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AI Liability – Some Challenges and evolutions

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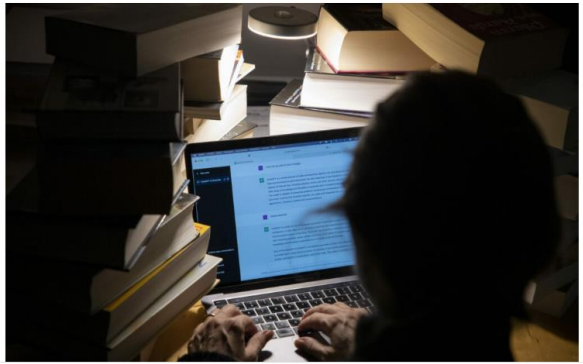
Some challenges related to AI liability

Belgian man dies by suicide following exchanges with chatbot

Tuesday, 28 March 2023

By Lauren Walker



theguardian

Tesla driver dies in first fatal crash while using autopilot mode

The autopilot sensors on the Model S failed to distinguish a white tractor-trailer crossing the highway against a bright sky

Joshua Brown, the first person to die in a self-driving car accident. Photograph: Facebook

The first known death caused by a self-driving car was disclosed by Tesla Motors on Thursday, a development that is sure to cause consumers to second-guess the trust they put in the booming autonomous vehicle industry.

The 7 May accident occurred in Williston, Florida, after the driver, Joshua Brown, 40, of Ohio put his Model S into Tesla's autopilot mode, which is able to control the car during highway driving.

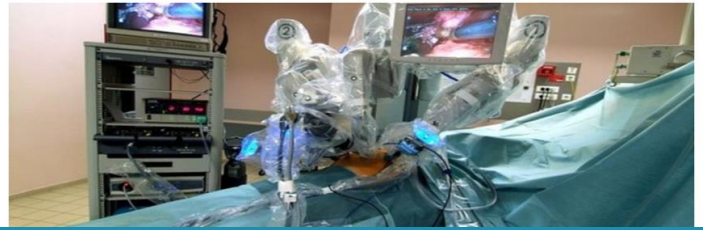
South Korean woman's hair 'eaten' by robot vacuum cleaner as she slept

The woman was sleeping on the floor of her home when the robotic cleaner ingested her hair leaving her in agony

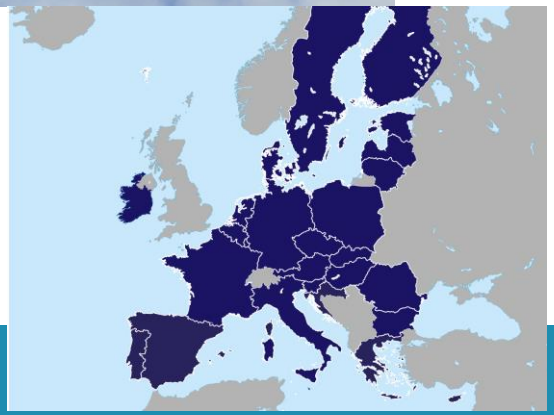
an at her house in Changwon, southeast South Korea after her hair was sucked

Robotic surgery linked to 144 deaths in the US

22 July 2015



Some challenges related to AI liability



AI Liability rules

- **Proposal AI Liability Directive**
  - Extra-contractual liability
  - Disclosure relevant evidence HR AIS→ RP non-compliance DoC
  - RP causal link in the case of fault
  - Specific provisions for providers and users HR AIS
  - Mitigating elements (cf. balance)

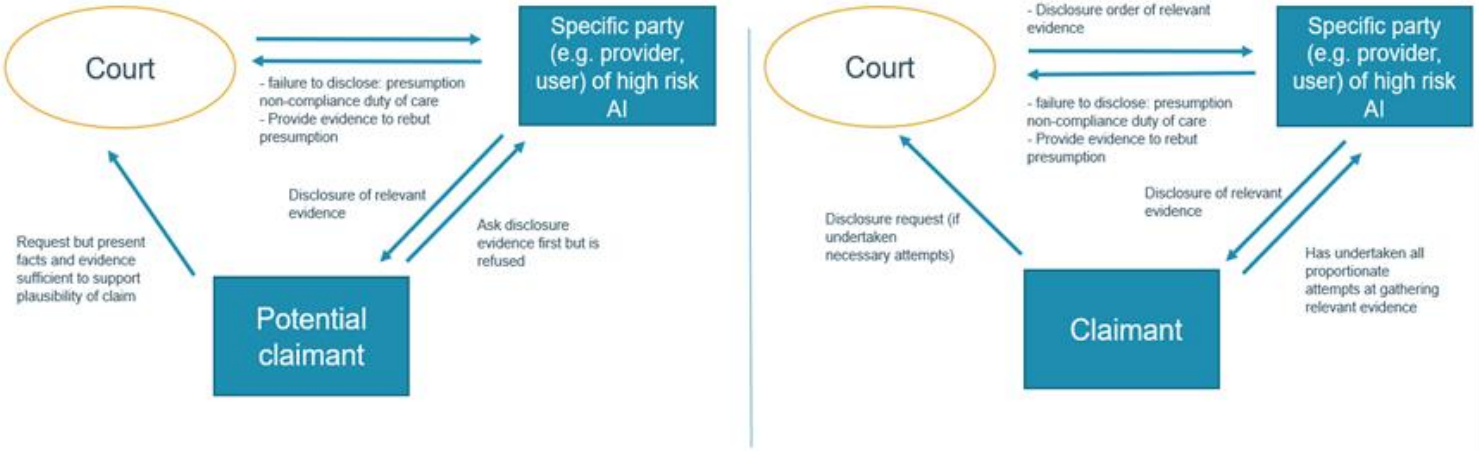
- **Revised PLD**
  - Disclosure evidence
  - RB presumption causality and defectiveness product
  - Software = product
  - Notion of defectiveness & defenses manufacturer (cf. ‘control’)

