

DR LUISA SCARCELLA

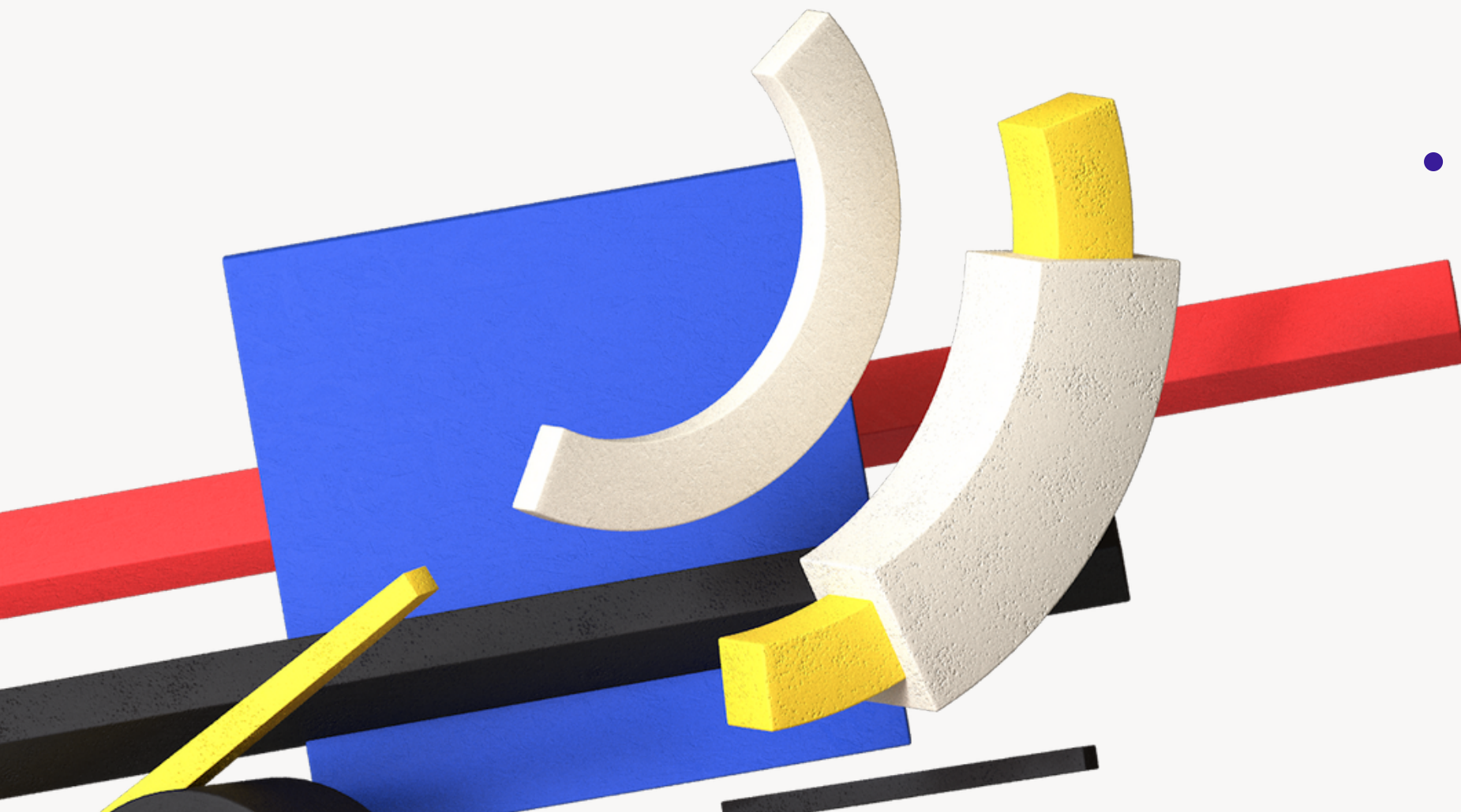
In search for a solution for more transparency in AI

Interdisciplinary conference on computational taxation
Antwerp, 23.09.2021
Session II



