

July 2024



The EU Artificial Intelligence Act (AI Act) is the world's most comprehensive legal framework for AI developers, deployers and importers.

It aims to create a regulatory framework for the development and use of AI in the European Union that ensures safety, transparency and respect for fundamental rights.

Key obligations

The AI Act seeks to guarantee that AI systems placed on the European Union internal market are secure, uphold current laws regarding fundamental rights and adhere to EU values. This Regulation takes a risk-based approach.

- **Prohibited AI practices:** include AI practices violating fundamental rights such as social scoring, exploiting people's vulnerabilities, using subliminal techniques, real-time biometric identification in public spaces (with limited exceptions), certain forms of individual predictive policing, emotion recognition in workplaces and schools, in addition to untargeted scraping of internet or CCTV footage for facial images to build databases.
- **High Risk AI systems:** include AI systems using biometrics, or used in critical infrastructure, education, employment, self-employment, essential private/public services, law enforcement, migration, asylum, border control, justice administration and democratic processes. AI systems which are safety components of devices or are devices covered by EU product safety legislation are also considered high-risk. Requirements for these systems include pre-market conformity assessment, risk management, data governance, technical documentation provision, record keeping, transparency and human oversight. High-risk AI systems deployed by public authorities or related entities must be registered in a public EU database.
- **Transparency obligations for certain AI systems:** providers of AI systems intended to interact directly with natural persons, or which generate synthetic audio, image, video or text content will be subject to transparency obligations. Deployers of emotion recognition or biometric categorisation systems and deployers of AI systems that generate or manipulate image, audio or video content constituting a deep fake are also subject to transparency obligations.

- **General Purpose AI (GPAI) systems and models:** risk categorisation is based on model capability rather than application. Two risk categories exist: GPAI models entailing systemic risk and all other GPAI models. Providers of systemic risk GPAI models have more compliance requirements.
 - **GPAI Models:** providers must maintain technical documentation and share information with potential users about the capabilities and limitations of the model. They must also draw up and make publicly available a ‘sufficiently detailed summary’ about the content used for training of the model. A code of practice will be drawn up by the AI Office.
 - **GPAI Models with systemic risks:** regarded as having systemic risk if they have high impact capabilities or are designated as such by the European Commission. A model is presumed to have high impact capabilities if the compute used for training measures 10^{25} or more Floating Point Operations Per Second (FLOPs). Providers of these models have additional obligations like model evaluations, systemic risk mitigation, incident reporting and ensuring cybersecurity protection. A code of practice is also recommended.

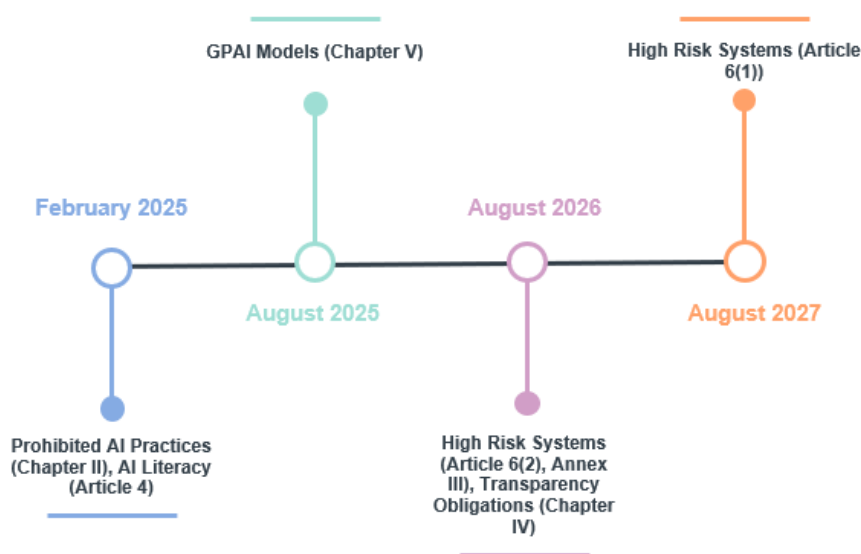
Enforcement

An Artificial Intelligence Office (AI Office) has been established within the European Commission to enforce the AI Act in EU Member States, with exclusive authority over GPAI models. Member States will designate authorities to enforce the regulation and an AI Board, comprising representatives from these states, will be established with the aim of providing a coherent implementation of Regulation. An Advisory Forum of stakeholders and a Scientific Panel of independent experts will also be established.

Penalties for infringements can reach up to **EUR 35 million or 7% of annual global turnover**, and up to **EUR 15 million or 3% depending on the violations**. Incorrect reports can result in penalties of up to **EUR 7.5 million or 1.5% of annual turnover**. Additionally, providers can be forced to withdraw non-compliant AI systems from the market.

