



## Indicators for human rights impact assessment of IT services/products in procurement processes

When public institutions procure IT services/products, including AI or algorithm-driven systems, they have to ensure the effective protection of human rights. This responsibility comes from international and/or constitutional obligations, often translated into more detailed norms for specific rights (e.g. when it comes to the right to data protection or the right to non-discrimination) and in the near future will be complemented by additional legal instruments, including the EU Artificial Intelligence Act. When procuring IT services/products, public institutions should make it explicit which public values and democratic principles should be preserved and safeguarded and there should be a genuine reflection of whether a technological solution is effective and appropriate for solving a specific problem or pursuing a specific public policy.

Human rights impact assessments play a key role in this reflection and they are essential for securing public trust in technology. In order to achieve this, impact assessments should be a mandatory practice where public values and human rights implications are properly considered, weighted and fully respected. Regardless of the adopted methodology, the assessment process must be transparent, accountable, participatory and embedded in the wider societal context on which technology might have impact.

This document provides guidelines to check that both public institutions that procure IT services/products, including AI or algorithm-driven systems, and their vendors/developers have in place effective mechanisms to assess their impact on human rights and manage/mitigate their risks of harm

The proposed set of indicators aims to provide guidance as to the minimum requirements for a meaningful impact assessment process embedded into procurement policies. Instead of prescribing a specific methodology for impact assessments, we propose a framework of detailed questions designed to ensure maximum usefulness and benefit for safeguarding human rights when procuring technology. This way, both public institutions and IT developers are given enough flexibility to shape and adapt the assessment process to specific contexts and situations, while simultaneously being able to verify if their methods are robust enough for accurate assessment and mitigation of human rights impacts.

Each indicator will be complemented by the list of useful resources, including existing methodologies and guidance. These guidelines will be reviewed and finalised by the cross-sector working group on business and human rights as it continues to provide a forum where the public and private sectors cooperate to discuss development of policies and practices for the protection of human rights. Therefore, the goal of these guidelines is to help all the relevant stakeholders – i.e., public and private sector as well as civil society organisations – to identify potential gaps in existing national regulations that may need to be addressed, adopt best practices and advocate for the inclusion of indicators for human rights impact assessment in the forthcoming National AI Strategy.



**INDICATORS FOR A MEANINGFUL HUMAN RIGHTS IMPACT ASSESSMENT OF IT SERVICES/PRODUCTS, INCL. AI SYSTEMS**

**Indicator 1: Normative framework**

*This indicator measures whether the assessment process is grounded in relevant international legal standards related to human rights. Its aim is also to ensure that the scope and content of the assessment allows for accurate identification and mitigation of adverse human rights impacts, including situations where human rights adverse impacts are unacceptably high and impossible to mitigate.*

	Does the question apply to the public institution	Does the question apply to vendors/developers
<p>1.1. Are there policies and procedures in place to assess the potential adverse impacts of the procured service/product on human rights?</p> <p><i>The procurement process must follow all relevant laws beyond procurement laws, including data protection law which already requires an impact assessment on fundamental rights stemming from data processing, and the future AI regulation which will likely oblige deployers of high-risk AI systems to conduct a fundamental rights impact assessment prior to deployment. These regulations apply directly and these requirements do not have to be explicitly included in procurement law to be mandatory. The details of the assessment process can be developed within the administration.</i></p>	YES	YES
<p>1.2. Are there policies and procedures in place to identify who are individuals and groups potentially affected by the procured service/product and its intended purpose?</p> <p><i>This question is important because IT services/products will not necessarily impact everyone or they might impact different groups of people differently. The assessment should be conducted so that it is clear whose rights and in what way are or might be impacted.</i></p> <p><i>For examples of how to identify those affected, consult part of FRAIA.</i></p>	YES	YES



