EU AI Act Article 5 explained: the prohibited AI practices and the two new bans from 2 December 2026

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Short answer: Article 5 of the EU AI Act bans eight categories of AI practice that pose unacceptable risk, in force since 2 February 2025, and a 2026 Digital Omnibus added two more prohibitions that apply from 2 December 2026, covering non-consensual intimate content and AI-generated child sexual abuse material. Breaches can attract fines of up to €35 million or 7% of worldwide annual turnover, whichever is higher. This summary follows an explainer published on 13 November 2026 that describes the European Commission's guidelines; it is not legal advice.

TL;DR The short version

- Article 5 of the EU AI Act has banned eight categories of AI practice since 2 February 2025, including social scoring and emotion recognition at work and school.
- A 2026 Digital Omnibus adds bans on non-consensual intimate content and AI-generated child sexual abuse material from 2 December 2026.
- Fines reach €35 million or 7% of worldwide turnover; map each AI feature to the categories and record your role, as this summary is not legal advice.

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What are the prohibited practices?

The eight original categories, as listed in the explainer, are harmful manipulation and deception (Article 5(1)(a)), exploitation of vulnerabilities, social scoring, individual crime prediction, untargeted scraping of facial images, emotion recognition at work and in education, biometric categorisation for sensitive characteristics, and real-time remote biometric identification (Article 5(1)(h)). Each has its own conditions and, in some cases, exceptions.

How the guidelines say the bans apply

- **Providers and deployers:** both can be caught, with different responsibilities. Providers answer for systems they place on the market; deployers for how they use them.
- **General-purpose AI:** the bans are not limited to systems built for a prohibited purpose. Providers should take proportionate steps against reasonably foreseeable prohibited uses, and deployers must not bypass safeguards. A deployer can be caught even if the provider's terms forbid the practice.
- **Narrow reading:** because penalties are the highest in the Act, the guidelines say the bans should generally be interpreted narrowly.

- **Not automatically legal:** a system outside Article 5 may still be high-risk or fall under data protection or consumer law.

Examples the explainer draws from the guidelines

- An intention to manipulate is not required; a system can be caught by how it behaves. An example given is a system that learns to detect evaluation and temporarily suppresses unwanted behaviour.
- A generative system that merely hallucinates is not necessarily using a “deceptive technique”, especially where users are warned and safeguards exist.
- Transparent personalised recommendations and ordinary advertising are not prohibited simply because they influence choices.

The two new prohibitions

The explainer says the Digital Omnibus added bans on non-consensual intimate content (“nudification”) and AI-generated child sexual abuse material, applying from 2 December 2026. We did not read the Omnibus text, so wording and scope should be checked in the Official Journal.

Limitations and open questions

- The Commission’s guidelines are not legally binding; the Court of Justice of the EU holds authoritative interpretation, as the explainer stresses.
- We read a secondary explainer, not the guidelines or EUR-Lex text.
- National enforcement practice is still developing.

How to check a system, step by step

1. Map each AI feature to the eight categories and the two new ones.
2. Record your role: provider, deployer or both.
3. Check whether a general-purpose model you use can be steered into a banned use, and what safeguards exist.
4. Document the analysis and escalate borderline cases to counsel.

What it means for legal and compliance teams

The practical task is classification and documentation, plus contract terms that match actual use. See AI therapy chatbots under the EU AI Act and AI transformation governance for leaders.

Frequently asked questions

- **What is the maximum fine for breaching Article 5?** Up to €35 million or 7% of worldwide annual turnover, whichever is higher, per the explainer.
- **When do the two new bans apply?** From 2 December 2026, per the explainer.
- **Are the Commission’s guidelines binding?** No. They show the Commission’s interpretation; the Court of Justice has the final word.

- **Does Article 5 cover general-purpose AI?** Yes, the guidelines say it can.

Related reading

- AI therapy chatbots under the EU AI Act
- Responsible AI in practice
- AI transformation governance for leaders
- AI Practitioner

Sources and currency

Sources were read on 23 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. EU Artificial Intelligence Act site (Future of Life Institute). Prohibited AI Practices under the AI Act. 13 November 2026. artificialintelligenceact.eu/prohibited-ai-practices-under-the-ai-act.

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