

The right to explanation in the AI Act

Manual for consumers and their interest representatives



Enlightenment 4.0 – Human understanding of AI decision-making
Research Institute – Digital Human Rights Center, 2025

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1 Introduction

1.1 Purpose of this manual

This manual has been developed as part of the project "**Enlightenment 4.0 – Human understanding of AI decision-making**". It has been written by the Research Institute – Digital Human Rights Center on behalf of the Federal Ministry of Labour, Social Affairs, Health, Care and Consumer Protection (hereinafter referred to as "Ministry of Social Affairs"). The document at hand is dedicated to the **right to explanation as outlined in Article 86** of the Regulation of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on artificial intelligence ("AI Act").¹ Consumers are entitled to this right under specific conditions, provided that a company utilises artificial intelligence (AI) in decision-making procedures.

The purpose of this manual is to provide guidance on the circumstances in which consumers can invoke this right, where they can access information regarding their legal rights, the essential components of the explanation, methods by which affected persons can exercise this right, and the available enforcement options. **The manual provides a concise description and recommendations on how to exercise the right to explanation in practice**, supplemented by practical case studies and a model letter to provide clear instructions. An information sheet for consumers is available at the end of this manual to summarise the key points in an accessible format. This sheet is intended to serve as a standalone resource for consumers, independent of the manual at hand.

1.2 Background

The AI Act follows a risk-based approach, categorising AI systems into different risk categories based on the type of AI system, its area of application and potential risks to safety, health and fundamental rights. These risk categories are linked to different obligations and legal claims. Depending on the risk classification or AI system, the **provisions will be applicable within 6 to 36 months** after the entry into force of the AI Act (August 2024).

The right to explanation under Article 86 of the AI Act will apply from **2 August**

¹ The right to explanation is referred to in Article 86 AI Act as the "right to explanation of individual decision-making".

2026. This is of central importance as companies and other entities are increasingly using AI systems in decision-making processes in their day-to-day business.

Examples in the consumer context can be found in many different industries, such as the **evaluation of creditworthiness, credit scoring, churn predictions, using emotion recognition for personalised advertising, and pricing of life and health insurance.** The right to information is often the prerequisite for the persons affected by those decisions to be able to exercise further rights based on this information, such as compensation for damages.

Definition Artificial Intelligence (AI)



The term "**AI system**" means a **machine-based** system that is designed to operate with **varying levels of autonomy** and that may exhibit **adaptiveness** after deployment, and that, for **explicit or implicit objectives, infers, from the input** it receives, how to generate **outputs** such as predictions, content, recommendations, or decisions that can influence physical or virtual environments (Article 3(1) AI Act). It should be noted that the interpretation of the term "AI system" is currently legally unclear and it remains challenging to differentiate between AI systems and simple algorithms.

1.3 Target groups

This manual is intended for consumers and their interest representatives and contains recommendations on how the **right to explanation under Article 86 of the AI Act** can be exercised in practice. The manual has been developed following consultation with consumer interest representatives. A **second manual** is available for private sector **companies and other organisations and entities.** A **report**, which forms the theoretical basis for the recommendations made in this manual, has also been prepared. This report also explains the **methodological approach** in the development of the project at hand. All documents are available on the website of the Ministry of Social Affairs.²

² See the [website of the Ministry of Social Affairs](#), where current studies and reports in the field of consumer policy are published.

2 The right to explanation

2.1 Basics

The **AI Act** is a European legislation that aims to regulate technology and developments in the field of AI. On the one hand, it seeks to promote innovation and the functioning of the European internal market, while also ensuring a high **level of protection**.

The AI Act follows a **risk-based approach** designed to guarantee the proportionality of the regulation. At the top of the "risk pyramid" are **prohibited practices**, which are deemed incompatible with the fundamental values of the Union. This category is only of minor importance for this manual. Of higher relevance are the so-called **high-risk AI systems**. These systems, due to their scope and functions, have the potential to significantly impact the fundamental rights, safety and health of affected persons. Only high-risk AI systems listed in Annex III AI Act fall within the scope of Article 86 AI Act. Systems classified as high-risk AI according to Annex I AI Act (e.g. AI as a medical device) are not subject to the right to explanation. Therefore, this manual focuses on high-risk AI systems according to Annex III AI Act.

