



EU AI Act 2024 1689

Artikel 99

XII

Article 99

Penalties

1. In accordance with the terms and conditions laid down in this Regulation, Member States shall lay down the rules on penalties and other enforcement measures, which may also include warnings and non-monetary measures, applicable to infringements of this Regulation by operators, and shall take all measures necessary to ensure that they are properly and effectively implemented, thereby taking into account the guidelines issued by the Commission pursuant to Article 96. The penalties provided for shall be effective, proportionate and dissuasive. They shall take into account the interests of SMEs, including start-ups, and their economic viability.
2. The Member States shall, without delay and at the latest by the date of entry into application, notify the Commission of the rules on penalties and of other enforcement measures referred to in paragraph 1, and shall notify it, without delay, of any subsequent amendment to them.
3. Non-compliance with the prohibition of the AI practices referred to in Article 5 shall be subject to administrative fines of up to EUR 35 000 000 or, if the offender is an undertaking, up to 7 % of its total worldwide annual turnover for the preceding financial year, whichever is higher.
4. Non-compliance with any of the following provisions related to operators or notified bodies, other than those laid down in Articles 5, shall be subject to administrative fines of up to EUR 15 000 000 or, if the offender is an undertaking, up to 3 % of its total worldwide annual turnover for the preceding financial year, whichever is higher:
 - (a) obligations of providers pursuant to Article 16;
 - (b) obligations of authorised representatives pursuant to Article 22;
 - (c)

obligations of importers pursuant to Article 23;

(d)

obligations of distributors pursuant to Article 24;

(e)

obligations of deployers pursuant to Article 26;

(f)

requirements and obligations of notified bodies pursuant to Article 31, Article 33(1), (3) and (4) or Article 34;

(g)

transparency obligations for providers and deployers pursuant to Article 50.

5. The supply of incorrect, incomplete or misleading information to notified bodies or national competent authorities in reply to a request shall be subject to administrative fines of up to EUR 7 500 000 or, if the offender is an undertaking, up to 1 % of its total worldwide annual turnover for the preceding financial year, whichever is higher.

6. In the case of SMEs, including start-ups, each fine referred to in this Article shall be up to the percentages or amount referred to in paragraphs 3, 4 and 5, whichever thereof is lower.

7. When deciding whether to impose an administrative fine and when deciding on the amount of the administrative fine in each individual case, all relevant circumstances of the specific situation shall be taken into account and, as appropriate, regard shall be given to the following:

(a)

the nature, gravity and duration of the infringement and of its consequences, taking into account the purpose of the AI system, as well as, where appropriate, the number of affected persons and the level of damage suffered by them;

(b)

whether administrative fines have already been applied by other market surveillance authorities to the same operator for the same infringement;

(c)

whether administrative fines have already been applied by other authorities to the same operator for infringements of other Union or national law, when such infringements result from the same activity or omission constituting a relevant infringement of this Regulation;

(d)

the size, the annual turnover and market share of the operator committing the infringement;

(e)

any other aggravating or mitigating factor applicable to the circumstances of the case, such as financial benefits gained, or losses avoided, directly or indirectly, from the infringement;

(f)

the degree of cooperation with the national competent authorities, in order to remedy the infringement and mitigate the possible adverse effects of the infringement;

(g)

the degree of responsibility of the operator taking into account the technical and organisational

measures implemented by it;

(h)

the manner in which the infringement became known to the national competent authorities, in particular whether, and if so to what extent, the operator notified the infringement;

(i)

the intentional or negligent character of the infringement;

(j)

any action taken by the operator to mitigate the harm suffered by the affected persons.

8. Each Member State shall lay down rules on to what extent administrative fines may be imposed on public authorities and bodies established in that Member State.

9. Depending on the legal system of the Member States, the rules on administrative fines may be applied in such a manner that the fines are imposed by competent national courts or by other bodies, as applicable in those Member States. The application of such rules in those Member States shall have an equivalent effect.

10. The exercise of powers under this Article shall be subject to appropriate procedural safeguards in accordance with Union and national law, including effective judicial remedies and due process.

11. Member States shall, on an annual basis, report to the Commission about the administrative fines they have issued during that year, in accordance with this Article, and about any related litigation or judicial proceedings.



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