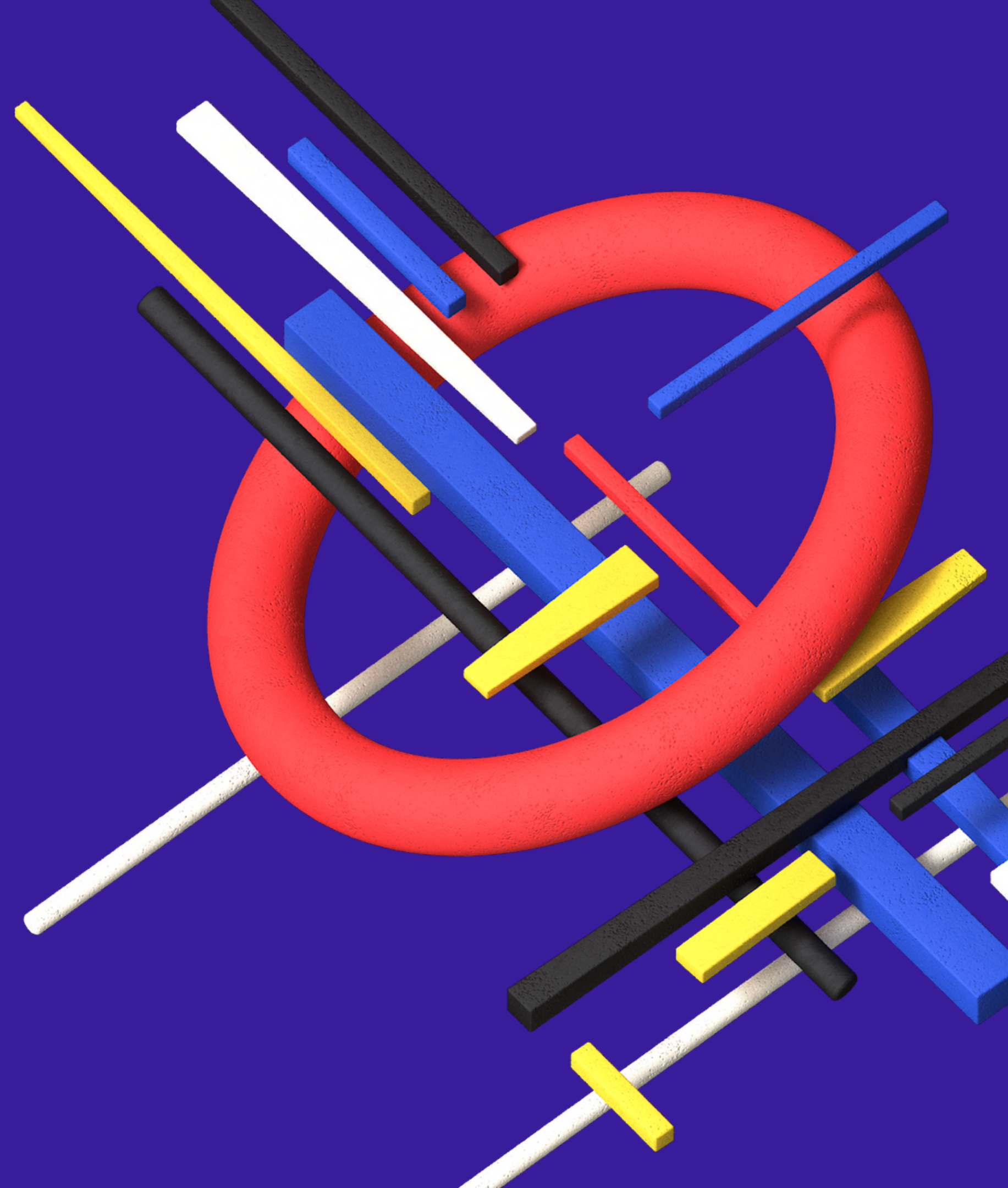
Intro: Transparency in Tax Technologies

- The topic of transparency in the area of tax
- Transparency in the context of good governance
- Transparency and the right to a good administration
- Transparency in the GDPR
- Why do we need transparency?
- Why is transparency in tax technologies problematic?
- Why do we need to strike the right balance in terms of transparency for tax technologies? (eg. SyRI case)
- How to strike the right balance



Transparency in Tax

Tax transparency makes the headlines, but transparency is relevant also in the way the public authorities (including revenue agencies) operate.





