Who is responsible when an AI agent exceeds its authority? The imputation rule and the delegation record, explained

24 November 2026 · 8 min read · blogs.iictp.org/ai-agent-excess-imputation-delegation-record-explained

Short answer: an arXiv paper by Nicola Fabiano, posted on 16 November 2026, proposes a rule of imputation for AI agents that act outside their authority: the excess is imputed to whoever conferred the delegation, to the extent of the perimeter that was documented and the control actually exercised. It does not itself create liability; it says where to look first. It matters for legal practice because agents are not legal subjects, so responsibility has to be traced to people and organisations. This is an arXiv preprint. It has not been peer reviewed, and its numbers are the authors' own claims.

TL;DR The short version

- An arXiv paper proposes that when an AI agent exceeds its authority, the excess is imputed to whoever delegated to it, to the extent of the documented perimeter and the control actually exercised.
- Imputation is not automatic liability: liability still needs its own legal test, and the paper distinguishes declared, configured and effective perimeters.
- It is an argued, single-author preprint; the practical step is to keep a delegation record of what each agent may do and what was actually configured.

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What problem does the paper address?

The paper, "Who Bears the Excess? Imputing the Acts of AI Agents to Those Who Delegate", starts from the point that when an AI agent acts beyond the authority given to it, the actor is not a legal subject and the legal subjects did not act. It says the 2026 literature agrees that the agent cannot bear responsibility and that the burden falls on those who deploy it, but leaves open where that duty sits in positive law and how it is proved.

How the rule works

- **Imputation, not automatic liability.** The excess is imputed to whoever conferred the delegation, to the extent of the perimeter it documented and the control it exercised. Imputation identifies which organisational conduct to examine first.
- **Liability needs its own test.** Liability follows only if the requirements of the applicable head of liability are met.

- **Mode of exit matters.** The way the agent left its perimeter determines which facts must be proved, by whom, and with what consequence.

What is new compared with earlier approaches

- The paper distinguishes three perimeters: declared, configured and effective.
- It sets out four figures of excess and four modes of exit.
- It presents the “delegation record” as the document through which perimeter and control can be proved. The rule is illustrated on the OpenAI and Hugging Face incident of July 2026, under European Union law and, as an example of national law, Italian civil law.

What the author reports

The paper is short, 7 pages with one table, and it is argued rather than measured: it reports no experiments or statistics. Its claims are doctrinal proposals about how to attribute responsibility, and the abstract frames the delegation record as the key piece of evidence.

Limitations and open questions

- It is a single-author preprint, not peer reviewed, and the illustration uses EU law and Italian civil law only. Other jurisdictions may reach different results.
- The abstract does not say how courts have treated the proposed rule, and it presents the rule as a proposal.
- We read the abstract and submission details, not the full text.

How to apply it: keeping a delegation record

1. Write down, for each agent, the declared perimeter: what it is authorised to do, with which systems and limits.
2. Record the configured perimeter: the permissions, tools and spending limits actually set.
3. Monitor the effective perimeter: what the agent did, with logs you can produce later.
4. Name the person or team that conferred the delegation and exercised control, and review the record when the agent’s scope changes.

What it means for lawyers and in-house counsel

The practical value is evidence design. Contracts, policies and agent configuration are the documents that show who delegated what. See AI agents as intermediaries: identity and accountability and GLEIF vLEI and “know your agent”. This is general information, not legal advice.

Frequently asked questions

- **What is the imputation rule?** The excess of an AI agent is imputed to whoever conferred the delegation, to the extent of the documented perimeter and the control exercised.
- **Does it make deployers automatically liable?** No. Liability follows only if the applicable head of liability’s requirements are met.

- **What is a delegation record?** The document through which the perimeter and control can be proved, according to the paper.
- **Is it peer reviewed?** No, it is an arXiv preprint.

Related reading

- AI agents as intermediaries: identity and accountability
- GLEIF vLEI and know your agent
- AI agents explained
- AI Practitioner

Sources and currency

Sources were read on 24 November 2026. Products, rules and standards change, so check the linked originals before you rely on any detail.

> Related credential: AI Practitioner. Explore the exam facts and syllabus.

Sources and further reading

1. Nicola Fabiano. Who Bears the Excess? Imputing the Acts of AI Agents to Those Who Delegate. arXiv 2611.20670, 16 November 2026 (preprint). arxiv.org/abs/2611.20670.

Published by IICTP, an independent technical credential body, on 24 November 2026. The current version of this post is at https://blogs.iictp.org/ai-agent-excess-imputation-delegation-record-explained. More guides: blogs.iictp.org.