
THE GLOBAL REGULATORY DEVELOPMENTS JOURNAL

Editor's Note: ESG

Victoria Prussen Spears

European Union Adopts Environmental, Social, and Governance Ratings Regulation: Strengthening Transparency and Reliability in Sustainable Finance

Frédéric Louis, Anne Vallery, Hans-Georg Kamann, and Geoffroy Barthet

Environmental, Social, and Governance Ratings: United Kingdom Confirms Regulatory Regime

Nicola Higgs, Rob Moulton, Becky Critchley, and Charlotte Collins

European Commission Issues First Fine for Abusive Patent Game-Playing and Disparagement

Ross Ferguson, Annie Herdman, Nicole Kar, Henrik Morch, and Rich Pepper

The Impact of the European Union's Artificial Intelligence Act on the Development and Use of Medical Devices

David Dumont and Sarah Pearce

The Impact of the European Union's Artificial Intelligence Act on Human Resources Activities

David Dumont and Sarah Pearce

UK's Financial Conduct Authority Publishes Results of Non-Financial Misconduct Survey

Rob Moulton, Nicola Higgs, Nell Perks, Becky Critchley, and Charlotte Collins

IOSCO's Proposed Guidance on Pre-Hedging Practices

Peter Y. Malyshev, Ivan Loncar, Michael Ena, and Robert DiNardo

China Issues New Export Control Regulations on Civil-Military Dual-Use Items

Jenny "Jia" Sheng, Chunbin Xu, and Wenjun Cai

A Question of Harm

Edite Ligere

The Global Regulatory Developments Journal

Volume 2, No. 2

March–April 2025

- 81 Editor’s Note: ESG**
Victoria Prussen Spears
- 85 European Union Adopts Environmental, Social, and Governance Ratings Regulation: Strengthening Transparency and Reliability in Sustainable Finance**
Frédéric Louis, Anne Vallery, Hans-Georg Kamann, and Geoffroy Barthet
- 91 Environmental, Social, and Governance Ratings: United Kingdom Confirms Regulatory Regime**
Nicola Higgs, Rob Moulton, Becky Critchley, and Charlotte Collins
- 97 European Commission Issues First Fine for Abusive Patent Game-Playing and Disparagement**
Ross Ferguson, Annie Herdman, Nicole Kar, Henrik Morch, and Rich Pepper
- 101 The Impact of the European Union’s Artificial Intelligence Act on the Development and Use of Medical Devices**
David Dumont and Sarah Pearce
- 105 The Impact of the European Union’s Artificial Intelligence Act on Human Resources Activities**
David Dumont and Sarah Pearce
- 109 UK’s Financial Conduct Authority Publishes Results of Non-Financial Misconduct Survey**
Rob Moulton, Nicola Higgs, Nell Perks, Becky Critchley, and Charlotte Collins
- 115 IOSCO’s Proposed Guidance on Pre-Hedging Practices**
Peter Y. Malyshev, Ivan Loncar, Michael Ena, and Robert DiNardo
- 125 China Issues New Export Control Regulations on Civil-Military Dual-Use Items**
Jenny “Jia” Sheng, Chunbin Xu, and Wenjun Cai
- 131 A Question of Harm**
Edite Ligere

EDITOR-IN-CHIEF

Steven A. Meyerowitz

President, Meyerowitz Communications Inc.

EDITOR

Victoria Prussen Spears

Senior Vice President, Meyerowitz Communications Inc.

BOARD OF EDITORS

Paulo Fernando Campana Filho

Partner

Campana Pacca

Hei Zuqing

Distinguished Researcher

International Business School, Zhejiang University

Justin Herring

Partner

Mayer Brown LLP

Lisa Peets

Partner

Covington & Burling LLP

Joan Stewart

Partner

Wiley Rein LLP

William D. Wright

Partner

Fisher Phillips

THE GLOBAL REGULATORY DEVELOPMENTS JOURNAL (ISSN 2995-7486) at \$495.00 annually is published six times per year by Full Court Press, a Fastcase, Inc., imprint. Copyright 2025 Fastcase, Inc. No part of this journal may be reproduced in any form—by microfilm, xerography, or otherwise—or incorporated into any information retrieval system without the written permission of the copyright owner.

