European Journal of Law and Public Administration
ISSN: 2360-6754 | e-ISSN: 2559-7671
Covered in: Erih Plus; HeinOnline; CEEOL; RePEc; CrossRef; Google Scholar; KVK; WorldCat; ICI Journals Master List - Index Copernicus; EBSCO.

2024, Volume 11, Issue 2, pages: 92-101 | https://doi.org/10.18662/eljpa/11.2/234

Impact of the EU's Artificial Intelligence Regulation on Workers

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Abstract: *In the context of the unprecedented development of the field of artificial intelligence, the European Union's concern to regulate the field seems not only natural, but even necessary.*
On March 13, 2024, the European Parliament adopted a historic piece of legislation, the Artificial Intelligence Regulation, a step that marks a significant milestone in ensuring the fundamental rights of citizens. The Regulation, the first law on artificial intelligence at international level, aims to ensure that AI systems are safe, trustworthy and ethical, with the potential for responsible use.
This paper analyzes the provisions of the Regulation in terms of AI-related risks, discrimination, liability loopholes and the innovation side of the Regulation in terms of workers' rights. The Regulation was intended to ensure that AI systems are developed and used in a responsible way, with the intention to look at fundamental rights, with a focus on workers' rights.
Certainly, the Regulation will have a significant impact on workers, influencing various aspects of employment relations, because artificial intelligence is used for workforce management, recruitment optimization, digital surveillance or data protection, non-discrimination, health and safety at work, and it is important to identify the line between compliance and privacy.

Keywords: *artificial intelligence, EU Regulation, social rights, workers.*

How to cite: Popa, A. & Pascariu, L.-T. (2024). Impact of the EU's Artificial Intelligence regulation on workers. *European Journal of Law and Public Administration, 11*(2), 92-101. https://doi.org/10.18662/eljpa/11.2/234

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The European course of artificial intelligence concerns

Very briefly, we highlight that the journey of the European Regulation started with the *White Paper on Artificial Intelligence - an approach based on excellence and trust*, a document made public in Brussels on February 19, 2020 (European Commission, 2020). Union White Papers are "documents with proposals for action in a given area, with the aim of launching a public debate with all stakeholders, the Parliament and the Council, with a view to reaching a political consensus". The White Paper emphasized that artificial intelligence is a strategic technology that offers benefits to citizens, businesses and society as a whole, provided that it is human-centred, ethical and sustainable and respects citizens' fundamental rights and values. With the White Paper, together with an accompanying Report on the Safety and Liability Framework, the Commission has in fact sought to launch a broad consultation, not only of civil society but also of industry and academia, with a view to gathering concrete proposals for a European approach to AI. As stated in the doctrine, the Union aspired to be the first global player to adopt "*a comprehensive framework that classifies and regulates the roll-out of AI software and hardware within its internal market*" (Lilkov, 2021).

For the first time, the Commission presented in April 2001 a proposal for a Regulation aimed at harmonizing the rules on artificial intelligence but also a coordinated plan including a set of joint actions with Member States. Chronologically, in October 2021 the Council discussed the proposal for a Regulation, on 6 December 2022 it took position, on 9 December 2022 the two co-legislators reached agreement and on 1 August 2024 the Regulation entered into force (European Council, 2024):

Timeline
"01/08/2024
AI act enters into force
21/05/2024
AI act: Council gives final green light
09/12/2023
Council and Parliament agree on AI act
06/12/2022
Council agrees on its position on AI act
21/04/2021
European Commission proposes AI act."

The Act sets different dates for the entry into force of certain provisions, as follows: the rules concerning prohibited AI systems enter into force on February 2, 2025; the rules on general-purpose AI models from August 2, 2027; the rules on penalties from August 2, 2027; and the rules for high-risk systems set out in Annex I to the Regulation will apply from August 2, 2027. The power to adopt delegated acts on the basis of the Regulation has been conferred on the European Commission for a period of 5 years, starting August 1, 2024.