In addition, the AI Act provides for certain **information and transparency obligations** for AI systems that interact directly with natural persons or generate synthetic content. There are also transparency obligations for **general-purpose AI models (GPAI)** that can be used for a wide range of distinct tasks, as well as additional obligations if they pose significant risks. These categories are also not relevant for the manual at hand and will therefore not be discussed in detail. For all other AI systems that do not fall within any of the risk categories mentioned so far, there are no specific rules under the AI Act.

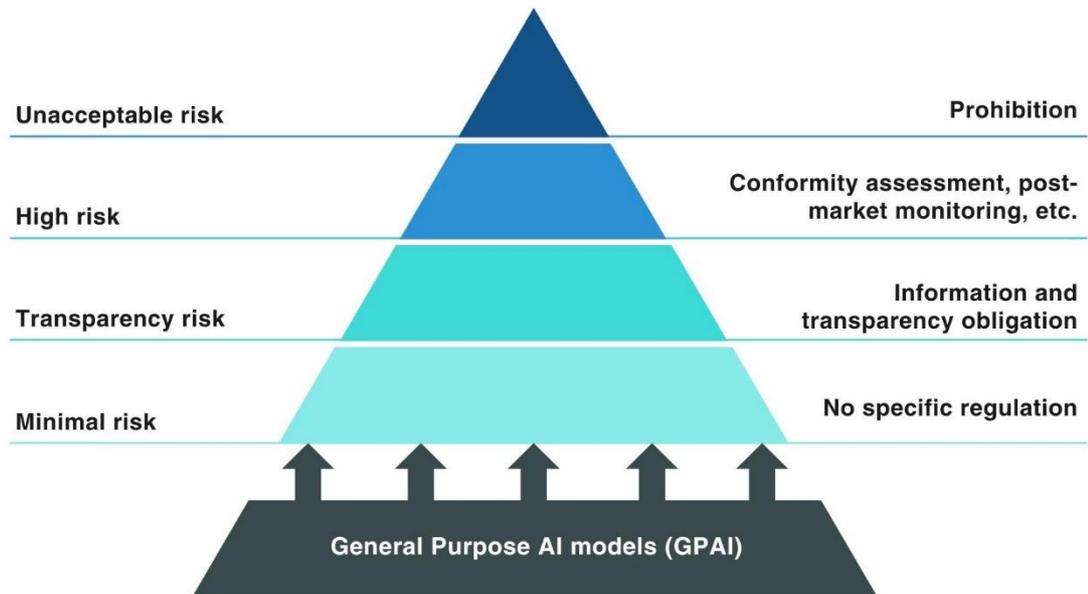


Figure 1 : Risk pyramid of the AI Act, source: European Parliamentary Research Service (EPRS)

In the event that **decisions** are made by the use of **high-risk AI systems** (in accordance with Annex III AI Act) that have legal or other significant effects on individuals, Article 86 AI Act stipulates that the persons affected have the **right to obtain a clear and meaningful explanation** of these decisions (see below for more details). It is the responsibility of deployers of these high-risk AI systems to inform affected persons in advance about the use of AI.

2.2 When does the right to explanation apply?

Article 86 of the AI Act stipulates that affected persons have the right to obtain from the deployer of a high-risk AI system (in accordance with Annex III AI Act) an explanation of the decision-making procedure. However, this only applies if a decision has been made on the basis of the output of the system that either produces legal effects or similarly significantly affects the health, safety or fundamental rights of the affected persons.

Therefore, the following conditions must be met:

Opponent



In order to pursue a legal claim, it is first necessary to identify an opponent. In this context, the term “opponent” refers to the deployer, i.e. the company or organisation that uses the AI system under its authority in the course of a professional activity.

By way of illustration, the following examples may be considered: the use of an AI system by a company to calculate a price adjustment for its customers' insurance, or the use of AI-based emotion recognition systems to analyse customers' reactions to price adjustments.



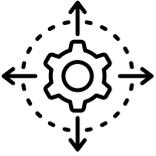
Decision



The deployer has to make a decision, whereby the term “decision” should be understood broadly and can encompass a wide range of actions. This includes, for example, calculating a “score value” in connection with a loan application, decisions on concluding a contract, personalised pricing for health and life insurance, or measures such as personalised placement of advertising, service offers, etc.



Influence of the system



The decision must be made on the basis of the system's output. This means that the output of the AI system must be relevant to the actual decision and must not play a subordinate role.

For example, a recommendation could be generated to reject a candidate for a job application, or price adjustments based on emotion recognition could be used in online identification processes for flight bookings.