What’s next

The Regulation was published in the EU Official Journal on **12 July 2024** and will enter into force on **1 August 2024**.



We can support you with preparations and compliance

We have been helping clients understand and adapt to the AI Act since its inception. This has included in-depth public affairs support for clients throughout the legislative process, giving us intimate familiarity with the final form of the AI Act, and the decisions taken along the way. Our B&B AIA working group currently stands at 33 AI Act specialists and is growing steadily. We are deeply engaged with supporting clients to achieve AIA compliance, drawing together broad and pragmatic experience from a deep bench of European lawyers and public affairs specialists, with backgrounds in technology, personal data and product safety legislation. We are monitoring the enforcement structure and work of the AI Office closely, together with forthcoming secondary legislation and guidance.

We are currently helping clients with:

- **Training** for legal and product teams on AI Act obligations
- AI Act regulatory **impact assessments** for specific AI systems and models
- Developing **toolkits** for AI model and system assessment
- Preparing **documentation** for AI Act compliance
- Adding AI Act compliance provisions to **contracts**, acceptable use policies and data protection impact assessments
- **Mapping** expected secondary legislation, guidance documents, standards development and timelines stemming from the AI Act

AI Act Guide

To guide you through the EU AI Act, our multi-disciplinary team is producing an **AI Act Guide** which summarises key aspects of the new Regulation and highlights the most important actions organisations should take in seeking to comply with it. Serving a similar purpose as our [GDPR Guide](#), the AI Act Guide will be divided into thematic sections, with a speed-read summary and a list of suggested priority action points.

If you'd like to be the first to receive the Guide in your inbox upon its launch, please register your interest using our form [here](#).

For more information, please speak to your usual Bird & Bird contact or one of our AI Act Working Group experts below.

Belgium

[Benoit Van Asbroeck](#)

[Francine Cunningham](#)

[Paolo Sasdelli](#)

Finland

[Tobias Bräutigam](#)

France

[Anne-Sophie Lampe](#)

[Cathie-Rosalie Joly](#)

[Delphine Frye](#)

Germany

[Mariam Ballhausen](#)

[Nils Lölfing](#)

[Oliver Belitz](#)

[Simon Hembt](#)

Italy

[Gian Marco Rinaldi](#)

Ireland

[Anna Morgan](#)

[Ann Henry](#)

[Deirdre Kilroy](#)

Netherlands

[Berend Van Der Eijk](#)

[Feyo Sickinghe](#)

[Shima Abbady](#)

Poland

[Aleksandra Cywinska](#)

[Andrzej Stelmachowski](#)

[Izabela Kowalczyk-Pakula](#)

[Maria Jurek](#)

[Marta Kwiatkowska-Cylke](#)

[Pawel Lipski](#)

[Tomasz Zalewski](#)

Spain

[Joaquín Muñoz](#)

United Kingdom

[Alex Jameson](#)

[Ian Edwards](#)

[Katerina Tassi](#)

[Katharine Stephens](#)

[Liz McAuliffe](#)

[Nora Santalu](#)

[Ruth Boardman](#)

[Toby Bond](#)

[Will Bryson](#)

Offer a perfect, personal and highly competent service when it comes to our very detailed questions about IT law, AI or all other tech topics. We value the team's support not only because this is one of the best tech law firms out there, but above all because we receive clear statements and useful, pragmatic advice here.

Legal 500 EMEA, 2024 – Tier 1

One Firm Your Firm



twobirds.com

Abu Dhabi • Amsterdam • Beijing • Bratislava • Brussels • Budapest • Casablanca • Copenhagen • Dubai • Dublin • Dusseldorf • Frankfurt • The Hague • Hamburg • Helsinki • Hong Kong • London • Lyon • Madrid • Milan • Munich • Paris • Prague • Rome • San Francisco • Shanghai • Shenzhen • Singapore • Stockholm • Sydney • Warsaw

The information given in this document concerning technical legal or professional subject matter is for guidance only and does not constitute legal or professional advice. Always consult a suitably qualified lawyer on any specific legal problem or matter. Bird & Bird assumes no responsibility for such information contained in this document and disclaims all liability in respect of such information.

This document is confidential. Bird & Bird is, unless otherwise stated, the owner of copyright of this document and its contents. No part of this document may be published, distributed, extracted, re-utilised, or reproduced in any material form.

Bird & Bird is an international legal practice comprising Bird & Bird LLP and its affiliated and associated businesses.

Bird & Bird LLP is a limited liability partnership, registered in England and Wales with registered number OC340318 and is authorised and regulated by the Solicitors Regulation Authority (SRA) with SRA ID497264. Its registered office and principal place of business is at 12 New Fetter Lane, London EC4A 1JP. A list of members of Bird & Bird LLP and of any non-members who are designated as partners, and of their respective professional qualifications, is open to inspection at that address.