



Institut für Medien- und Informationsrecht  
Abt. 2 – Öffentliches Recht

Lehrstuhl für Öffentliches Recht mit Europäischem Verwaltungs-, Informations- und Umweltrecht  
**Prof. Dr. Jens-Peter Schneider**

## “Model Rules on Impact Assessment of Algorithmic Decision-Making Systems Used by Public Administration” of the European Law Institute

JRC and DIGIT Science for Policy Conference

Artificial Intelligence for the Public Sector

Webinar 4: Bringing AI closer to citizens – smart communities

9.6.2022

Albert-Ludwigs-Universität Freiburg

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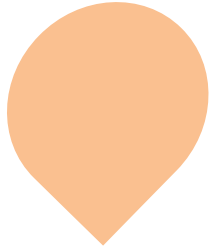


# Key Aspects of the ELI Model Rules

- the **Impact Assessment** concerns **Algorithmic Decision-Making Systems (ADMS)** including AI systems **used by public authorities**
- the Model Rules aim to **balance innovation** (i.e. spread of AI in administration) **and risk management** (which means some degree of bureaucracy)
- the **Impact Assessment is not a licensing procedure** and does not impose substantial permit requirements for (private) AI
- the Model Rules could be implemented
  - by the **EU**,
  - but also by **Member States** including their **regional or local subdivisions**
  - or other European or non-European countries

# Impact Assessment Procedure & its scope of application

Design, development, training and testing



Screening



Risk-based approach I

Arts 1, 4: either the ADMS is listed in

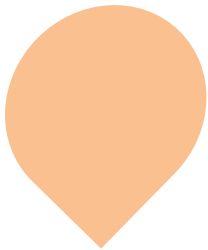
- Annex 1 (always IAR) or in
- Annex 2 (no IAR required) or
- not covered by Annexes 1, 2 → Screening → IAR, if system constitutes a **substantial risk**

ADMS:  
Algorithmic Decision-Making Systems

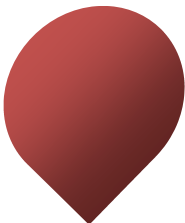
IAR:  
Impact Assessment Report

# Impact Assessment Procedure

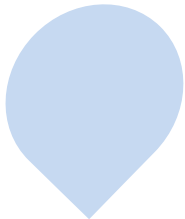
Design, development, training and testing