High-risk AI



The system used must be high-risk AI as defined in Annex III AI Act with the exception of critical infrastructure. This includes, for example, credit scoring, emotion recognition or pricing for life and health insurance.



Significant risk



The system must pose a significant risk to the fundamental rights, health, or safety of individuals. This may be illustrated by the case of the refusal of healthcare services as an impairment of health (e.g. in the context of private health insurance).



Being affected

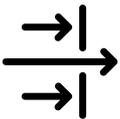


The decision must either have legal effects or significantly (adversely) affect the person concerned. The question of whether a person is adversely affected by a decision is generally subjective, and thus contingent on the perspective of the person concerned. In instances where the decision has legal effects, the assessment is easier compared to cases, for example, where adverse effects on health or private life are concerned. Consequently, the person concerned should articulate the extent to which they are impaired by the decision in their request for explanation.

This includes, for example, the termination of contracts based on an AI analysis or the rejection of loan applications. Likewise, the placement of advertising for sports betting to persons with a gambling addiction can lead to such persons “being affected”. The use of AI systems purely for the mere management of documents or text enhancement does not constitute an impairment. In “marginal cases”, such as the placement of personalised advertising based on emotion recognition, the subjective perspective of the person affected is the primary factor in determining whether there is an impairment.



Exceptions



Finally, there are also exceptions where the right cannot be exercised, because other legal provisions stipulate exceptions that apply to this right (for example, the scope of the information may be restricted in cases where providing the information would mean a threat of disclosure of trade secrets. However, companies must not refuse to provide all information in such cases). Additionally, the right to access by the data subject under the General Data Protection Regulation (GDPR) may apply in certain circumstances, such as when an AI system processes personal data. Whether and to what extent the right to explanation under Article 86 AI Act applies in these cases is currently under debate. It is therefore recommended that both claims should be asserted together in such cases in order to ensure a comprehensive coverage of all pertinent information.

2.3 What information can be requested?

According to Article 86 of the AI Act, persons affected are entitled to a clear and meaningful explanation of the role of the AI system in the decision-making procedure and of the main elements of the decision taken. The affected person must assert this right actively. Deployers are required to provide the affected person with the following elements of information:

- ◆ The explanation must be **easy to understand, comprehensible** and **not too technical**. This means that the affected person must be able to understand the explanation. Consequently, companies should not, for example, provide pages of mathematical formulas without further explanation. The information provided must nevertheless be complete.
- ◆ Explanation of the **main reasons for the decision**. This includes the key influencing criteria that were utilised in the decision-making procedure. Additionally, it encompasses so-called "preliminary decisions" that determine the final "main decision" (e.g. segmentation of target groups). It also includes the input data concerning the person affected (e.g. income data, previous transactions, specific emotions, etc.) and the data employed for decision-making. In instances where the disclosure involves personal data from third parties, this information must be rendered anonymous.
- ◆ Explanation of the **weighting of criteria**: The explanation should include information on the extent to which the criteria influenced the decision (for example by considering whether gender, place of residence or the last bank statement influenced the decision for the conclusion of a mobile phone contract with a mobile phone company).
- ◆ The **impact of the decision** on the person concerned: The most important consequences of the decision for the affected person must be communicated, particularly legal effects. These include, for example, the impact on creditworthiness, access to certain services and financial implications.
- ◆ **The processing logic**: This encompasses a description of the system processes and on how the algorithm used roughly operates (e.g. which model was used). A detailed description of the algorithmic code and the system's functionality is not required.
- ◆ **Contributions of the AI system to the decision-making procedure**: This includes a qualitative description of the specific function of the AI system, for example the analysis of data, the evaluation of criteria, pre-selections, categorisations, etc. Conversely, this means that the human level of participation in the decision-making procedure must also be reported, along with information on whether there was scope for human correction and, if so, whether and to what extent it was used.
- ◆ **Significance**: Information may also be required on the (quantitative) significance of the AI system's output for decision-making, i.e. to what extent

(low, medium or high) the AI system contributed to the final decision, or the specific aspect of the decision for which its contribution was particularly relevant.

- ◆ **Additional recommendation:** Companies should also indicate who the responsible person or department is, and how it was ensured that the decision meets certain criteria (e.g. fairness, transparency, non-discrimination, etc.). If the decision is based on a specific contractual or legal basis (e.g. Article 6(1) GDPR), reference should be made to this. Furthermore, companies should inform affected persons of their right to lodge a complaint with the competent market surveillance authority pursuant to Article 85 AI Act.