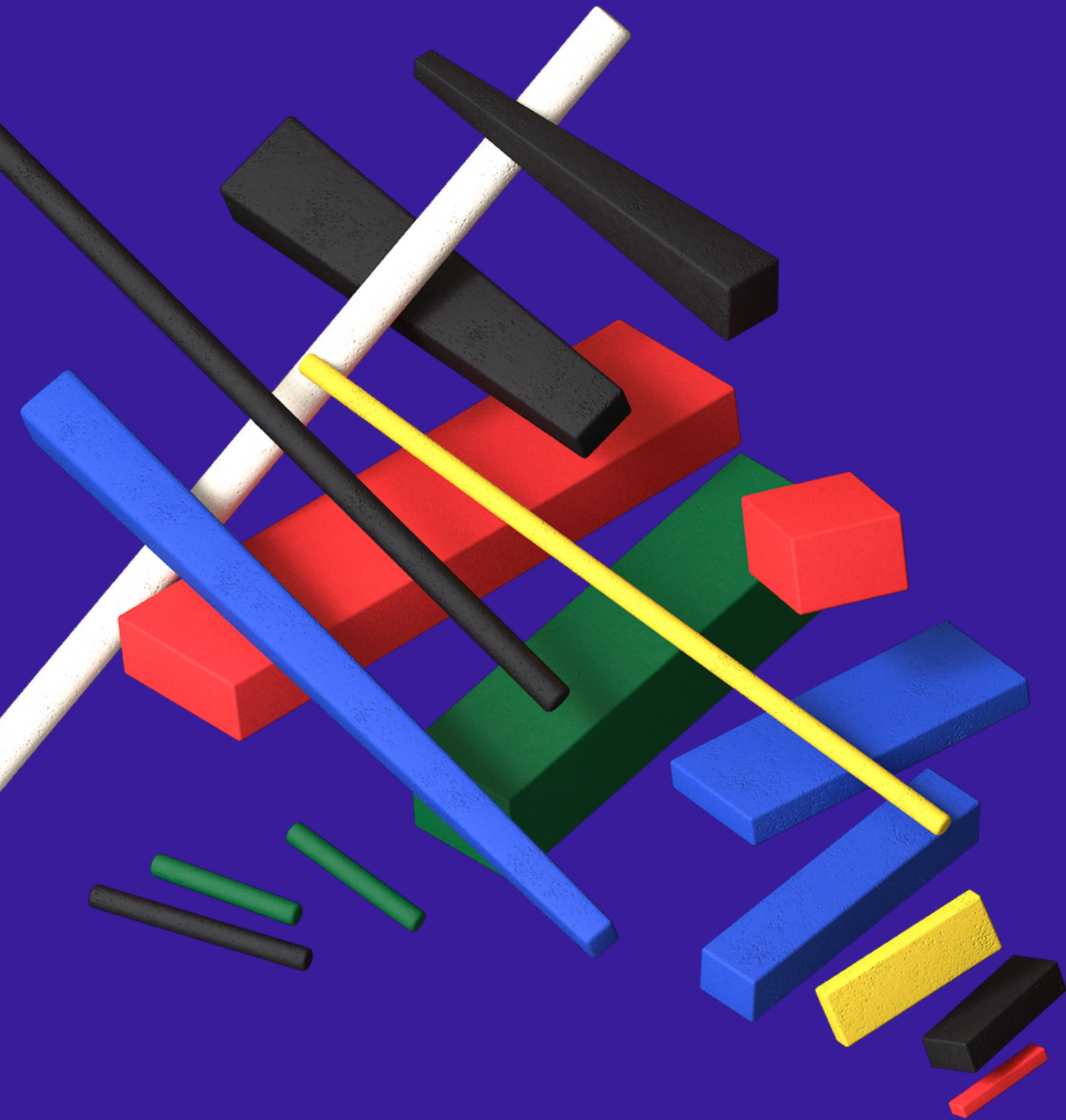
Transparency as good governance

- Transparency symbolizes a mechanism of promoting good governance and public trust in a democratic and modern public administration.
- The principle of transparency can act as a controlling element against maladministration and corruption and the promoter of accountability toward the protection of public interest and citizens' rights

Right to a Good Administration

- Article 41 EU Charter of Fundamental Rights
- par 1 *"Every person has the right to have his or her affairs handled impartially, fairly and within a reasonable time by the institutions, bodies, offices and agencies of the Union"*.
- par. 2 lit. c) *"The obligation of the administration to give reasons for its decisions"*
- Similar wording also at Member State level. It can be contained in legal acts or even constitutional provisions.

Principle of transparency in the GDPR



- The GDPR has established several principles as regards the processing of personal data (see the recitals in conjunction with Article 5 GDPR).
- These are the principle of transparency, the principle of purpose limitation, the principle of data minimisation, the principle of accuracy and the principle of integrity and confidentiality and finally, as a corollary of these principles, the principle of accountability.