Screening



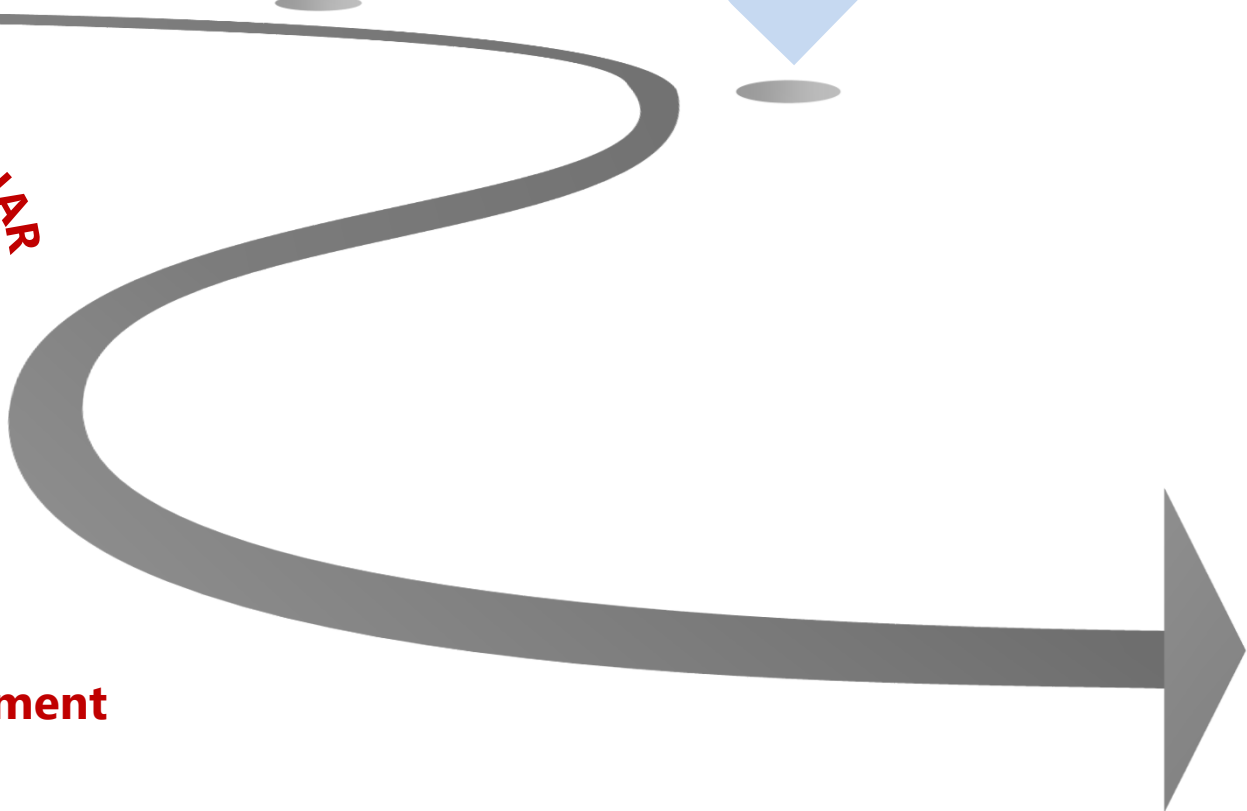
Scoping



Production of the IAR



**IAR :**  
**Impact Assessment**  
**Report**



# Impact Assessment Report



## Article 6:

### 2. The report shall contain:

- a. a **description of the purpose and operation** of the system, in particular: (...)
- b. an assessment of the **performance, effectiveness and efficiency** of the system (...);
- c. an assessment of the specific and systemic **impact** of the system **on**:
  - i. fundamental or other individual rights or interests ...
  - ii. democracy, societal and environmental well-being;
  - iii. the administrative authority itself, ...
- d. an assessment of the **measures taken to ensure**:
  - i. maximisation of benefits ...;
  - ii. minimisation of identified risks ...; (...)
- e. (...) a concluding **determination of the risk level**;
  - [low/medium risk ⇔ high risk? ⇒ expert/public participation)
- f. an **overall assessment** of the necessity and proportionality (...) and whether there are reasonable alternatives to the envisaged system;
- g. a reasoned **statement on the legality** of the use of the system (...)

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# Impact Assessment Report

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# Impact Assessment Report



Article 6:

2. The report shall contain:

c. an assessment of the specific and systemic **impact** of the system **on**:

iii. the administrative authority itself, (...)



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# Impact Assessment **Report**

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e. (...) a concluding **determination of the risk level;**

➤ *[low/medium risk? ⇔ high risk? → expert/public participation)*

# Impact Assessment **Report**



Article 6:

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# Impact Assessment Report



Annexes

Article 6:

3. The **assessment guidelines in Annex 4** provide further details on the structure and content of the report.

## Annex 4A: Questionnaire for the Impact Assessment Report (Standard Version)

Comment:

The following questions and many formulations are based on the High-Level Expert Group's Assessment List for Trustworthy AI (ALTAI).<sup>1</sup> Several questions were added or modified by the ELI Project Team. Some of these changes are inspired by the European Commission's Draft AI Regulation,<sup>2</sup> the position paper of the German 'KI Bundesverband' on EU Regulation of AI,<sup>3</sup> the Council of Europe's Ad Hoc Committee on AI (CAHAI)'s Feasibility Study on AI,<sup>4</sup> and by the European Fundamental Rights Agency's Report 'Getting the Future Right'.<sup>5</sup>

The following footnotes make visible the sources for the questionnaire. A reasoned evaluation of the numerous questionnaires was outside the scope of the project.

### General Remarks

Please give meaningful explanations to your answers and avoid one-word answers. If any question does not seem appropriate for your system, explain the reasons for this.

In all of the following sections, consider:

- Training measures to make those members of staff using the system aware about the relevant technical, ethical and legal issues;
- Ongoing monitoring during the use of the system;
- Suitable information for/communication with persons concerned, in particular where their cooperation is required;
- Mechanisms for persons concerned to flag any issues they encounter;
- Mechanisms to address problems that might arise during use of the system.

The structure of the questionnaire builds on Article 6.

a) a description of the purposes and operations of the system, in particular:

i. the development of the system, in particular its algorithms;

1. Who designed the system and how was it developed?<sup>6</sup> Who was it purchased from?
2. Are there any harmonised standards, as published in the Official Journal of the EU, or technical specifications, that (partly) apply to your system?

ii. the nature and technical characteristics of the system;

3. Describe in general, if possible in a non-technical manner, the technology/technologies you intend to use.
4. Where applicable, give a description of pre-determined or envisaged changes to the system and its performance.

iii. the selection of training, validation and testing data;

5. Describe the training methodologies and techniques used. This should include information about the provenance of those datasets, their scope and main characteristics; how the data was obtained and selected; labelling procedures and data cleaning methodologies.<sup>7</sup>

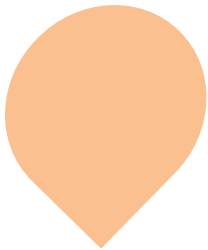
iv. the context in which the system is used, in particular the public objectives as defined in the applicable law;

6. What administrative task(s) does the system perform? What is its purpose? Who is responsible for its implementation, its supervision and the handling of complaints?