Practical information



- Requests for information may be made in writing, electronically or orally.
- The company's response should be provided free of charge and within one month.
- If a person claims the right to explanation even though they are not entitled to it, the company should provide them with a "negative information" in order to inform them of this fact.

2.4 Further information for affected persons

2.4.1 General transparency requirements

The following information does not have to be explicitly requested by the consumer, but must be provided by the company on its own initiative:

- ◆ For AI systems that interact directly with individuals (e.g. chatbots), it must be disclosed that it is an AI system (Article 50(1) AI Act).
- ◆ Similarly, the AI Act provides for "disclosure obligations" when employing emotion recognition systems and systems that generate so-called "deep fakes" (refer to the definition in section 5.2) (Article 50(3) and (4) AI Act).
- ◆ Employers are obliged to notify workers' representatives and the affected workers of the planned use of a high-risk AI system before it is put into service or used at the workplace (Article 26(7) AI Act).
- ◆ Deployers of high-risk AI systems used in decision-making procedures must inform affected persons that they are subject to the use of the high-risk AI system (Article 26(11) AI Act). This also applies to cases in which Article 86 AI Act does not apply (e.g. in the case of high-risk AI systems where the decision would not yield the necessary impact).
- ◆ High-risk AI systems must be registered in an EU database (Article 71 AI Act). A search of this database can facilitate the determination of the applicability of the right to explanation to an AI system.

2.4.2 Information on the existence of the right to explanation

Companies must **inform potentially affected persons** of their right to explanation under Article 86 AI Act. This follows from the fact that affected persons are unable to exercise the right if they are unaware of its existence. In addition to providing information on the existence (or, if applicable, the non-existence) of the right to explanation under Article 86 of the AI Act, the information should also include the purpose and nature of the decision taken. The company must provide this information also on its own initiative.

Affected persons must be **informed as early as possible of their right to explanation**, ideally at the time their data is collected, the AI system is used, or a contract is concluded with the company. In any case, companies must add information about the right to explanation in the notification of a decision.

Practical advice



- For example, if an individual submits an online loan application, a hyperlink should be visible at the time of submission, clearly stating that a high-risk AI system is used to assess the applicant's creditworthiness. Additionally, legal instructions concerning Article 86 AI Act should be included in this information.

Further information on the right to explanation can be obtained through the following channels, whereby information may be provided via multiple channels:

- ◆ **Direct notification in the decision notice:** In any case, the reference to the right to explanation is to be included in the e-mail, letter or other communication by which the affected person is informed of the decision.
- ◆ **Company-owned channels:** The reference to the right to explanation can be placed either in a separate section on the company's website, in a dedicated section in the privacy policy, in the FAQ section or in any transparency reports.
- ◆ **Contractual relationships:** If a contractual relationship is intended to be concluded, the right under Article 86 AI Act can already be referred to in the contractual terms and conditions.
- ◆ **Digital decision-making processes:** In the case of decision-making procedures on online platforms, the information can be displayed immediately after the decision has been made, for example in the form of a hyperlink.
- ◆ **Customer areas:** When communicating with consumers via a service hotline, the information could be provided directly by the service agent or as part of a tape recording. Similarly, for users registered online, a separate "Your rights" section could be included in their account dashboard.
- ◆ **Physical documents:** If the company has physical premises, relevant information could be provided there in the form of information brochures.

2.5 Compensation and legal protection

As of February 2025, the specific implementation of the right laid down in Article 86 AI Act is still pending, as the provision will only become applicable by August 2026. Furthermore, the corresponding **implementing law** as well as the specific design of the complaint procedure need yet to be determined. It is conceivable that Article 86 AI Act constitutes a so-called **protective law**, which in turn would be relevant for corresponding compensation claims under national law. Consequently, it would also be possible for injured persons who have no contract with the deployer to claim mere financial losses.

Irrespective of the right to explanation, there are additional avenues for legal recourse: For example, Article 85 AI Act **provides for the possibility of lodging a complaint with the competent market surveillance authority** in the event of a violation of the AI Act's provisions. The authority can then initiate appropriate measures. Presently, no specific market surveillance authority has been designated in Austria, with the designation process due to be completed by 2 August 2025.³ The specific design of this authority remains to be seen. Another legal instrument that affected persons can rely on is the new **Product Liability Directive (PLD)**, which is to be transposed into national law by December 2026. The PLD now also covers liability for software and regulates claims for compensation by affected persons for certain damage caused by defective AI products.