This project is co-funded  
By the European union

<p>1.3. Are there policies and procedures in place to indicate the public values and democratic goals to be preserved and safeguarded in the procurement process? Which public values and democratic goals could suffer as a result of the procurement of the IT service/product?</p> <p><i>It's important that these are explicitly indicated, rather than implied. This can facilitate accountability towards the public, as well as support the assessment of the IT service/product's effects at later stages.</i></p> <p><i>For examples of what questions to ask, see part 1.3 of FRAIA.</i></p>	YES	N/A
<p>1.4. Do the policies and procedures in place include meaningful engagement/consultation of relevant stakeholders (civil society, affected groups) at various phases?</p> <p><i>This should also include engaging in conversation with stakeholders whether the use of a particular technology is necessary, and if so, how it impacts public values. For more detailed questions on stakeholder engagement, go to Indicator 4.</i></p>	<p>YES</p> <p>Engagement from the early preparation of the procurement contract throughout its implementation</p>	<p>YES</p> <p>Engagement from the early stages of design/development throughout the response to the tender</p>
<p>1.5. Are there any other actors required to be involved at any stage of the procurement procedure, apart from the product/service developer (e.g., other national/local authorities, government agencies)?</p> <p><i>We recommend ensuring that relevant public authorities have an opportunity to contribute to the assessment process. Their expertise can also be useful for accurate identification of impacts, e.g. in the case of the national human rights institution or the data protection authority.</i></p>	YES	N/A
<p>1.6. Which international/regional human rights legal instruments are considered as the basis/benchmarks for compliance with human rights?</p> <p><i>Both public institutions and developers should specify concrete instruments. Due to North Macedonia being a member of the Council of</i></p>	YES	YES



<p>Europe and a candidate to the EU we recommend referring to the European Convention of Human Rights and the EU Charter of Fundamental Rights.</p>		
<p>1.7. Is relevant staff trained on human rights (not just ethical) standards and their implementation in the context where the system will operate?</p> <p>Alternatively – is human rights expertise ensured by external experts if staff has no internal expertise?</p>	<p>YES</p> <p><i>Comment:</i></p> <p><i>Especially for management and procurement staff. Putting extra attention to valuing, breeding and maintaining institutional expertise and competence to minimize competence outsourcing and loss is key for human rights-compliant procurement of technology.</i></p>	<p>YES</p> <p>Designers/developers/managers</p>
<p>1.8. Is the scope of impact assessment clearly defined? E.g., does it include both intended and potentially unintended purposes of the product/service?</p> <p>1.9. Does it ensure impact on all relevant human rights is assessed?</p> <p><i>Because a meaningful assessment can be lengthy, sometimes it might be necessary to choose specific human rights to assess first. In such cases, we recommend prioritizing <a href="#">salient human rights</a>, i.e. those rights that are most likely to be impacted or where impacts are the biggest. These rights can be determined based on previous experiences with similar IT services/products or through consultation with external stakeholders, e.g. relevant public authorities or civil society.</i></p>	<p>YES</p>	<p>YES</p>
<p>1.10. Does the procurement policy include a “no go” clause (i.e., if results of impact assessment indicate that the service/product is too harmful or the risk of harm cannot be managed/mitigated, then the service/product should not be developed, procured and/or used)?</p>	<p>YES</p>	<p>N/A</p>



<p>The possibility to conclude that the IT service/product is not compliant with human rights and therefore should not be procured is the essential condition to make the assessment process meaningful. Otherwise, the assessment risks becoming a check box exercise. Generally, the human rights impacts will be unacceptable when they violate the essence of the specific right or human dignity or when the severity and probability of the impact are high and no accurate mitigation measures exist.</p>		
<p><b>Indicator 2: Transparent and accountable assessment process</b></p> <p>This indicator measures whether impact assessments are transparent, accountable and iterative (embedded into the lifecycle of the product/service). It also measures the level of clarity in terms of division of roles and responsibilities both between public institutions and vendors and within the staff of both parties, in order to prevent dispersion of accountability. Finally, this indicator measures the level of transparency of the procurement and impact assessment processes, including information to be disclosed by the vendor/developer to the public institution.</p>		
<p><b>Stages and trigger moments for the impact assessment</b></p>		
<p>2.1. Is the impact assessment triggered early enough in the service/product lifecycle to influence design, development and testing/piloting?</p> <p><i>For the assessment to be meaningful, its results should be able to inform the final design of the IT service/product, e.g. the inclusion of specific mitigation measures. See more detailed question 2.3.</i></p>	<p><b>YES</b></p> <p><i>This applies when the institution procures the development of the service/product (rather than a ready product). Nevertheless, even when a finished product is procured, there are no obstacles for the call for tenders to require vendors willing to place a bid to provide documentation that such an impact assessment was already conducted (see question 2.3.1).</i></p>	<p><b>YES</b></p>
<p>2.2. Does the procurement policy provide trigger mechanisms to iterate an impact assessment throughout the service's/product's entire lifecycle</p>	<p><b>YES</b></p>	<p><b>YES</b></p>