The right to be informed (transparency) in the GDPR

Articles 13 & 14

Any processing of personal data should be lawful, fair, and transparent. It should be clear and transparent to individuals that personal data concerning them are collected, used, consulted or otherwise processed, and to what extent the personal data are, or will be, processed.

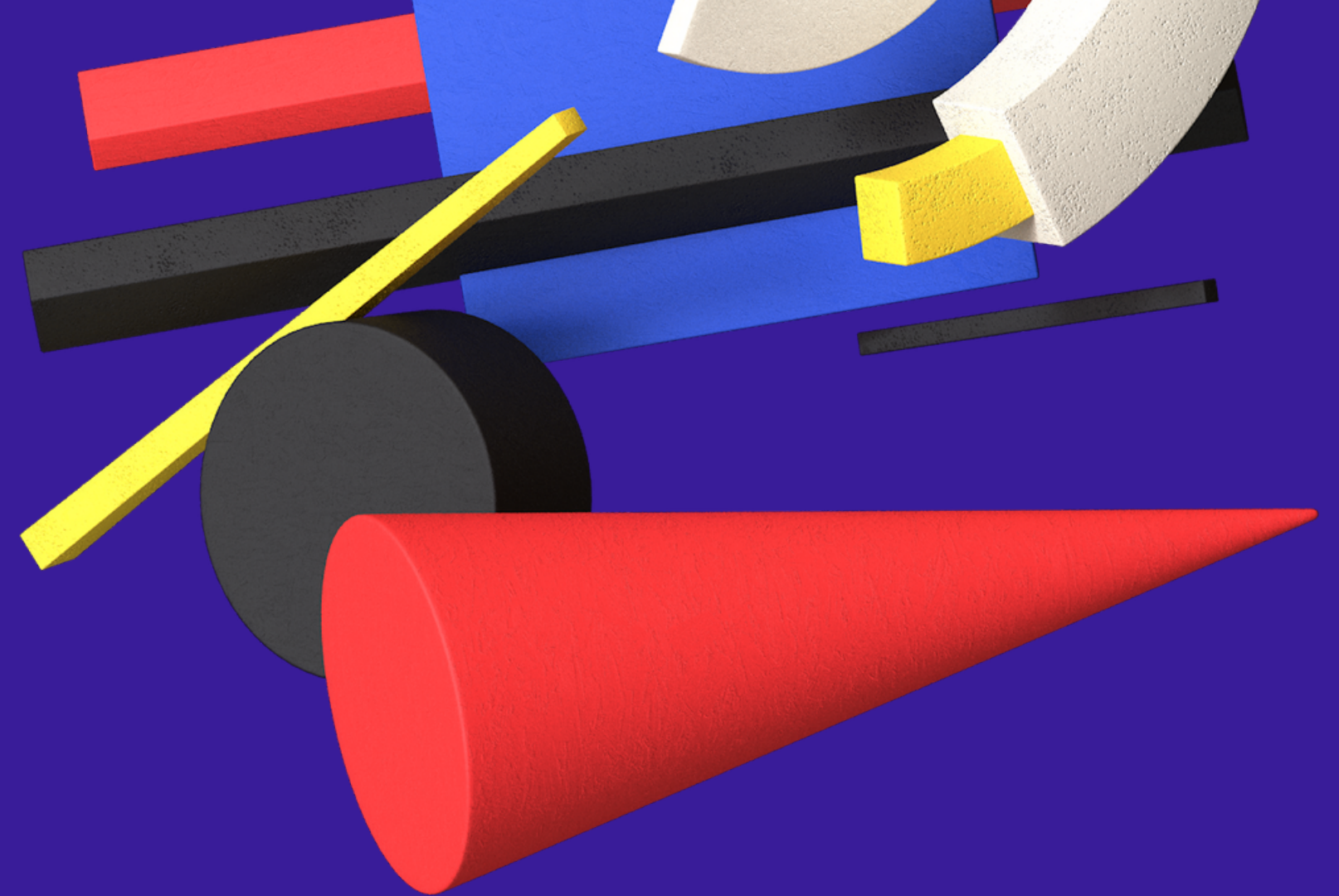
Why do we need transparency?

1. Ensure and guarantee taxpayers' due process rights

2. Avoid abuse of power and unjustified discretionary decisions leading to the breach of equal treatment



Why is transparency in tax technology problematic?