Finally, it should also be mentioned that the AI Act has been incorporated into the Annex of the **Representative Actions Directive** (Article 110 AI Act). Qualified entities are entitled to take legal action in the event of violations of the AI Act.

³ Cf. the timetable of the RTR AI Service Centre, [Website of RTR showing the Time Frame & realisation of the AI Act](#). However, as of 2 November 2024, authorities and public bodies in the area of fundamental rights have been granted expanded powers concerning AI (Article 77 AI Act). Further information can be found here: [\(German\) Website Digital Austria, description of Article 77 of the AI Act with regard to authorities with supervisory or enforcement powers for fundamental rights](#).

3 The Right to access in the GDPR

3.1 General information

Article 15 GDPR grants consumers the right to obtain information from companies or organisations that process their personal data (e.g. companies that calculate credit scores). This includes data such as names, addresses, income data, etc. This right makes it possible to exercise control over personal information and promotes transparency.

For **automated decisions** supported by AI, Article 15(1)(h) GDPR is particularly relevant. Accordingly, data subjects have a right to obtain information as soon as a decision concerning them has been made that is based on the automated processing of their personal data or on profiling. The right to access includes, on the one hand, the information that such automated decision-making has taken place and, on the other hand, the provision of meaningful information about the logic involved and the significance and envisaged consequences of such processing. According to case law, the explanation of the logic involved includes an exhaustive explanation of the procedures and principles actually applied during the automated processing of personal data with to obtain a specific result.

The right to access under the GDPR may thus be additionally relevant and can be asserted together with the right to explanation under Article 86 AI Act.

This applies in the following circumstances:

- ◆ processing of an individual's personal data
- ◆ automated decision-making
- ◆ with the support of a high-risk AI system
- ◆ legal or similarly significant impact of the decision on the affected person

However, as of February 2025, the relationship between these two rights to information has not been fully clarified (refer to Section 5.5.5 of the report linked to above for further details).

3.2 Content of the information according to the GDPR

Data subjects have the right to obtain from the controller the following **information** about the processing of their personal data⁴ :

- ◆ The purposes of the processing,
- ◆ the categories of personal data concerned,
- ◆ the recipients or categories of recipients to whom the personal data is disclosed,
- ◆ where possible, the envisaged period for which the personal data will be stored, or if not possible, the criteria used to determine that period,
- ◆ the existence of the rights to rectification, erasure or restriction of processing of the personal data concerned and the right to object to such processing,
- ◆ the existence of a right to lodge a complaint with a supervisory authority,
- ◆ information about the source of the data if the data was not collected from the data subject,
- ◆ the existence of automated decision-making, including profiling, and meaningful information about the logic involved, as well as the significance and the envisaged consequences of such processing for the data subject.

Additionally, data subjects have the right to obtain a **copy of the personal data** being processed free of charge.

3.3 How can one exercise the right to access?

The request for information is not subject to any formal requirements and can be submitted both verbally or in writing. However, it is advisable to submit the request for information in writing, as this offers advantages in terms of documentation. The company is obliged to respond within one month of receipt of the request. In exceptional cases, this period may be extended by two further months, in which case the data subject must be informed of any such extension within one month. A template for the request can be found on the website of the Austrian Data Protection Authority.⁵

⁴ In practice, the role of the controller under data protection law will often coincide with that of the deployer of the AI system.

⁵[\(German language\) Website of the data protection authority with a list of templates.](#)

3.4 What happens if a request for information is not complied with?

In the event of non-compliance with a request for information, i.e. if a company does not respond to the request within the specified period or the request is rejected, data subjects have the right to complain to the data protection authority⁶ and/or to initiate legal proceedings.

3.5 Further rights of data subjects under the GDPR

In addition to the right to access, the GDPR recognises the following further rights of data subjects:

- ◆ The right to rectification of inaccurate personal data or the right to have incomplete personal data completed (Article 16),
- ◆ The right to erasure of personal data ("right to be forgotten") (Article 17),
- ◆ The right to restriction of processing (Article 18),
- ◆ The right to data portability if one's personal data, which is stored with a company, is to be transferred to another company (Article 20),
- ◆ The right to object to processing based on point (e) or (f) of Article 6(1) (Article 21),
- ◆ The right to be informed about the rectification, erasure and restriction of data processing (Article 12(3)),
- ◆ The right to withdraw consent (Article 7(3)).