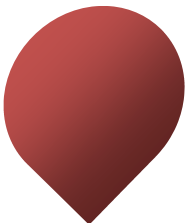
v. the system's interrelation with other digital systems deployed by the implementing authority or other public authorities;

# Impact Assessment Procedure

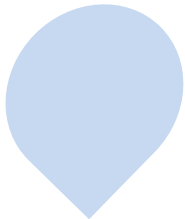
Design, development, training and testing



Screening



Scoping



Production of the IAR



Expert audit



Public participation



Evaluation

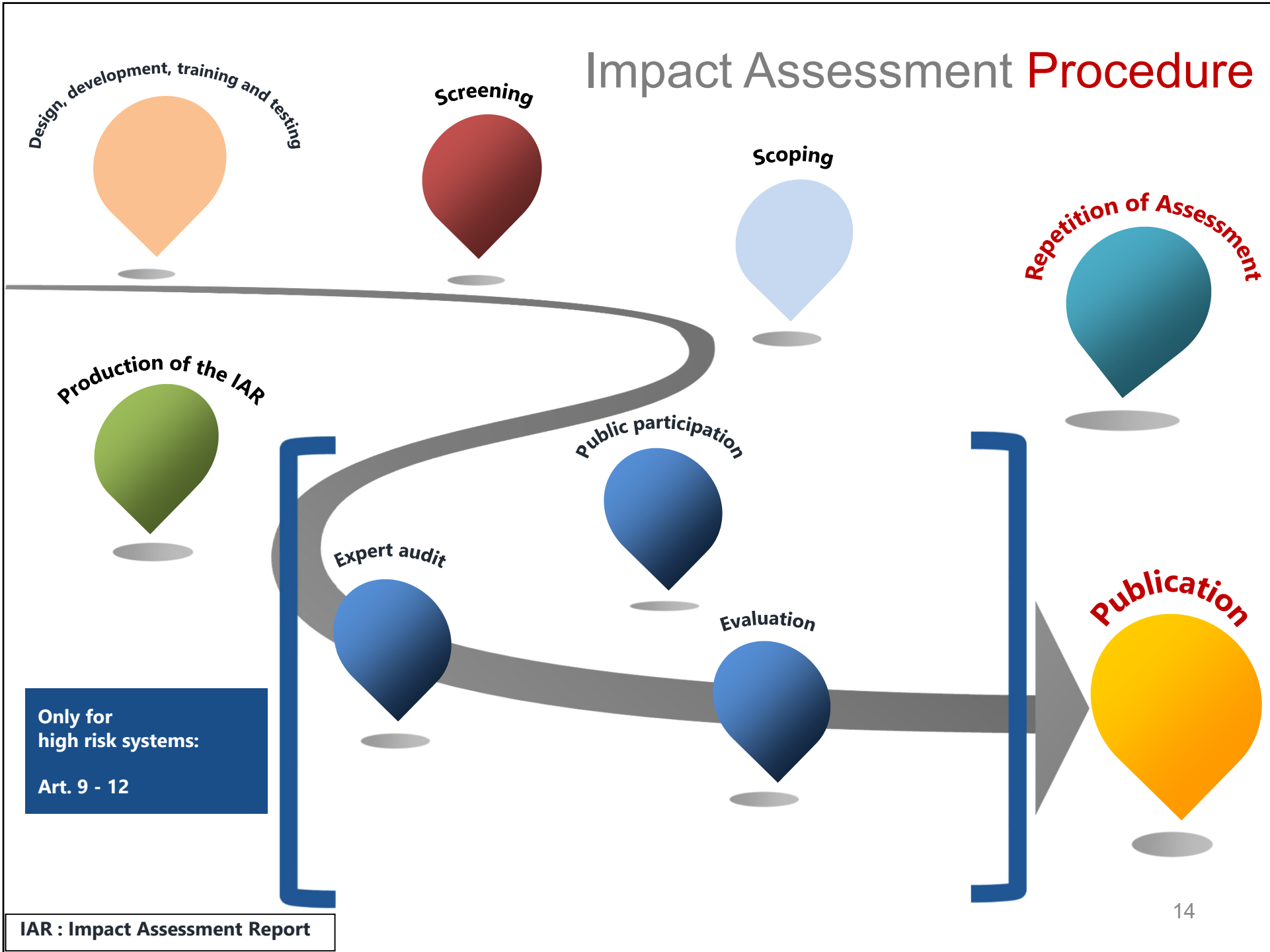


Art 12: implementing authority to take into consideration the public participation process and expert audit

Only for high risk systems:

Art. 9 - 12

# Impact Assessment Procedure



Only for  
high risk systems:  
Art. 9 - 12





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further information:

<https://www.europeanlawinstitute.eu/projects-publications/completed-projects-old/ai-and-public-administration/>

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