

/ EU Artificial Intelligence Act – recommendations on public transparency

Ensure consistent and meaningful public transparency

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Context

The draft AI Act sets out to establish and maintain a EU database for stand-alone high-risk AI systems in Article 60. This database offers a chance for increased public transparency on AI systems vis-à-vis impacted individuals and civil society, and could greatly facilitate public interest research. **Given that the AI Act largely depends on self-assessment procedures by providers and users of AI systems, the EU database offers a way of enhancing accountability through public scrutiny.** Thus, it could ensure effective public transparency on AI systems and therefore provide a necessary – but not yet sufficient – first step on the path towards a responsible use of AI systems that is in line with fundamental rights.

Why the public transparency database must cover uses of AI systems

- The database currently only contains information given by providers of systems classified as high-risk under the AI Act. Thus, it lacks information on the actual uses of these systems, even though the effects AI systems have on individuals and society highly depend on the way and context in which they are used. This loophole will prevent the public from finding out where, by whom, in which context, and for what purpose(s) high-risk AI systems are actually used – and hence will undermine the purpose of the database. Thus, in addition to the obligation incumbent on providers of high-risk AI systems, **there must be an obligation on users to register all uses of high-risk AI systems in the EU database before deployment**, providing basic information on key actors, purpose and model, and results of the impact assessment that should be incumbent on users.¹
- In addition, due to the unique role and responsibility public authorities bear, the sensitive personal data they have access to, the consequential effects their decisions have on individuals, and thus their primary obligation to respect, protect and fulfil fundamental rights, public authorities should be subject to more stringent transparency requirements

¹ This obligation is further detailed in the issue paper 'Introduce obligations on users of high-risk AI systems' prepared by EDRI et al. The document inter alia obliges users to conduct a fundamental rights impact assessment before putting a high-risk AI system into use.

when using AI systems. Hence, **any uses of AI systems – regardless of their level of risk – by or on behalf of public authorities should be registered within the EU database**, providing basic information on key actors, purpose and model, and results of any impact assessment conducted under obligations imposed by the AI Act² or voluntarily.

- Furthermore, meaningful public-facing transparency in the EU database should also be ensured with regard to **further AI systems that pose a significant risk to individuals but that haven't been categorized as high-risk** (including biometric categorisation systems as well as AI systems which assess or evaluate people and influence their access to goods and services and thereby pose an inherent risk of manipulation, consumer harm, discrimination or even a threat to health and safety³). Information about the use of these systems should be made available to individuals subjected⁴, but it is equally important to ensure meaningful public-facing transparency on the use of these systems in the EU database, which would increase their accountability and opportunities to identify potential abuses.

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The paper follows the Joint Civil Society Statement '[An EU Artificial Intelligence Act for Fundamental Rights](#)' signed by 123 organisations in November 2021.

² This obligation is further detailed in the issue paper 'Introduce obligations on users of high-risk AI systems' prepared by EDRI et al. The document inter alia obliges users to conduct a fundamental rights impact assessment before putting a high-risk AI system into use.

³ The scope of the list of these systems is part of the issue paper 'Ensure meaningful transparency of AI systems for affected people' prepared by Panoptykon Foundation et al.

⁴ This obligation is the subject of the issue paper 'Ensure meaningful transparency of AI systems for affected people' prepared by Panoptykon Foundation et al.