

Overview of the EU's AI Act

Legislation regulating artificial intelligence (“AI”) systems has been approved in the European Union with the stated aim of promoting trustworthy AI in Europe while protecting fundamental rights against the potentially harmful effects of AI systems. The European AI Act (Regulation (EU) 2024/1689) (the “Act”) is the first comprehensive legal framework on AI worldwide and its key provisions are summarised below.

Scope

The Act sets out harmonised rules on artificial intelligence in Europe to provide for:

- (a) rules for the placing on the market, the putting into service, and the use of AI systems;
- (b) prohibitions of certain AI practices;
- (c) specific requirements for high-risk AI systems and obligations for operators of such systems;
- (d) transparency rules;
- (e) rules for general-purpose AI models;
- (f) rules on market monitoring, market surveillance, governance and enforcement; and
- (g) measures to support innovation, with a particular focus on SMEs, including start-ups.

Risk Categories

The Act introduces a uniform framework across all EU Member States based on a broad, forward-looking definition of AI and a risk-based approach. The risk categories are: Unacceptable Risk, High Risk, Transparency (Limited) Risk and Minimal risk.

Prohibitions – Unacceptable Risk

Certain AI practices are prohibited under this Act as they are deemed to violate human rights including:

- the deployment of subliminal techniques beyond a person’s consciousness or purposefully manipulative or deceptive

techniques, with the objective, or the effect, of materially distorting behaviour and appreciably impairing their ability to make an informed decision,

- the exploitation of the vulnerabilities of a natural person or a specific group of persons due to their age, disability or a specific social or economic situation, with the objective, or the effect, of materially distorting behaviour;
- AI systems for the evaluation or classification of persons based on their social behaviour or known, inferred or predicted characteristics;
- making risk assessments to assess or predict the risk of criminal offences, based solely on profiling or on assessing personality traits and characteristics;
- use of AI to infer emotions of people in workplaces and educational institutions;
- certain biometric categorisation systems;
- AI systems that create or expand general facial recognition databases; and
- general use of remote biometric identification systems in publicly accessible spaces for law enforcement.

High Risk

The Act includes a methodology for the classification of AI systems as high-risk to ensure legally certainty. This assessment is based on the intended purpose of the AI system so it depends on



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the function performed and on the specific purpose for which the system is used.

AI systems can classify as high-risk if (a) the AI system is embedded as a safety component in products covered by existing product legislation or constitute such products themselves. For example: AI-based medical software; or (b) the AI system is intended to be used for an identified high-risk use case. For example: education, employment, law enforcement or migration.

The European Commission is preparing guidelines for the high-risk classification, which will be published ahead of the application date for these rules.

AI systems assessed as being high-risk are subject to strict obligations including:

- adequate risk and mitigation systems
- high-quality of system datasets to minimise risk of discriminatory outcomes
- activity logging to ensure result traceability
- detailed documentation providing all system information necessary for authorities to assess its compliance
- clear and adequate information to the deployer
- appropriate human oversight measures
- high level of robustness, cybersecurity and accuracy

Minimal or no risk

The AI Act does not introduce rules for AI that is deemed minimal or no risk. It is anticipated that the vast majority of AI systems currently used in the EU fall into this category. Examples include AI-enabled spam filters. Voluntary codes of practice may be developed in due course to address such AI

systems. The AI Office is facilitating the drawing-up of a Code of Practice to detail out rules for general purpose AI models. The Code should represent a central tool for providers to demonstrate compliance with the Act and incorporate state-of-the-art practices.

Timing

The Act was signed in Brussels on 13th June 2024 and will apply in general from August 2026. However, certain provisions such as the definitions and prohibitions will apply from February 2025 and the rules on governance from August 2025 respectively. The obligations for high-risk systems will only apply from August 2027.

Penalties

The AI Act sets out thresholds for penalties that can go up to the higher of €35m or 7% of total worldwide turnover for infringements on prohibited practices or non-compliance related to requirements on data.

National authorities are responsible for overseeing and enforcing rules for AI systems, while the EU level is responsible for governing general-purpose AI models. In this latter regard, the European Artificial Intelligence Board (AI Board) will be established, comprising representatives from Member States, to ensure EU-wide coherence and cooperation.

The AI Office, the Commission's implementing body for the AI Act, will provide strategic guidance to the AI Board. A Scientific Panel and Advisory Forum will provide expert input to it.