



Artificial Intelligence Act Amendments

EU AI Act governance structure and supervisory tasks - Inclusion of stakeholders

Title VI (Articles 56– 59) of the European Commission's proposed Artificial Intelligence Act (AIA) includes provisions the governance systems at Union and national level for the purpose of supervising the application and implementation of the Regulation. At Union level, it establishes a European Artificial Intelligence Board (the Board), consisting of national supervisory authorities and the European Data Protection Supervisor (EDPS). In its current version, the Commission will be the Chair of the Board whereas the national authorities and the EDPS will assist and advice the Commission (Articles 56–57).¹ At national level, Member States will have to establish or designate one or more national competent authorities (Article 59) to ensure the application of the AIA. Among them, the Member States will have to designate a national supervisory authority (Art.59(2)).

This governance system, as well as the rest of the AIA, omits to provide the opportunity for relevant external stakeholders to have representatives and contribute to the task of the relevant authorities – both at Union and national level – of ensuring the application and implementation of the Regulation. This is especially concerning regarding the high-risk AI systems outlined in of Annex III and their potential review.

For example: when representatives of a stakeholder group affected by the use of an AI system that is currently not included in the high-risk AI systems gathers sufficient evidence and analysis that a certain provider or user is not fulfilling its transparency obligation under article 52 of the EU AI Act, or that the classification of a new AI system is being manipulated and classified wrongly – how can they raise and discuss their legitimate concerns within the competent authorities to ensure they effectively exercise their tasks of supervision and implementation of the AIA?

Why is this a problem?

- 1) Excluding relevant external stakeholders from participation in the governance of AI supervisory authorities results in missing out on the relevant knowledge, observations, expertise and lived experience relevant in understanding the factual impact of the AI systems. This will hinder an effective and trustworthy implementation of the AIA.

Proposal: Add on EU level an ancillary mandate to provide an accessible and effective mechanism for interested stakeholders to raise concerns regarding the application and implementation of the EU AI act.

¹ Member States have also expressed their disagreement with the current distribution of power of the Board, see here: <https://www.politico.eu/newsletter/ai-decoded/algorithmic-impact-assessments-ai-act-enforcement-facial-recognition-in-nyc-2/>





At EU level, an advisory group composed of relevant external stakeholders (including civil society organisations and representatives of affected groups) should be included in the structure of the Board and its supervisory tasks. Otherwise, we risk that the Commission on the one hand and Member States on the other hand will evaluate their application and implementation by and among themselves, without any input or expertise from relevant stakeholders – with the only notable exception of the EPDS.

Articles (original)	Proposed amendments
Article 57 – structure of the Board 4. The Board may invite external experts and observers to attend its meetings and may hold exchanges with interested third parties to inform its activities to an appropriate extent. To that end the Commission may facilitate exchanges between the Board and other Union bodies, offices, agencies and advisory groups.	Article 57 – added text 4. The Board may shall invite external experts and observers to attend its meetings and may provide opportunity to hold exchanges with interested third parties to inform its activities to an appropriate extent. To that end the Commission may shall facilitate exchanges between the Board and other Union bodies, offices, agencies , and permanent -advisory groups. <i>Para 5 – (new:</i> 5. The permanent advisory groups of the Board shall include a representative group of non-governmental stakeholders, including civil society, Unions and academic experts.
Article 59 – Designation of national competent authorities para 7 National competent authorities may provide guidance and advice on the implementation of this Regulation, including to small-scale providers. Whenever national competent authorities intend to provide guidance and advice with regard to an AI system in areas covered by other Union legislation, the competent national authorities under that Union legislation shall be consulted, as appropriate. Member States may also establish one central contact point for communication with operators.	Article 59 – Designation of national competent authorities para 7 – added text National competent authorities may provide guidance and advice on the implementation of this Regulation, including to small-scale providers. Whenever national competent authorities intend to provide guidance and advice with regard to an AI system in areas covered by other Union legislation, the competent national authorities under that Union legislation shall be consulted, as appropriate. Member States may also establish one central contact point for communication with operators and other stakeholders.