<p>(not just before its use)? Is there clarity in terms of that these stages are and who are the actors responsible for assessments?</p>	<p><i>It is important to clarify in the call for tenders or the procurement contract what role the vendor should have after the service/product is procured, e.g. whether it should assist the public authority in future assessment iterations.</i></p>	
<p><b>Roles and responsibilities</b>  <i>Public trust in the use of technology requires that roles related to assessing the impact of the system are clearly assigned. While ultimately it is the responsibility of the public institution to ensure human rights compliance of the service/product, the procurement process should be designed in a way to ensure that the vendor actively assists the institution in this process or assumes part of the responsibility in order to facilitate the institution's due diligence obligations.</i></p>		
<p>2.3. Is there clarity in terms of who is responsible for an impact assessment prior to deployment of the service/product?</p> <p><i>Two scenarios:</i></p> <p>2.3.1. If the institution is seeking to procure a finished tool, is the vendor required to provide an impact assessment of the finished tool for review, audit and where necessary supplementation by the public institution?</p> <p>2.3.2. If the institution is seeking to procure the development of a tool under its supervision, is the vendor required to cooperate and assist the institution in conducting the impact assessment?</p>	<p><b>YES</b></p>	<p><b>YES</b></p>
<p>2.4. Is it clear who should be included within the assessment team, from roles involved in the service/product design, development and testing?</p> <p><i>The assessment cannot be entirely outsourced beyond the people directly involved in the development or deployment of the service/product.          Whoever leads the assessment, should do so in direct and close</i></p>	<p><b>YES</b></p>	<p><b>YES</b></p>



<p><i>consultation with the team developing the service/product. In other words, the assessment must be internalized by all people involved as an important element of the entire development process.</i></p>		
<p>2.5. Are assessors (or part of a larger assessment team) required to have human rights expertise?</p> <p>2.5.1. Are they guaranteed independence in conducting the assessment?</p> <p><i>Independence in this context means that the assessors cannot feel any pressure regarding the conclusions of the assessment. They should also be guaranteed financial and other resources to do their job properly. This undue pressure could be political (e.g. coming from a minister), financial, or based on employee subordination (e.g. receiving orders from a supervisor). Inspiration could be drawn from how the position of a data protection officer has been designed in data protection law.</i></p>	<p>YES</p>	<p>YES</p>
<p>2.6. Are the main groups or communities potentially affected by the system clearly included in the different phases of the impact assessment?</p> <p><i>For more detailed questions related to stakeholder engagement see Indicator 4.</i></p>	<p>YES</p>	<p>YES</p>
<p><b>Documentation and disclosure requirements</b></p>		
<p>2.7. Is there a requirement to document in details the impact assessment process, its methodology and results?</p> <p><i>This applies both to the impact assessment conducted by the public institution prior to deployment of the service/product and to impact</i></p>	<p>YES</p>	<p>YES</p>

<p><i>assessments conducted by the vendor/developer offering a finished product in the call for tenders.</i></p>		
<p>2.8. Is there an obligation to publish the results of the impact assessment, once finalised?</p> <p><i>We strongly recommend ensuring that at least the summary of the results is made publicly available, together with key information about the IT service/product. This is necessary for public scrutiny and accountability.</i></p>	<p><b>YES</b></p>	<p><b>N/A</b></p>
<p>2.9. Are vendors required to disclose to public institutions information about the service/product which would enable public institutions to ensure due process for people affected by the system and demonstrate to the public that the service/product is working properly, fairly and in compliance with human rights and relevant laws?</p> <p>2.9.1. For algorithmic/AI systems, does this information include: the goal of the algorithm, information ensuring the system is not malfunctioning and is producing validated results (e.g. validation protocols and results, performance indicators), information necessary to provide people affected by the AI system with their own specific data used by the system, information on personal data collection and processing necessary to fulfill GDPR requirements (results of the data protection impact assessment, sources of training/validation data and legal grounds for collection, information on types of personal data used by the system, purposes, storage time, who has access to personal data, how the data is stored and secured etc.).</p> <p><i>Private vendors might be inclined to raise their trade secrets or copyright protection as a reason for not sharing certain information with the authority procuring the IT service/product. For public accountability of services or products which will affect citizens and for ensuring due process to people impacted, it's crucial that the authority ensures access to all</i></p>	<p><b>YES</b></p>	<p><b>YES</b></p>





<p><i>relevant information. It is within the power of the authority to shape the call for tenders in a way which only allows bids/offers which guarantee a sufficient level of transparency.</i></p>		
<p>2.10. Are vendors required to waive any claims of trade secret privilege with respect to the types of information public institutions need to demonstrate to the public that the service/product (incl. algorithmic systems) is well-designed and fair?</p> <p><i>Note that for some types of very relevant information, e.g. purpose of the system, validation results, performance indicators, companies will most likely not be able to claim trade secrets (as these parameters indicate that the system is well-functioning, rather than have commercial value on their own).</i></p>	<p><b>YES</b></p>	<p><b>YES</b></p>