Attempting a definition of artificial intelligence, we show that it essentially refers to "the use of digital technology to create systems that perform tasks that generally require human intervention". Basically, AI systems are trained to detect patterns within large volumes of data and learn from experience. AI is distinguished by the degree of cognitive capacity, weak, limited, general or superlative, or by the degree of autonomy, which can be reactive, deliberative, cognitive or fully autonomous (Morandín-Ahuerma, 2022).

Some basic principles of the Artificial Intelligence Regulation

The European Union's approach to the regulatory act under review is risk-based, imposing regulatory requirements according to the degree of threat to security and human rights that artificial intelligence may pose. Comparatively, the US has preferred not to create a preventive system and China has adopted ambitious concepts in the field of artificial intelligence and robotics functioning (Kuteynikov et al., 2022).

First of all, we note that the Regulation, as its very title suggests, establishes harmonized rules on artificial intelligence but at the same time amends a suite of previous pieces of legislation: the Regulations (EC) No 300/2008 and (EU) No 2018/1139 on common rules in the field of civil aviation, Regulations No 167/2013 (EU), No 168/2013 (EU), No. 2018/858 (EU) and No. 2019/2144 (EU) on type-approval and market surveillance of various types of vehicles and Directives 2014/90 (EU) on marine equipment, 2016/797 (EU) on the interoperability of the rail system within the European Union and 2020/1828 (EU) on representative actions for the protection of consumers' collective interests (Holistic AI, 2024)..

Of course, of interest here are the harmonized general rules on artificial intelligence, which aim to create that robust legal framework that seeks to ensure safety and respect for fundamental rights, while regulating the risks associated with AI and promoting responsible innovation. The Regulation does not explicitly spell out a set of principles, but they can be extracted from its content. However, it has been argued that the Regulation is an example of the

so-called "*hard regulation*" trend, noting that in only two years, the Commission has presented a total of six hard law initiatives in the form of regulatory legal acts, including the Digital Services Act (DSA), the Digital Markets Act (DMA) and the Data Governance Act - DGA (Cyber Risk GmbH, 2024).

Interesting in this context is the option of the European executive, observed in recent works (Silva, N. 2024), for the new wave of legislative acts, to *act-ify* them, instead of using the traditional anonymus method, by indicating the number followed by the full general title; in practice, act-ifying helps to emphasize the importance of the legislative act, making it recognizable by name (Papakonstantinou et al., 2022).

Compositionally, the Regulation consists of 13 chapters covering: "1) general provisions; 2) prohibited practices; 3) high-risk systems; 4) transparency obligations for certain types of systems; 5) general purpose models; 6) measures to support innovation; 7) governance; 8) database of high-risk systems; 9) post-market monitoring, information exchange and market surveillance; 10) codes of conduct and guidelines; 11) delegation of powers and committee procedure; 12) penalties; and 13) final provisions". Usual, as with other regulations, entry into force took place 20 days after its publication, but it will become fully operational in 2026, with some measures to be phased in progressively.

In the following, we will point out some basic principles related to the novelty of the provisions of the Regulation, with particular regard to the impact on fundamental rights, especially social rights. We pointed out above that the Regulation identifies four levels of risk for artificial intelligence systems: minimal or no risk, limited risk, high risk and unacceptable risk:

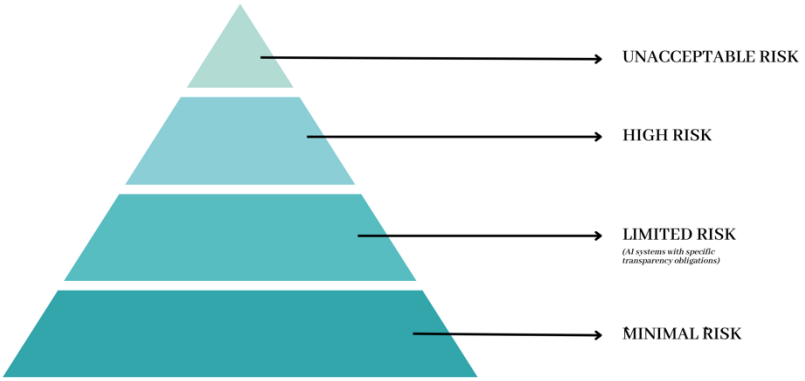


Figure. *AI Act*.. Source: European Comission (2024, October, 14). https://digital-strategy.ec.europa.eu/en/policies/regulatory-framework-ai

The first category includes applications such as video games or spam filters, with the vast majority of AI systems in use today falling into this category. Bounded risks are those risks associated with a lack of transparency, which impose obligations to ensure that people are informed when interacting with a machine - chat bots, AI-generated public interest texts, to be able to boost trust.

