

## Draft rules for scientific experts to advise on AI rules' enforcement published by EU Commission

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The European Commission has published the draft rules for the scientific panel, a body that will advise EU and national authorities on enforcing the Artificial Intelligence Act. The draft legal act details the eligibility criteria for the panel, its composition, the assignment of responsibilities, and how to carry out tasks such as issuing qualified alerts over a general-purpose AI model deemed to entail a systemic risk.

The European Commission has just published the draft implementing act setting out the rules for selecting the independent experts who will form the Scientific Panel.

This body, inspired by the European Data Protection Board's pool of experts, will advise EU and national authorities on enforcing the Artificial Intelligence Act.

The commission will determine, in consultation with the AI Board, a body that gathers national competent authorities — the exact number of experts who will form the panel, up to a maximum of 60.

### — Selection criteria —

The selection criteria include adequate multidisciplinary and up-to-date scientific or technical expertise in artificial intelligence, including concerning applied sectors and fundamental rights.

Independence, impartiality and the absence of conflict of interest are also required, as is the ability to carry out activities diligently, accurately and objectively.

In particular, the draft implementing act mandates that the experts act in the public interest and don't have any financial or other interests in a provider of AI systems or general-purpose AI models.

To this end, "they shall make a declaration of interest indicating any interest which may compromise or may reasonably be perceived to compromise their independence, impartiality and objectivity, including any relevant circumstances relating to their close family members."

### — Composition —

As anticipated by MLex, there will be at least one and a maximum of three experts per EU country, provided that there are applicants from that country who fulfil the criteria (see [here](#)). The commission will also aim to ensure gender balance.

Experts who fulfil the eligibility criteria but are not selected for the scientific panel will be included in a reserve list.

The experts are appointed for a two-year term, renewable once. If they no longer meet the eligibility conditions, they could be dismissed. In such case, a replacement is appointed from the reserve list for the rest of the term.

### — Responsibilities —

The scientific panel members should select a chair and vice-chair by a simple majority, who will be endorsed by the commission for one term and renewable once.

The commission's AI Office, the department in charge of enforcing the AI Act, and the Joint Research Center, the EU research arm, will jointly provide a secretariat to the scientific panel.

The secretariat will be responsible for identifying and managing potential conflicts of interest, monitoring compliance with the rules of procedure, processing the scientific panel's request for additional expertise, and processing requests from EU countries for scientific advice on national enforcement issues.

The secretariat will assign the panel's tasks to its members based on expertise, availability and performance, in consultation with the chair.

In particular, the panel can issue recommendations, opinions, or qualified alerts that would be assigned to a rapporteur and one or more contributors. These rapporteur and contributor positions are remunerated.

#### — Tasks —

The AI Office might ask the panel to conduct evaluations of general-purpose AI models on its behalf, in which case the experts tasked will be exempted from all other duties, which will be assigned to other panel members.

A rapporteur could ask the AI Office, with the support of at least one-third of the panel's members, to request model providers' information relevant to assessing its model's risk in a manner that is necessary, proportionate and protective of trade secrets.

If the AI Office rejects the request for documentation, it should state the reasons for refusal to the panel. If accepted, the commission's department will provide a secure means to access the relevant information.

Reasonably foreseeable data security and confidentiality risks are listed among the grounds for refusal.

#### — Qualified alerts —

The AI Act empowers the scientific panel to issue a qualified alert that a particular general-purpose AI model should be deemed to have systemic risk, which comes with a tighter due-diligence regime for the provider.

The qualified alerts should be adopted by a qualified majority — or in exceptional circumstances to be defined in the rules of procedure — following a decision by one-third of the members. The AI Office would then have to decide whether to launch an investigation.

"What about the transparency around the decision made by the AI Office?" asked Kris Shrishak, a senior fellow at the Irish Council for Civil Liberties. "The office can turn down the scientific panel's request for assistance and not act on qualified alerts. There needs to be public transparency around the process for these decisions as well, and this should be established in the implementing act."

#### — Rules of procedure —

Remarkably, the scientific panel's rules of procedure should be adopted by a simple majority of its members — but based on a secretariat's proposal and only in agreement with the secretariat, meaning the commission.

The commission has already clashed with EU countries over its attempt to control the AI Board tightly through its rules of procedure (see [here](#)). However, how much the scientific experts can assert their independence remains to be seen.

These rules of procedure are to be reviewed every three years to reflect the latest scientific developments.

#### — Next steps —

The implementing act is open for feedback until Nov. 15. The commission plans to adopt its final version by the end of this year.

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