**Indicator 3. Methodology of impact assessment**

*This indicator measures whether the methodology of the human rights impact assessments is not just a box ticking exercise but guarantees a meaningful and accountable reflection of the service/product's impacts. Please note that there are already a number of proposed methodologies. This section does not impose a specific method for assessment but instead includes a list of questions to evaluate whether the selected methodology is robust, effective and accurate enough to ensure human rights compliance.*

**Relevant resources for methodologies of impact assessments:**

- The Netherlands: [Fundamental Rights and Algorithmic Impact Assessment \(FRAIA\)](#)
- Danish Institute for Human Rights: [Guidance on Human Rights Impact Assessments of Digital Activities](#)
- Moje Państwo Foundation: [Algorithmic Impact Assessment of AI/ADM Systems – Proposal for the public sector](#)
- A. Mantelero: [Beyond Data: Human Rights, Ethical and Social Impact Assessment in AI](#)
- A. Mantelero and S. Esposito. "[An evidence-based methodology for human rights impact assessment \(HRIA\) in the development of AI data-intensive systems.](#)" Computer Law & Security Review (2021)
- ECNL and Data&Society: [Recommendations for incorporating human rights into AI impact assessments](#)
- ECNL: [Evaluating the Risk of AI Systems to Human Rights from a Tier-based Approach](#)
- Access Now: [Human Rights Impact Assessments for AI: Analysis and Recommendations](#)



This project is co-funded  
By the European union

<p>3.1. Are there clear indicators for assessing (actual and potential) adverse impact based on human rights standards identified as benchmarks in Question 1.6?</p>	<p><b>YES</b></p>	<p><b>YES</b></p>
<p>3.2. Are both the intended use and unintended potential uses (misuse) of the service/product included in the impact assessment?</p>	<p><b>YES</b></p>	<p><b>YES</b></p>
<p>3.3. Are there clear metrics and scales to assess the likelihood, and severity of each potential impact in different contexts and the different level of exposure of the rightsholders potentially affected?</p> <p><i>For guidance, see A. Mantelero and S. Esposito. "An evidence-based methodology for human rights impact assessment (HRIA) in the development of AI data-intensive systems." Computer Law &amp; Security Review (2021)</i></p>	<p><b>YES</b></p>	<p><b>YES</b></p>
<p>3.4. Does the methodology for impact assessment include identifying the level of risks (e.g., low, medium, high, very high, unacceptable) to all relevant human rights in different contexts and for the various rightsholders potentially affected?</p> <p><i>For inspiration, please consult <a href="#">ECNL's paper on evaluating AI systems</a> and <a href="#">Access Now's paper</a>.</i></p>	<p><b>YES</b></p>	<p><b>YES</b></p>
<p>3.5. Is there a requirement to strike a proportionate balance between the risks and potential adverse impact of the service/product and its benefits on each potentially impacted right, including the justification of each decision?</p> <p><i>For inspiration, see part 4.7 of FRAIA.</i></p>	<p><b>YES</b></p>	<p><b>YES</b></p>
<p>3.6. Is there a requirement to identify and describe specific measures for risk avoidance and mitigation?</p>	<p><b>YES</b></p>	<p><b>YES</b></p>



<p>3.6.1. Is there an option to conclude there are no appropriate measures to avoid or mitigate unacceptable risk?</p> <p><i>For guidance on mitigation measures, see <a href="#">Annex 2 of FRAIA</a>.</i></p>		
<p>3.7. If the assessment indicates there are no appropriate measures to avoid or mitigate unacceptable risk, does it result in ceasing the development or deployment of the product/service?</p> <p><i>The possibility to conclude that the IT service/product is not compliant with human rights and therefore should not be procured is the essential condition to make the assessment process meaningful. Otherwise, the assessment risks becoming a check box exercise. Generally, the human rights impact will be unacceptable when they violate the essence of the specific right or human dignity or when the severity and probability of the impact are high and no accurate mitigation measures exist.</i></p>	<p><b>YES</b></p>	<p><b>YES</b></p>
<p><b>Indicator 4: Meaningful stakeholder engagement</b></p> <p><i>This indicator measures whether relevant external stakeholders (affected individuals and groups, civil society organisations, trade unions, national human rights institutes, industry associations, human rights experts, academic experts etc.) are engaged in a conversation about the potential or actual impacts of the service/product. Such engagement is essential for accurately identifying risks and mitigation measures, as well as building public trust in the technology.</i></p> <p><b>Relevant resources:</b></p> <ul style="list-style-type: none"> <li>• ECNL: <a href="#">Framework for Meaningful Engagement of Stakeholders in AI Impact Assessments</a></li> <li>• Danish Institute for Human Rights: <a href="#">Stakeholder engagement in Human Rights Impact Assessments of Digital Activities</a></li> </ul>		
<p>4.1. Is meaningful consultation of external stakeholders mandated throughout the assessment process and its iterations?</p> <p><i>In iterations of the assessment (e.g. yearly review) it is not necessary to conduct the entire consultation process from scratch. The authority or the</i></p>	<p><b>YES</b></p>	<p><b>YES</b></p> <p><i>In the design, development and testing phase.</i></p>