For customer support, please contact Fastcase, Inc., 729 15th Street, NW, Suite 500, Washington, D.C. 20005, 202.999.4777 (phone), or email customer service at support@fastcase.com.

Publishing Staff

Publisher: Leanne Battle

Production Editor: Sharon D. Ray

Cover Art Design: Morgan Morrisette Wright and Sharon D. Ray

The photo on this journal's cover is by Gaël Gaborel—A Picture of the Earth on a Wall—on Unsplash

Cite this publication as:

The Global Regulatory Developments Journal (Fastcase)

This publication is sold with the understanding that the publisher is not engaged in rendering legal, accounting, or other professional services. If legal advice or other expert assistance is required, the services of a competent professional should be sought.

Copyright © 2025 Full Court Press, an imprint of Fastcase, Inc.

All Rights Reserved.

A Full Court Press, Fastcase, Inc., Publication

Editorial Office

729 15th Street, NW, Suite 500, Washington, D.C. 20005

<https://www.fastcase.com/>

POSTMASTER: Send address changes to THE GLOBAL REGULATORY DEVELOPMENTS JOURNAL, 729 15th Street, NW, Suite 500, Washington, D.C. 20005.

Articles and Submissions

Direct editorial inquiries and send material for publication to:

Steven A. Meyerowitz, Editor-in-Chief, Meyerowitz Communications Inc.,
26910 Grand Central Parkway, #18R, Floral Park, NY 11005, smeyerowitz@
meyerowitzcommunications.com, 631.291.5541.

Material for publication is welcomed—articles, decisions, or other items of interest to international attorneys and law firms, in-house counsel, corporate compliance officers, government agencies and their counsel, senior business executives, and others interested in global regulatory developments.

This publication is designed to be accurate and authoritative, but the publisher, the editors and the authors are not rendering legal, accounting, or other professional services in this publication. If legal or other expert advice is desired, retain the services of an appropriate professional. The articles and columns reflect only the present considerations and views of the authors and do not necessarily reflect those of the firms or organizations with which they are affiliated, any of the former or present clients of the authors or their firms or organizations, or the editors or publisher.

QUESTIONS ABOUT THIS PUBLICATION?

For questions about the Editorial Content appearing in these volumes or reprint permission, please contact:

Leanne Battle, Publisher, Full Court Press at leanne.battle@vlex.com or at
866.773.2782

For questions or Sales and Customer Service:

Customer Service
Available 8 a.m.–8 p.m. Eastern Time
866.773.2782 (phone)
support@fastcase.com (email)

Sales
202.999.4777 (phone)
sales@fastcase.com (email)

ISSN 2995-7486

The Impact of the European Union's Artificial Intelligence Act on Human Resources Activities

David Dumont and Sarah Pearce*

In this article, the authors explain that companies that use artificial intelligence (AI) systems in the context of their human resources activities in the European Union should take proactive steps to review their AI practices in light of the new requirements under the EU's AI Act.

On August 1, 2024, the EU's Artificial Intelligence Act (AI Act) entered into force. The AI Act introduces a risk-based legal framework for AI systems that fall into four main buckets:

1. Prohibited AI systems,
2. High-risk AI systems,
3. AI systems with transparency requirements, and
4. General purpose AI models.

The AI Act applies to companies that are located in the European Union. In addition, the AI Act has an extraterritorial reach. It applies to AI “providers,” which are companies that develop and place AI systems on the EU market (including general purpose AI models) or put AI systems into service in the European Union under their own name or trademark, irrespective of the provider's location. The Act further applies to any situation where the output of the AI system is used in the European Union, regardless of where the provider or deployer of the concerned AI system is located.

The AI Act's obligations will become applicable in phases. The provisions with respect to prohibited AI systems and AI literacy (see below) became applicable on February 2, 2025. Specific obligations for general purpose AI models will become applicable on August 2, 2025. Most other obligations under the AI Act, including the rules applicable to high-risk AI systems and systems subject to specific transparency requirements, will become applicable on

August 2, 2026. The remaining provisions will become applicable on August 2, 2027.