AI systems identified as high risk include artificial technology used in critical infrastructure (such as transportation, which can endanger the life and health of workers but also of citizens in general), vocational training, with consequences for access to education, career path (such as grading systems), employment, worker management (e.g., resume sorting software), public and private services (e.g: assessment of creditworthiness), law enforcement, interfering with fundamental rights (such as evidence reliability assessment), migration, asylum (as example - automated document screening, visa applications).

A slightly different category from those listed above is general-purpose AI, the GPAI models, which are not artificial intelligence systems in their own right but rather serve as models or building blocks. The Regulation attests, in point 97 of the Preamble, that the notion itself should be clearly defined and separated from the notion of AI systems in order to ensure legal certainty, the definition being based on the essential functional characteristics of a general-purpose AI model, with a focus on generality and the ability to perform competently a number of distinct tasks.

At the same time, the Act itself starts from the premise that general-purpose IA models could pose systemic risks that include, among others, any real or reasonably foreseeable negative effects, ranging from disruption of democratic processes to issues of public safety, health to economic security. We would stress, on the basis of the provisions of the Regulation, that the need to clarify responsibilities and competences at both national and Union levels with regard to systems based on general-purpose AI models is all the more pressing (European Council, 2024).

Section 3(63) of the AI Act defines general-purpose AI models as an AI model that exhibits "significant generality and is capable of competently performing a wide range of distinct tasks, regardless of how it is introduced to the market, and that can be integrated into a variety of downstream systems or applications, with the exception of AI models that are used for research, development, or prototyping activities prior to market introduction." A simpler definition has been advanced in the literature, with GPAI being an advanced artificial intelligence system capable of efficiently performing a number of distinct tasks (Triguero et al., 2023).

Both AI systems and general-purpose Ai models have the potential to significantly influence citizens' fundamental rights, including social rights. Concerning the latter, some authors have found that they are marginalized in EU policy debates on artificial intelligence, the focus being more on privacy, non-discrimination, privacy, various transparency guarantees and less on the importance of social rights for redistribution, economic equality or public services and health (Niklas et al., 2021). And globally, it has been emphasized that technological advances, particularly artificial intelligence, robotics and automation, have brought profound changes in the field of work, significantly altering the employment landscape, leading to the risks of certain jobs being replaced by automation to produce implications not only at the level of the individual but also at the societal level (Suryana, 2024).

In this context, the principle of humanity in the implementation of artificial intelligence emerges as fundamental, seeking to prioritize human rights and social relations at every stage of the development and application of the technology. This means that algorithms must be designed in such a way to avoid discrimination or other human rights violations such as, for example, facial recognition systems, which must circumvent biases that might disadvantage certain groups and which necessarily must comply with ethical and legal standards that protect individual privacy (Suryana, 2024). Artificial intelligence systems are also being used to control and monitor workers' activities, potentially leading to a form of 'disruptive subordination', where workers become dependent on a platform for their work, reducing their autonomy (Barroso et al., 2024).

The impact of the European Artificial Intelligence Regulation on workers' rights

At this point, it is clear that AI-led automation is fundamentally changing the field of employment, primarily affecting low-skilled workers, and it is evident that as AI technologies advance, they will be increasingly capable of performing tasks once reserved exclusively for human labor (Song, 2024). Prior to the AI Act, over the past 25 years, (European Council, 1989), after the adoption of the Council Directive of June 12, 1989 "on the introduction of measures to encourage improvements in the safety and health of workers at work", the challenges that would arise from the use of artificial intelligence were repeatedly highlighted, including communication between humans and robots in the production process, delegation of tasks, understanding the principles governing their work at work, decision-making on behalf of the employer, ethical principles, etc (Jarota, 2021).