Organisational – general

- Established in 2019
- Funded by the Flemish Department of Science, Economy and Innovation (EWI)
- Yearly budget
- Part of Flemish AI Plan (three pillars)
  - strenghten basic strategic research
  - stimulate use of AI in companies
  - Raising awareness, training and ethical/legal framework

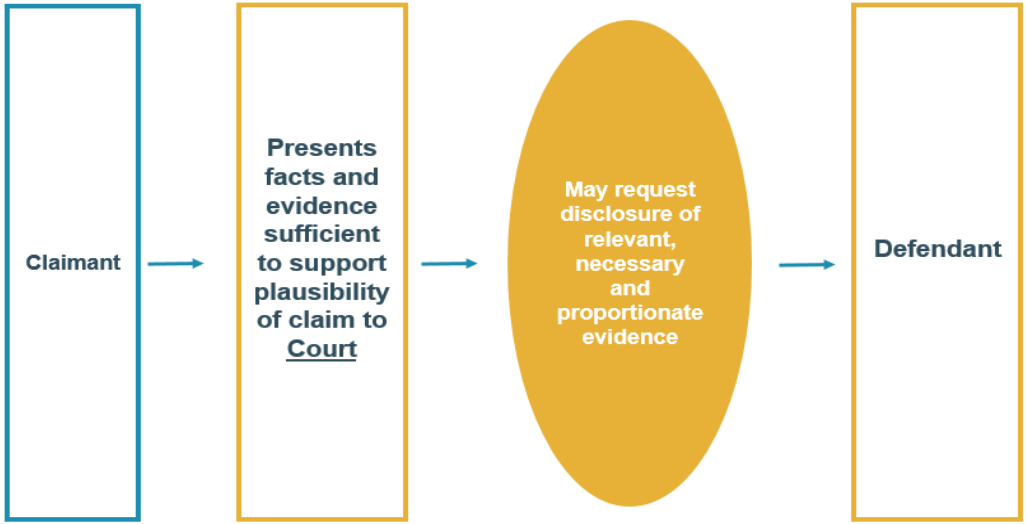
→ KCDS
→ Flemish AI Academy

Proposal AI Liability Directive: disclosure (Art. 3)

