



## THE EU ARTIFICIAL INTELLIGENCE ACT AND COPYRIGHT RIGHTS

Last August, the Official Journal of the European Union published the new EU legislation to be gradually introduced in the member countries regarding Artificial Intelligence (AI).

### INTRODUCTION

The *EU Artificial Intelligence Act (EU AI Act)* arose out of a state of uncertainty and fear about the impact of AI on people's daily lives.

How often do we come across highly realistic videos on social media, the so-called 'deepfakes' or photographs that almost look real?

However, this is not the only impact that AI has on our life.

There are more and more reports of authors, filmmakers and painters suing large 'mother' companies of AI systems, such as META, for using their creations as the basis for creating new deconstructed and then arranged to resemble something new and innovative.

These authors claim that their copyright has been violated, because they did not consent to the use of their pieces as the basis for these algorithms.

### PORTUGUESE LEGAL FRAMEWORK

Like many other legal systems, the Portuguese legal framework also maintains that Copyright is based on a creation of a human nature, either through the mechanical form of creation, or through

the idea that underlies all artistic creation, as is demonstrated by Article 11 of the Code of Copyright and Related Rights.

Despite this provision, the Portuguese legal system lacks more in-depth regulation on the subject, with EU legislation filling these gaps.

## THE EU ARTIFICIAL INTELLIGENCE ACT

The EU AI Act was done in Brussels in June 2024 and will enter fully into force on 26 August 2026.

However, chapters I and II entered into force on 2 February 2025, the first of which deals with general provisions, containing the purpose and scope of the act, as well as some general definitions that explain relevant concepts in the subject matter discussed.

The second chapter now deals with prohibited AI practices. Here there is a special focus on the purposes for which AI systems were created, and there is also a special focus on AI systems that are intended to analyze biometric data.

This legislation will apply to all EU member states, but also to all companies wishing to operate on European territory.

## SPECIFICALLY: COPYRIGHT

Copyright is only referred to from Recital 104 to 109, presenting a list of provisions to be followed by suppliers of AI systems, now substantiating the need for those suppliers to request authorization from the holders of the copyright on which these systems were based to 'learn'.

The legislation also mentions an obligation to make a summary of the content used to make AI available to the public.

## THE FRENCH CASE

Recently, a group of French authors' associations filed a joint complaint against META in the Paris Judicial Court for the use of works to train AI models under the EU AI Act, more specifically, transparency in the use of base works in AI training.

## FINAL NOTES

As time goes by, the EU AI Act will come into full force of application, so it's not surprising that more cases will be brought before EU courts.

The impact on companies supplying AI should not be overlooked either: Microsoft has already publicized its intention to comply with the new European legislation.

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