

# Facial Reconginition Technology vs Law Enforcement

Rwan Elmileik, School of Computer Science and Statistics ,Trinity College Dublin

Supervisors: Dr. David Lewis, Dr. P.J Wall

## Introduction

Facial recognition technology (FRT) is increasingly used in EU law enforcement, raising complex legal, ethical, and governance questions. This complexity is compounded as FRT is classified as both high-risk and prohibited under the EU AI Act.[1]

This study analyses the EU AI Act, associated frameworks and expert perspectives to identify key uncertainties as well as their implications for the governance of this application and safeguarding of fundamental rights. We aim to develop 3 key recommendations to tackle these uncertainties.

## Methodology

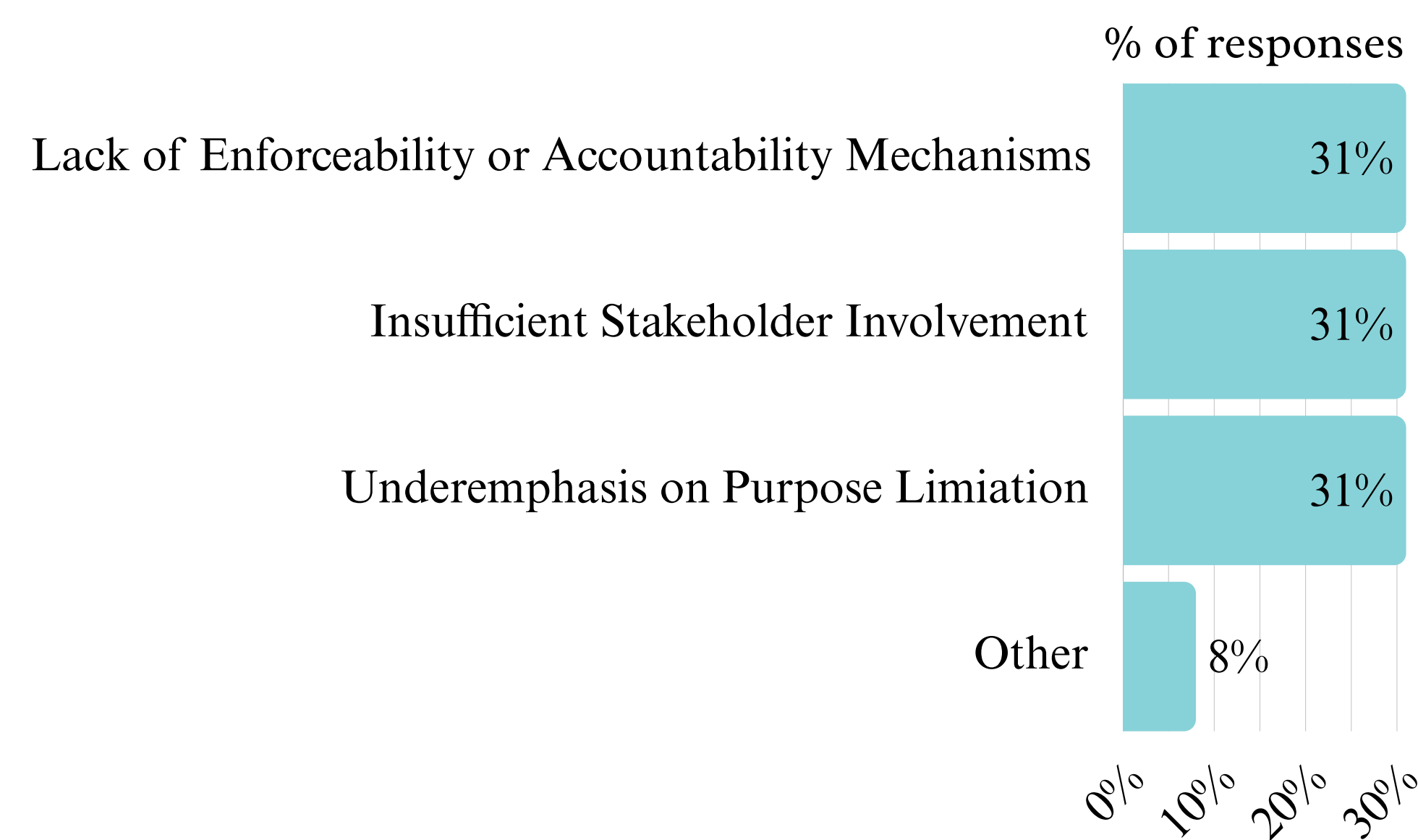
Content Analysis of EU AI Act governing FRT in the EU.