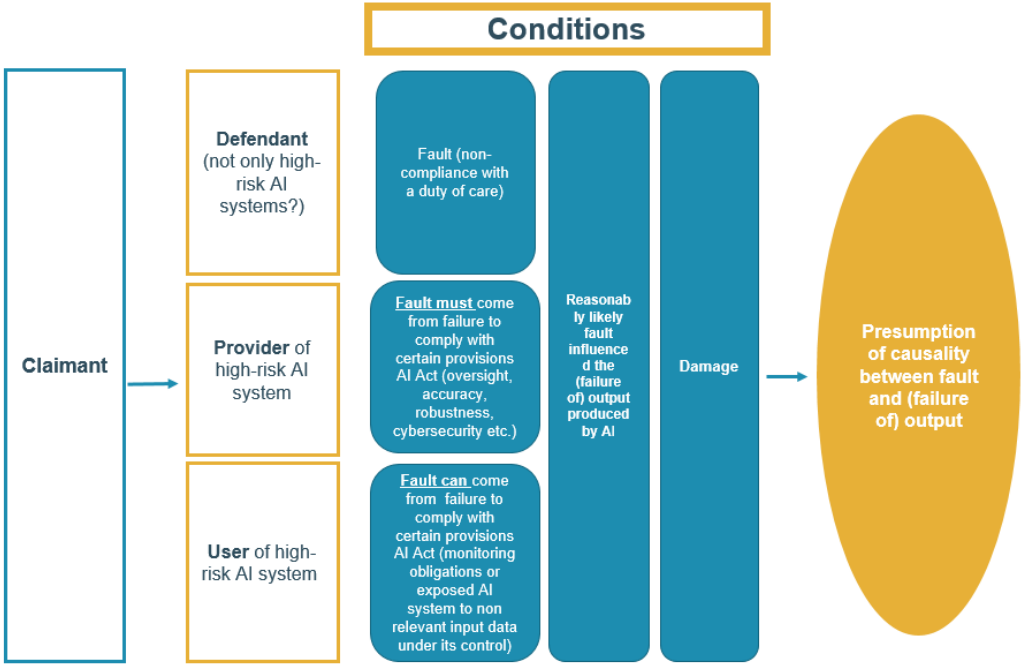


GENERAL CONDITION FOR REQUEST: must be necessary and proportionate
For determination of whether order for disclosure or preservation of evidence is necessary and proportionate, courts must consider ***legitimate interests of all parties*** (protection of trade secrets, confidential information, etc)

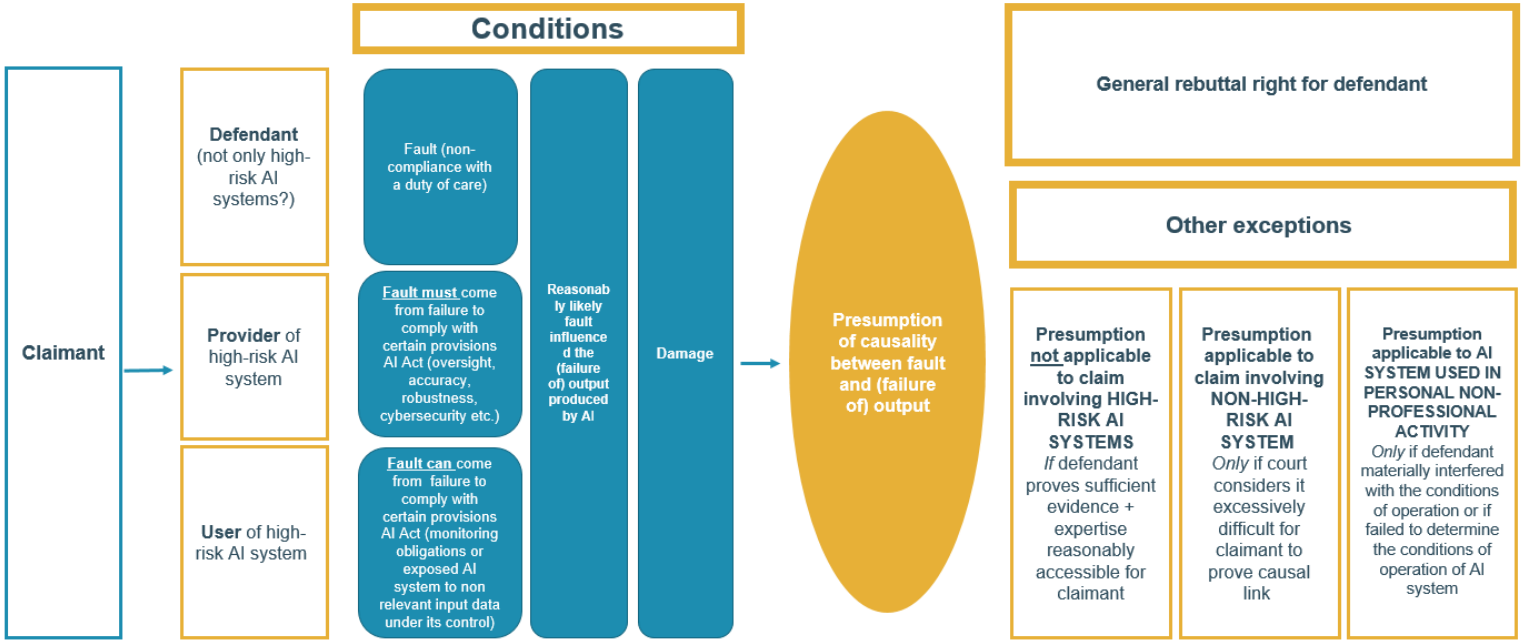
Revised PLD: disclosure (Art. 8)



Proposal AI Liability Directive: presumption (Art. 4)



Proposal AI Liability Directive: presumption (Art. 4)



Some points for discussion

- Who *should* be liable?
- Is AI a product? Consequences?
- Do you already deal with potential risks of liability?
- How to find a common language?
- Managing expectations, how?
- Sectoral liability regimes?
- Need for EU answers?
- How to remedy gaps?

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Thank you!
Q&A

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