⁶[Website of the Austrian Data Protection Authority.](#)

4 Appendix

4.1 Model request for explanation under Article 86 AI Act

The following template is intended to facilitate the practical implementation of requests for explanation in accordance with Article 86 AI Act. In principle, such requests do not have to be in any particular form. However, for reasons of proof, it is advisable to submit them in writing. The model provided below only intends to provide guidance and may need to be adapted depending on the situation.

Companies and other organisations are generally required to provide the information in points 1. and 2. without the explicit request of the affected person. While the information listed under point 3. is not mandatory, it is recommended to include it in the request for explanation.

While there is no explicit requirement to include proof of identity as per Article 86, it is strongly recommended, as companies may require this for identification and accurate response to the request.

Request for explanation pursuant to Article 86 AI Act

[Name, address of the person affected]

[optional: telephone number and e-mail address of the persona affected]

[Date]

[Company address]

[Postcode; town]

[e-mail address of the company]

Subject: Request for explanation pursuant to Article 86 AI Act

To whom it may concern,

I refer to the decision concerning me *[description of the decision, e.g. rejection of a loan application, received risk assessment, assignment of a credit score]*, which I received on *[date of receipt of the decision]*.

This decision

[either] produces legal effects for me, as it *[briefly explain the impact of the decision, e.g. rejection of a loan application, denial of access to certain services, increase in insurance prices, etc.]*.

[or] affects me significantly and adversely, as it *[give reasons for the impairment, e.g. discrimination on the basis of differentiating criteria, targeted placement of sports betting adverts to people with a gambling addiction]*.

I hereby assert my right to explanation pursuant to Article 86 of Regulation (EU) 2024/1689 (AI Act) and request a clear and meaningful explanation of the role of the AI system in the decision-making process and the main elements of the decision taken.

To this end, I request the following information:

1. Role of the AI system in the decision-making process

- To what extent and in what way did the AI system used contribute to the decision-making process?

2. Main elements of the decision taken

- What were the main reasons for the decision, including key influencing criteria, input data and preliminary decisions that influenced the decision made?

- What other implications does the decision have for me, and how were these effects assessed?
- How were the criteria that influenced the decision weighted and why?

3. Human review and basis [not obligatory]

- Was the decision made by the AI system in a fully automated way, or was it reviewed by a human decision-maker? In the case of the latter, what exactly did this review look like and who/which department was responsible?
- *[optional if applicable]* On which contractual or legal basis is the decision based?

[As proof of my identity, I enclose a copy of my passport / driving licence, etc.]

I formally request that you provide me with the requested information within [*x month/s*] [*in writing*], free of charge and in a comprehensible form. If you have any questions, please do not hesitate to contact me [*in case of paper submission: using the contact details provided above*].

Thank you in advance for processing my request and I look forward to receiving your prompt reply.

Yours sincerely,

Name of the person concerned]

4.2 Glossary

The most important terms used in this manual are explained below in a clear and understandable way. Each explanation is preceded by a reference to the relevant legal provision, where the exact definition can be found.

AI system	Article 3(1) AI Act: A machine-based system that operates autonomously (to varying degrees), may be adaptive and infers from the input it receives how to generate outputs (predictions, content, recommendations or decisions).
Biometric data	Article 3(34) AI Act: Personal data that is collected using special technical processing and describes the physical, physiological or behavioural characteristics of a natural person, such as facial images, fingerprints, etc.
Critical infrastructure	Article 3(62) AI Act: assets, facilities, equipment, networks or systems or parts of an asset, facility, equipment, network or system that are necessary for the provision of an essential service.
Controller	Article 4(7) GDPR: Any company that processes personal data and determines the "purposes and means" of the processing of personal data, i.e. the entity that makes the decision about how and for what purpose the data is processed.
Deepfake	Article 3(60) AI Act: AI-generated or manipulated image, sound or video content that resembles existing persons, objects, places, entities or events and falsely appears to a person to be authentic or truthful.
Deployer	Article 3(4) AI Act: A natural or legal person, public authority, agency or other body that uses an AI system professionally under its own authority (e.g. a trader or a bank).
Emotion recognition	Article 3(39) AI Act: An AI system that attempts to identify or infer people's emotions or intentions based on their biometric data.

High-risk AI system

Article 6; Annex I+III AI Act: A high-risk AI system means an AI technology used in sensitive areas relating to essential private and public services and benefits, law enforcement or border control, or that is used as a safety component in products such as medical devices or is itself such a product. This category also includes systems for specific applications such as emotion recognition or the allocation of public services (e.g. credit scoring, risk assessment and pricing in the case of life and health insurance).