How the AI Act Applies in Recruitment and Employment

The AI Act introduces obligations for high-risk AI systems that require preparation, implementation, and ongoing oversight. Under Article 6(2) and Annex III of the AI Act, high-risk AI systems include:

- AI systems intended to be used for the recruitment or selection of individuals, in particular to place targeted job advertisements, to analyze and filter job applications, and to evaluate candidates; and
- AI systems intended to be used to make decisions affecting terms of work-related relationships, the promotion or termination of work-related contractual relationships, to allocate tasks based on individual behavior or personal traits or characteristics, or to monitor and evaluate the performance and behaviors of individuals in such relationships.

Therefore, employers deploying AI systems for candidate screening, employee evaluation, and other employment-related decision-making in the European Union must take appropriate steps to comply with the AI Act's requirements related to the use of high risk AI systems. There are, of course, other scenarios where the use of AI in the workplace could trigger certain obligations, but these are the most obvious and are those that will be most relevant to employers based on current-use cases.

Key Obligations Regarding High-Risk AI Systems

Employers who deploy high-risk AI systems in their human resources (HR) activities must comply with the following key deployer obligations under the EU AI Act:

- *Transparency*: Employers must inform candidates and employees about the use of a high-risk AI system in recruitment and employment, explaining how the AI system will

function and how decisions will be made. Individuals have the right to request explanations on the role of the AI system in the decision-making procedure and the main elements of the decision taken.

- *Data Management*: If employers exercise control over the input data used in high-risk AI systems, they are required to ensure that the AI system training data is relevant and sufficiently representative (i.e., accurate and without bias) to prevent discriminatory outcomes.
- *Monitoring*: Employers using high-risk AI systems in recruitment and employment must continuously monitor the operation of those systems following the instructions provided by the AI system's provider, and identify any risks arising from their use.
- *Human Oversight*: Employers must ensure appropriate human oversight over the operation of high-risk AI systems for recruitment and employment activities to ensure fairness and accuracy.
- *Data Protection Impact Assessment (DPIA)*: Where a high-risk AI system processes personal data, employers are required to conduct a DPIA under Article 35 of the EU General Data Protection Regulation (GDPR). The DPIA should evaluate the potential impact of AI systems on individuals' rights and freedoms and propose mitigation measures, where necessary. In conducting a DPIA under the GDPR, the AI Act requires that deployers (employers) must use the information that the provider of the high-risk AI system must provide to deployers under the AI Act.
- *AI Literacy*: Effective as of February 2025, employers must ensure that staff members and other persons dealing with the operation and use of AI systems on their behalf have a sufficient level of AI literacy, tailored to their technical knowledge, experience, education, and the context in which the AI system is used. Essentially, employers must implement robust, up-to-date AI Act training programs to meet this requirement. This is a general requirement applicable to any AI system and is not specific to high-risk AI systems.
- *Workers' Representatives*: Employers using high-risk AI systems in the workplace are required to inform workers' representatives and the affected workers before deployment.

This will likely coincide with existing works council obligations.

If a company is a “provider” of high-risk AI systems for use by deployers (employers) in their HR activities, it will be subject to more stringent “provider” obligations under the EU AI Act. This includes conducting conformity assessments; establishing and implementing a comprehensive risk management system throughout the life cycle of the AI system; implementing data quality, data governance, and data management requirements; maintaining comprehensive technical documentation of the AI system; providing adequate information to deployers of the high-risk AI system about how to operate the system safely (instructions for use); and implementing post-market monitoring.

Noncompliance with the AI Act can result in complaints, investigations, fines, litigation, operational restrictions, and damage to a company’s reputation. The GDPR continues to apply where AI systems process personal data.

Conclusion

Companies that use AI systems in the context of their human resources activities should take proactive steps to review their AI practices in light of the new requirements under the EU AI Act. This is required both to comply with the new law and to build trust with candidates and employees. Employers should implement the necessary compliance measures, such as drafting or reviewing AI governance policies and procedures and ensuring human oversight and transparency. The requirement to ensure AI literacy of staff members will take effect sooner than other obligations and should be prioritized, where possible.

Note

* The authors, partners in Hunton Andrews Kurth LLP, may be contacted at ddumont@huntonak.com and spearce@huntonak.com, respectively.