

THE RELATIONSHIP BETWEEN AI RISK ANALYSIS AND
PROSECUTION IN THE UNITED STATES OF AMERICA

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In the 21st century, the rapid development of technology left many people feeling uneasy, but as time went on, we discovered its potential. Artificial intelligence is the future, but its use certainly needs to be monitored. In the United States of America, pre-sentence investigation reports (PSIs) have been used for decades, and in recent years a new element has been added to the information database in several member states: IT-based risk analysis data. If modern society intends to rely on algorithm-based risk analyses as a tool in criminal justice, a critical examination of these methods is crucial. In the United States of America, the need and justification for the use of such methods has been driven by one of the biggest problems in the wider criminal justice system, overcrowding in prisons. The country has an extremely high prison population due to the strict use of criminal law as a deterrent for committing crime. This is, of course, far too costly. So, it is not surprising that in recent years economic austerity has become a central issue in the US criminal justice system. To prevent the overcrowding of prisons, all member states use various assessment tools based on computerized risk analysis, such as COMPAS in many areas of the justice system. In the United States specifically, the use of a patented and secret algorithm in the criminal justice system is generally and widely accepted, albeit not without some reservations, as it could be used to influence the outcome of certain cases. The use of the results of the risk analyses raises unanswered questions such as the right to a fair trial, the principle of publicity, non-discrimination, equality before the law and the requirement of equal treatment, which are currently still to be resolved in the context of the algorithm.

Keywords: USA, AI, COMPAS, criminal justice, discrimination