<p><i>company should judge what is reasonable, e.g. whether to reach out only to selected stakeholders, or limit the consultation to new issues.</i></p>		
<p>4.2. Is the vendor required to assist the public institution in public consultations and stakeholder engagement?</p> <p><i>Such assistance can be an explicit requirement in the call for tenders/procurement contract. This could be a very good solution for outsourcing this process if the authority does not have sufficient human resources.</i></p>	<p><b>YES</b></p>	<p><b>YES</b></p>
<p>4.3. Are there methods / models suggested for meaningfully consulting and engaging external stakeholders?</p> <p>4.3.1. In other words, how to identify the main groups or communities potentially affected by the service/product, including during its development? And how to identify other stakeholders that should be involved at different stages (e.g. civil society and international organisations, national human rights institutions, experts, industry associations, journalists, etc.)?</p> <p><i>For tips, consult the Framework for Meaningful Engagement.</i></p>	<p><b>YES</b></p>	<p><b>YES</b></p> <p><i>In the design, development and testing phase.</i></p>
<p>4.4. Do external stakeholders have the chance to provide information and comment on impact assessment findings/results before the service/product becomes operational?</p> <p><i>The purpose of the engagement is to understand the perspective of stakeholders with the view of improving the service/product and limiting its human rights impacts. The possibility of contributing prior to deployment renders the consultation process meaningful.</i></p>	<p><b>YES</b></p>	<p><b>YES</b></p> <p><i>In the design, development and testing phase.</i></p>



<p>4.5. Is there an obligation to provide feedback to external stakeholders on their input and explain whether and how it was incorporated into results or not (and why)?</p> <p><i>If the consultation is based on dialogue and feedback, stakeholders will be reassured that it's worthwhile to engage.</i></p>	<p><b>YES</b></p>	<p><b>YES</b></p> <p><i>In the design, development and testing phase.</i></p>
<p>4.6. Is there an obligation to document stakeholder engagement throughout the impact assessment process?</p> <p>4.6.2. How? Is this information public? Where and if not, why?</p>	<p><b>YES</b></p>	<p><b>YES</b></p> <p><i>In the design, development and testing phase.</i></p>
<p><b>Indicator 5. Effective oversight and monitoring</b></p> <p><i>This indicator measures whether the impact assessment is accountable to external oversight/auditors as well as subject to public scrutiny. The purpose of this indicators is to guarantee an institutional framework for monitoring and continuous assessment in case context changes and new impacts arise.</i></p>		
<p>5.1. Is there a clear documentation requirement of impact assessment process and findings?</p> <p><i>This question is the same as question 2.7 but repeated here as documentation requirements in Indicator 2 serve transparency between procurement parties and this Indicator aims to ensure transparency towards external stakeholders and oversight bodies.</i></p>	<p><b>YES</b></p>	<p><b>YES</b></p>
<p>5.2. Does a final report outline how the impact assessment influenced the service/product design, development and deployment?</p>	<p><b>YES</b></p>	<p><b>YES</b></p>
<p>5.3. Is there mandated external oversight and review or audit of the findings of the impact assessment?</p>	<p><b>YES</b></p>	<p><b>N/A</b></p>
<p>5.4. Is it possible for affected people or groups and for public interest organisations to contest the findings of the impact assessment?</p>	<p><b>YES</b></p>	<p><b>N/A</b></p>

<p>5.5. Are impact assessments findings to be published and if so – full results or a summary of key findings? Where?</p> <p>(E.g., is there an accessible online database publicly available with findings on services/products procured/developed for the public sector?)</p> <p><i>This is the same as Question 2.8 but repeated for emphasizing the importance of publication in a way that is accessible for external stakeholders.</i></p>	<p><b>YES</b></p>	<p><b>N/A</b></p>
<p><b>Evaluation of the impact assessment process</b></p>		
<p>5.6. Is there a procedure in place for evaluating the design of the impact assessment process in light of the indicators above? Who is responsible for this evaluation?</p>	<p><b>YES</b></p>	<p><b>N/A</b></p>
<p>5.7. Is the design of the impact assessment process periodically reviewed?</p>		