Due to their area of application and their functions, high-risk AI systems can have a significant impact on the fundamental rights, safety and health of the affected persons and they are therefore subject to special regulation.

However, it should be noted that high-risk AI systems in accordance with Annex I and in the area of critical infrastructure are not covered by the right to explanation under Article 86 AI Act.

Input data

Article 3(33) AI Act: data provided to or directly acquired by an AI system to produce an output.

Personal data

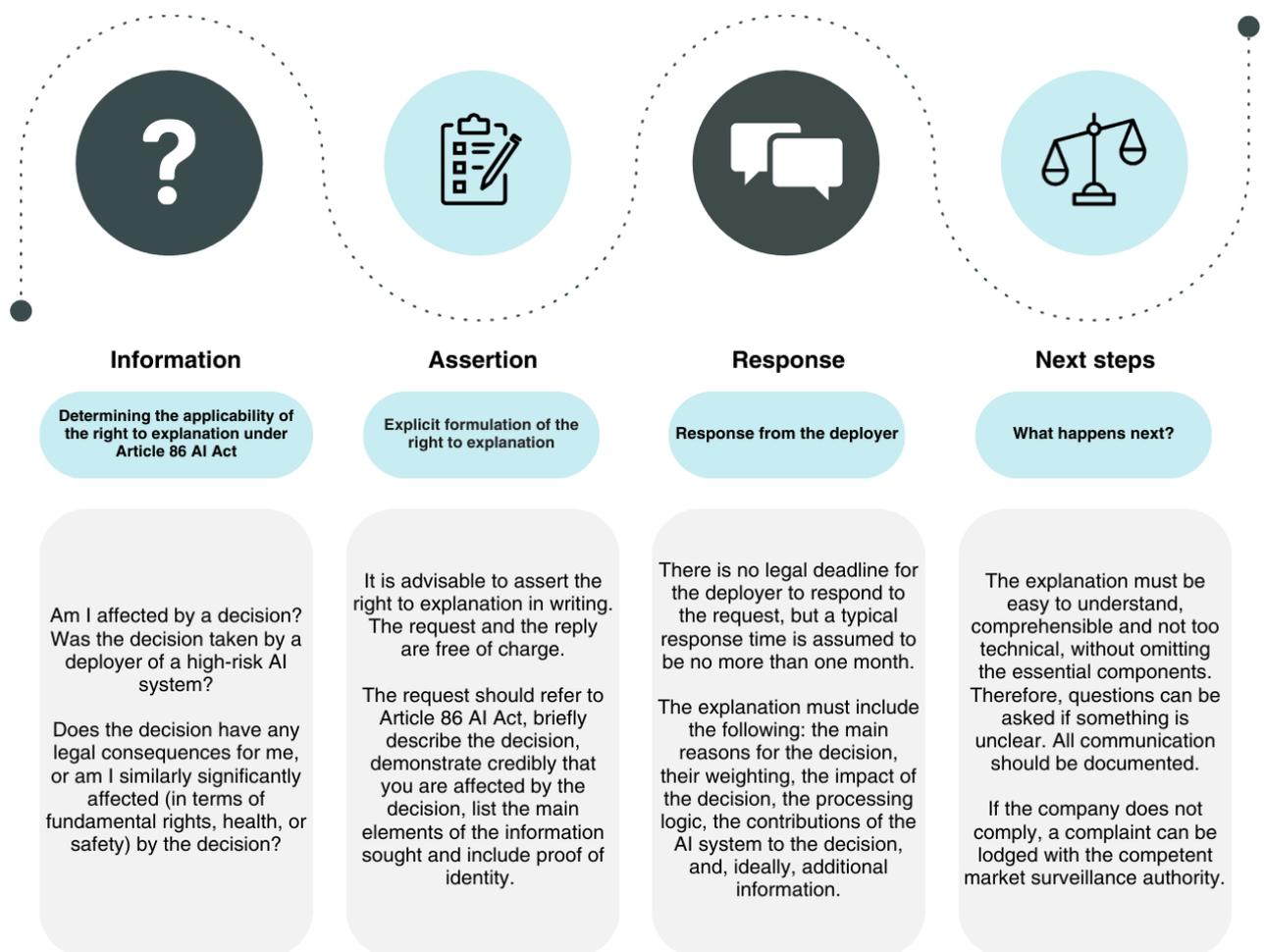
Article 4(1) GDPR: Any information relating to an identified or identifiable natural person. This can be, for example, the name, an identification number, location data or an online identifier that allows conclusions to be drawn about a specific person. Assignment to one or more special identity features can also contribute to identification. Data about a person's health, sex life or religion is considered particularly sensitive and is subject to even stricter requirements.