Critical Analysis of uncertainties and implications of FRT use by law enforcement.

Survey Expert Stakeholders opinions to distil further insight.

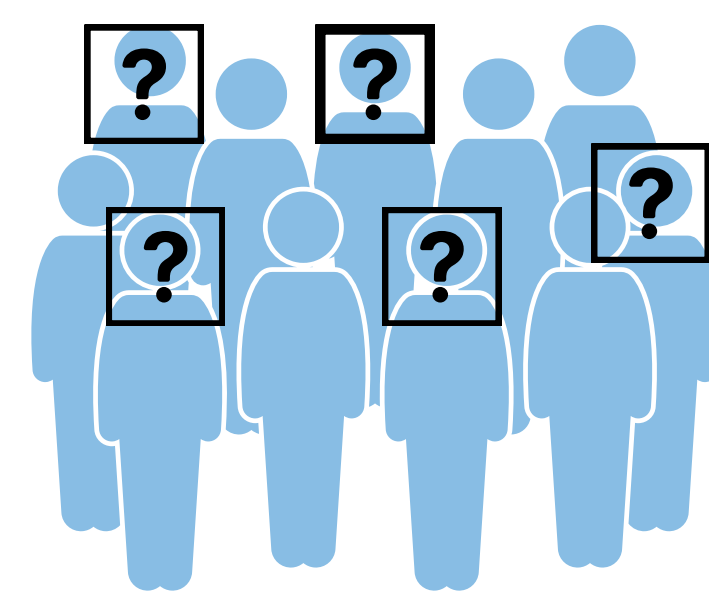
## Findings

**Most Significant Limitations in current technical standards for FRT to ensuring lawful or ethical use in law enforcement?**



