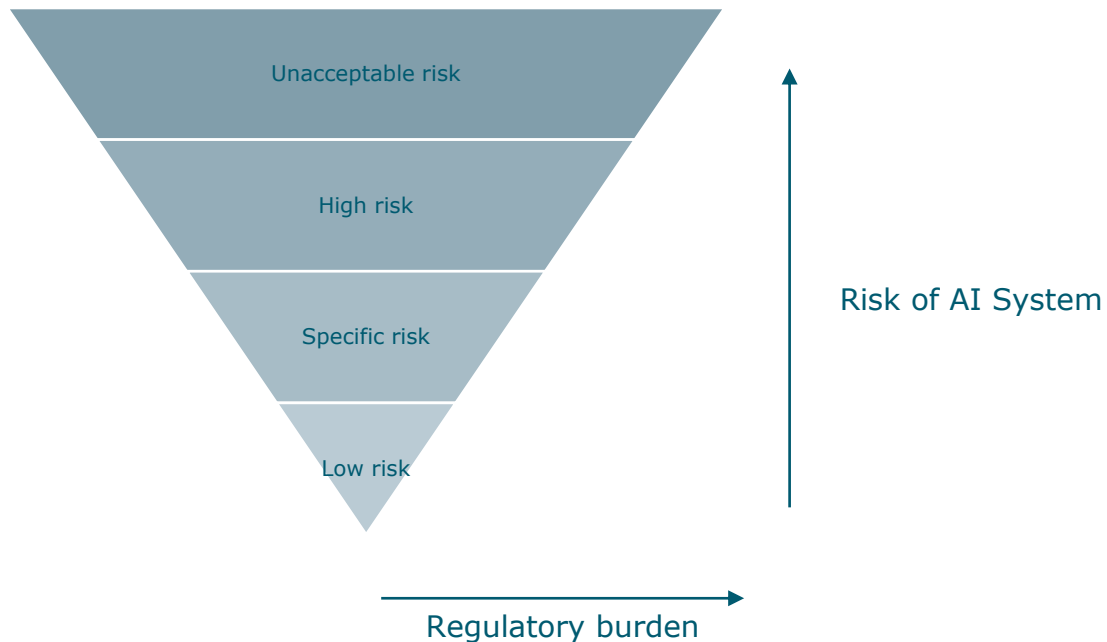
- a) Machine learning approaches, including supervised, unsupervised and reinforcement learning, using a wide variety of methods including deep learning;
- b) Logic- and knowledge-based approaches, including knowledge representation, inductive (logic) programming, knowledge bases, inference and deductive engines, (symbolic) reasoning and expert systems;
- c) Statistical approaches, Bayesian estimation, search and optimization methods.

Definition of AI system (differences between versions)





Risk-based approach of the AI Act (EC proposal)





Risk-based approach of the AI Act (Council/Parliament version)