Profiling

Article 4(4) GDPR: Profiling refers to the process by which data is analysed in order to determine important personal information or form personality profiles. This includes the assessment of preferences, habits and potential future behaviour. Profiling is often used to make predictions about interests or behaviour.

4.3 Information sheet for consumers

Many companies and other organisations and entities use or plan to use artificial intelligence (AI) to make decisions that affect consumers. To help those affected better understand such decision-making processes, the EU AI Regulation ("AI Act") includes a right to explanation of such decisions (Article 86). The following main steps that should be observed are summarised in the graphic and will then be explained in detail below:



Understanding the facts - is the right to explanation even available?

Deployers of AI systems must inform you whether you have the right to explanation. In principle, the following requirements must be met:

- ◆ The company has made a decision towards you (e.g. rejection of a loan application, price adjustments in insurance policies, etc.).
- ◆ The company has made the decision with the assistance of a high-risk AI system in accordance with Annex III of the AI Act, the use of which needs to be communicated in advance. This information should be easily accessible in the company's communication, such as on the website or in a separate information message.
- ◆ Being affected: In order for the right to apply, you must be affected by the decision in a particular way, namely by the decision having legal effects or significantly affecting your fundamental rights, health or safety. While a legal effect (e.g. the termination of a contract) is often clear, any other adverse effect is not always obvious from the company's point of view. It is therefore up to you to credibly demonstrate both the extent to which you are affected by a decision and why you consider this to be an impairment.

Assertion of the legal claim

The right to explanation may be exercised in any form, although it is advisable to submit the request **in writing**. The submission of a request and the response to the request both must be **free of charge**. The request should include:

- ◆ Reference to Article 86 AI Act, as there may be similar rights to information (e.g. the right to access under Article 15 General Data Protection Regulation (GDPR)),
- ◆ Brief description of the decision taken,
- ◆ Explanation of how you are affected (because this may not be obvious to the company),
- ◆ It is advisable to list the most important elements of the decision to be explained in the request (see below),
- ◆ and to include proof of identity (may be required for data protection reasons).

A model request for explanation pursuant to Article 86 AI Act can be found in the Appendix (Section 4.1). A model request for information pursuant to Article 15 GDPR can be found on the website of the Austrian Data Protection Authority (DPA).⁷

⁷ [\(German\) PDF form of the data protection authority for requesting information in accordance with Art. 15 GDPR.](#)

Response from the deployer

In principle, the deployer is not subject to any legal deadline for responding to a request for explanation. However, based on the comparable provisions of the GDPR, a response should be expected within **one month**. The deployer should also respond if the right to explanation does not apply (e.g. because the decision was not made with a high-risk AI system) and should provide a so-called “**negative information**”. Otherwise, the information to be provided should include the following:

- ◆ The **main reasons for the decision**. This concerns key influencing criteria, such as input data about the affected person (e.g. income data or place of residence), but also relevant "preliminary decisions" (e.g. "score values").
- ◆ The **weighting of** these criteria (in terms of their influence on the decision).
- ◆ The **impact** of the decision on the affected person, insofar as this is foreseeable for the deployer (e.g.: financial impact).
- ◆ The **processing logic** (description of the system's process and its rough mode of operation, but not full disclosure of the algorithm).
- ◆ The **involvement of the AI system in the decision-making procedure**, including whether it was limited to pre-selections or involved in the calculation of “score values” based on criteria, and information on the significance of its contributions to the decision. It should also be explained whether and how humans were able to intervene in the decision.

The deployer *should* also include **additional information**, such as the chain of responsibility (i.e. the person or department responsible for the decision), the contractual or legal basis for the decision, information on existing rights of appeal and further information (e.g.: a reference to the registration of the AI system in the EU database).

Next steps

The deployer is required to provide the explanation in an **easily understandable and comprehensible language**. However, this does not permit the omission of essential components of the explanation on the basis that they might be "too complicated". In the event of any ambiguity, additional information can be requested. It is also recommended to **document** all communication steps. If the company does not comply with the request for explanation, you can lodge a **complaint with the competent market surveillance authority**.



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