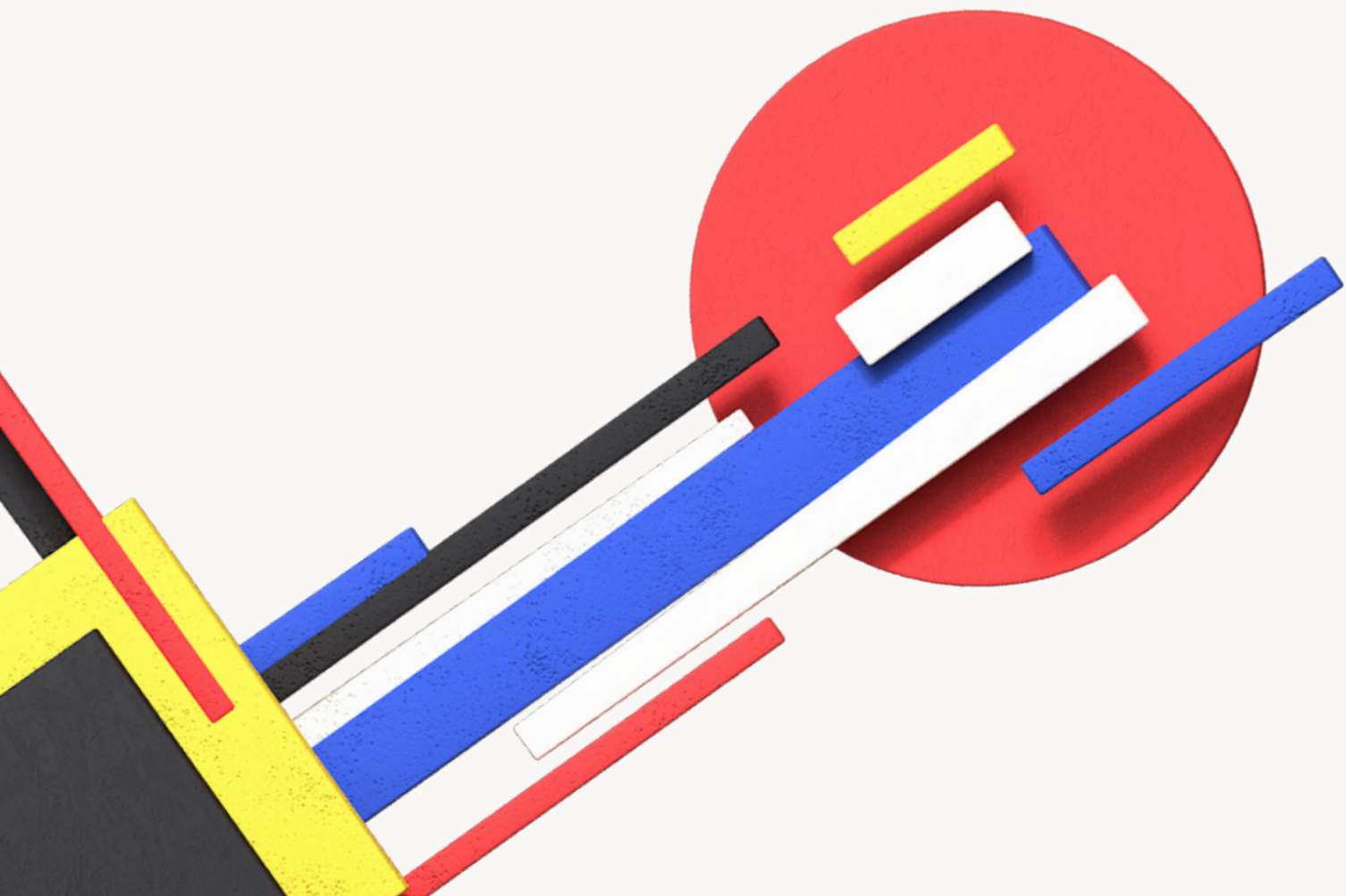


Black Box Models

If we don't know how a certain decision was taken, we don't know the reasons behind those decisions, whether there are biases or mistakes and without knowing that, it is not possible to challenge the decision which was wrongly taken.

The importance of striking the right balance: the example of the SyRI case

- SyRI is a legal instrument used by the Dutch government to detect various forms of fraud, including social benefits, allowances, and taxes fraud.
- The court has ruled that the legislation regulating the use of SyRI does not comply with Article 8 of the European Convention on Human Rights (ECHR), which protects the right to respect for private and family life, home and correspondence.
- Use of SyRI insufficiently transparent and verifiable
- The State has not disclosed the risk model and the indicators





How do we strike the right balance?

This is where we need more interdisciplinary work!

Thank you!

Dr Luisa Scarcella
luisa.scarcella@uantwerpen.be