Point 9 of the preamble to the European Regulation on artificial intelligence states that 'the harmonized rules applicable to the placing on the market, putting into service and use of high-risk AI systems ... should be without prejudice to existing Union law, in particular to certain categories of rights, including employment, worker protection and product safety', which means that 'all rights and remedies provided for by Union law, including compensation for damage, remain unaffected and fully applicable'.

It is emphasized in this context that with regard to "employment and protection of workers, the IA Act should be without prejudice to Union law on social policy and, very importantly, national labor law, in conformity with European Union law, as regards employment and working conditions, including health and safety at work and the relationship between employers and workers", but equally important is that it "does not affect the exercise of fundamental rights", exemplified here by "the freedom to strike or take other action within the framework of the specific industrial relations systems of the Member States and other fundamental social rights, to negotiate, conclude and enforce collective agreements or take collective action in accordance with national law".

The Regulation allows, as follows from the interpretation of Article 3, the Union or the Member States to maintain or introduce laws, regulations or administrative provisions which are more favorable to workers in order to ensure respect for their rights with regard to the use of artificial intelligence systems by employers. At the same time, the European Act encourages the application of collective bargaining agreements more favorable to workers. Another obligation incumbent on employers, under Article 26(7), is the need to inform workers' representatives and the workers concerned directly about the involvement in the use of a high-risk artificial intelligence system (European Comission, 2024)..

The regulation identifies high-risk systems in Annex III of the AI Act, including in the field of employment, as well as the management of workers and access to self-employed activities:

- AI systems intended to be used for the recruitment or selection of individuals, in particular to place specifically targeted job advertisements, to analyze and filter job applications and to evaluate job applicants;
- AI systems intended to be used to make decisions affecting the terms of employment relationships, the promotion and termination of employment relationships, to assign tasks on the basis of individual behavior or personal traits or characteristics, or to monitor and evaluate the performance and behavior of persons in such relationships.

Article 9 of the Regulation is essential for the establishment of a risk management system, understood as a "planned iterative continuous process planned and carried out throughout the entire lifecycle of a high-risk artificial intelligence system, requiring regular updating and systematic review" (European Union, 2024).

The process involves a number of steps, from the identification and analysis of known risks to the adoption of appropriate and specific measures, with recent doctrine emphasizing that Article 9 makes three main contributions, firstly by providing an interpretation of the concepts, which will help suppliers of high-risk IA systems to align with the compliance rules. Secondly, the ways to amend the provisions are attested and thirdly, it can lay the future foundations for the future development of harmonized standards for the management of risks related to IA, which are defining issues for worker protection (Schuett, 2022).

Conclusions

Although the Artificial Intelligence Regulation is a European law, it represents a significant moment in the regulation of the field internationally and will most likely influence global standards for the development and use of AI, as the regulation seeks to strike a balance between promoting innovation and ensuring safety and ethical standards. From this perspective, it can serve as a model for other jurisdictions in non-European countries seeking to regulate AI. Moreover, it is increasingly emphasized that currently no state in the world is able to work on the creation and implementation of artificial intelligence in isolation, only international cooperation can generate the development of high technologies (Volkova et al.,. 2024).

This paper aims to point out, starting from the European course of concerns about artificial intelligence, some basic principles of the AI Act, emphasizing the European Union's approach on risk theory, which imposes regulatory requirements according to the degree of threat to security and social rights that artificial intelligence may generate. The principle of humanity in the implementation of artificial intelligence is fundamental, with AI serving as a tool that promotes social welfare rather than as a technology that threatens or undermines fundamental human values. The key issues remain non-discrimination, the need for transparency, the right of workers to be informed about the AI systems that monitor and evaluate them, respect for dignity, which makes the new European legislation all the more significant, and the need for stronger legal protection.

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