

Scientific Panel AI Act

The European Commission's proposed implementing regulation for the establishment of a scientific panel of independent experts in the field of artificial intelligence (AI) aims to support enforcement activities under the AI Act and to advise and support the European AI Office. We - i. e. Prof. M. Bäuerle, Prof. P. Gehring, Prof. F. Möslin the Centre Responsible Digitality (<https://zevedi.de/>) - welcome this intention. We make the following comments on the design of the proposed implementing regulation:

- While we very much welcome the multidisciplinary approach that Art. 3 para. 3 sets out with regard to the selection criteria, we suggest that the required areas of scientific and technical expertise should be broadened. In addition to the undoubtedly essential expertise in "fundamental rights and equality", we consider in-depth knowledge of AI-related legal and normative issues to be crucial. AI-law, ethics/philosophy of technology and science-and-technology-studies (STS)-expertise are urgently needed for supporting enforcement activities as well as for advising and supporting the AI Office. The normative issues that arise with the AI Act are much broader than the field of fundamental rights, as important as it is. In particular, they relate to the interaction between the AI Act and European data law, in particular the Data Act, the Data Governance Act and the GDPR. In addition, the interaction with civil liability, and in particular with the proposed AI Liability Directive, will be crucial for the assessment of enforcement activities. The relevant issues will go far beyond mere questions of legal application, touching on important legal policy debates. At the same time, they will be much more concrete than the value dimension of fundamental rights and equality. This important normative dimension should therefore be reflected in the expertise of the scientific panel. We therefore propose that "expertise in legal and normative issues" be added to the list in Art. 3 para. 3.
- On a purely formal level, the enumeration in this paragraph is in the wrong order (lit. c, lit. a, lit. b).
- The requirement of independence laid down in Art. 10 is an essential requirement for all experts on the panel. The "financial and other interests" referred to in Art. 10(2) should therefore be specified. In the field of AI, independence can be called into question in many ways, in particular through research collaboration or through scientific support, including from other stakeholders in AI systems. For example, scientific reports prepared on behalf of economic stakeholders should be considered as an obstacle to appointment.

We see the option of creating a scientific panel of independent experts in the field of AI, as envisaged in the draft implementing regulation, as a great opportunity in the context of Europe's digital decade. We are looking forward to the establishment of the AI-Act-scientific panel with a lot of optimism.

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