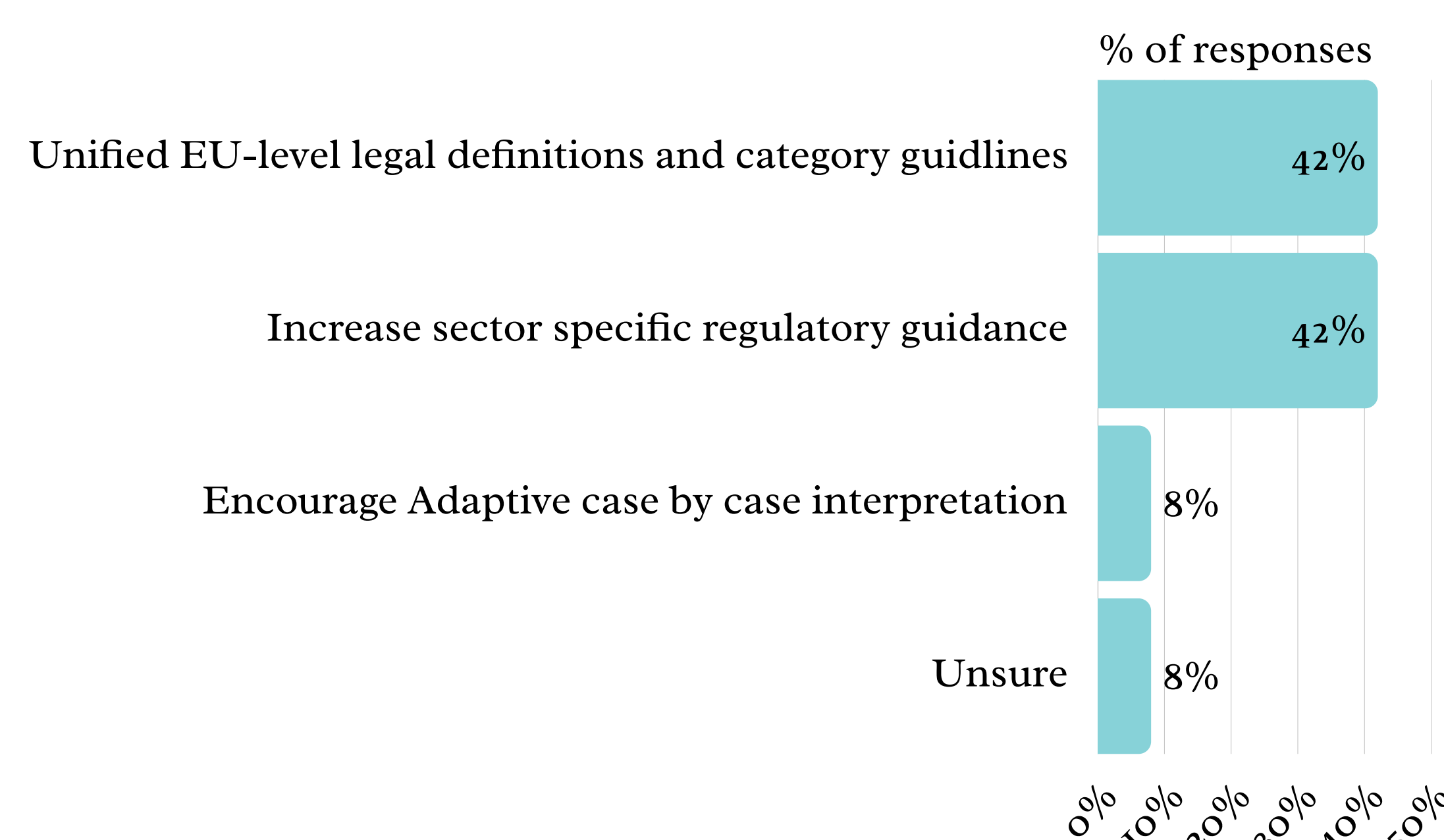
Survey responses reflected identified limitations, arising from uncertainties related to broad exemptions for law enforcement use cases, vague legal definitions and the unexplainable nature of FRT algorithmic decision making- potentially perpetuating bias. [2]

**100%**



of surveyants identified FRT for crowd surveillance among the most concerning use cases for discrimination and chilling effects on public life. We found this could arise from the vague defintion of public threat, potentially justifying overly expansive application. [3]

**Opinions of Most Effective Solutions to address defintional and risk categorisation ambiguity**



## Conclusion

Regulatory uncertainties in the AI Act risk inconsistent application of FRT in law enforcement across the EU.

These gaps may enable selective interpretations without clear purpose limitations, contributing to uneven protections for fundamental rights across Member States.

Greater harmonisation, transparency, and accountability are essential to ensure safe, fair, and consistent deployment of FRT.

## Recommendations

1. AI Councils –Independent, multidisciplinary bodies with civil participation for consistent oversight and interpretation of FRT standards.

2. Sector-Specific EU-wide rights impact assessments for law enforcement FRT, harmonising rights protections, proportionality checks, and bias mitigation.

3. Clarification of Use Cases, explicit EU definitions on real-time vs post-event use, with strict rules for third-party deployers to prevent misuse.

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## References

- [1]European Union. (2024). Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on artificial intelligence and amending certain Union legislative acts (Artificial Intelligence Act). Official Journal of the European Union, L 168/1. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32024R1689>
- [2]Stewart, L.S. (2024). The regulation of AI-based migration technologies under the EU AI Act: (Still) operating in the shadows? European Law Journal, 30(1-2), pp.122–135. doi:<https://doi.org/10.1111/eulj.12516>.
- [3]Articles Public Order and Public Security in EU Law Introduction: Public order and public security in EU law. Time for Reappraisal Ségolène Barbou des Places. (n.d.). doi:<https://doi.org/10.15166/2499-8249/811>.