

# Open Letter on Regulation of Foundation Models in the AI Act and Research

If you are a machine learning or AI researcher with at least a PhD and wish to sign the letter, please fill in this form: <https://forms.gle/8MSWFS6zsYGjv79>

**Proposed regulation of Foundation Models in the EU AI Act threatens to kill European frontier AI research as researchers risk losing access to state-of-the-art models developed by researchers outside Europe.**

In the last stages of preparation of the EU AI Act, several requirements are being introduced for the producers of so-called Foundation Models, defined as “a large AI model that is trained on a large amount of data, which is capable to competently perform a wide range of distinctive tasks, including, for example generating video, text, images, conversing in lateral language, computing or generating computer code”<sup>1</sup>.

Publishers of such models, including researchers and open source projects, are proposed to be required to provide extensive documentation and subject the models to external testing by certified “red teams”<sup>2</sup>, and possibly even having to pay fees to the authorities.

Foundation models are becoming increasingly central in AI research. As representatives of the European AI research community, we are worried that extending the proposed requirements to open-source models used for research would seriously harm European AI research in two ways:

1. EU researchers risk losing access to state-of-the-art research models when researchers and open source projects operating outside Europe will simply block Europeans from accessing their models for Europeans to avoid having to comply.
2. European researchers releasing their models would face a significant additional burden of complying with the requirements compared to non-EU researchers. Many of the requirements go far beyond the requirements of research, and risk violating the freedom of research.

We agree that many of the proposed requirements are useful for foundation models that are incorporated in high-risk AI systems.

Still, **we urge the negotiators of the AI Act to exempt research use and open-source releases aimed at research use from any requirements.** At a minimum, sharing foundation models by researchers and open source projects without compensation and without an interface aimed for end users (such as a web interface), for example, as computer code and model parameters, should be exempt from any of the proposed requirements. However, some researchers fear that such a limited exemption would cause significant difficulties to them and feel a full exemption is needed.

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<sup>1</sup>

<https://www.euractiv.com/section/artificial-intelligence/news/spanish-presidency-pitches-obligations-for-foundation-models-in-eus-ai-law/>

<sup>2</sup>

<https://www.euractiv.com/section/artificial-intelligence/news/governance-of-foundation-models-in-eus-ai-law-starts-to-take-shape/>

# Signatories

## Austria

Prof. Justus Piater (University of Innsbruck)  
Prof. Antonio Rodriguez-Sanchez (University of Innsbruck)  
Dr Bernhard Nessler (University of Linz and SCCH)

## Belgium

Prof. Tinne Tuytelaars (KU Leuven)  
Prof. Matthew Blaschko (KU Leuven)

## Czech Republic

Dr Jindřich Helcl (Charles University)  
Dr Martin Popel (Charles University)  
Prof. Jan Hajič (Charles University)  
Dr Ondrej Dusek (Charles University)  
Prof. Barbora Hladká (Charles University)  
Dr Milan Straka (Institute of Formal and Applied Linguistic, Charles University)  
Dr Rudolf Rosa (Charles University)  
Dr Josef Urban (Czech Technical University in Prague)  
Prof. Aleš Horák (Masaryk University)  
Dr Miloš Jakubíček (Lexical Computing)  
Prof. Jiri Wiedermann (Czech Academy of Sciences, Prague)  
Prof. Pavel Rychlý (Masaryk University)  
Dr Jan Sedivy (Czech Technical University, Prague, CIIRC)  
Dr Marek Medveď (Lexical Computing)  
Prof. Tomáš Svoboda (Czech Technical University in Prague)

## Denmark

Prof Serge Belongie (Pioneer Centre for AI & University of Copenhagen)  
Prof. Søren Hauberg (Technical University of Denmark)

## Finland

Prof. Antti Honkela (University of Helsinki)  
Prof. Joni Pajarinen (Aalto University)  
Dr Aidan Scannell (Aalto University)  
Dr Patrik Floréen (University of Helsinki)  
Prof. Teemu Roos (University of Helsinki)  
Prof. Simo Särkkä (Aalto University)  
Prof. Laura Ruotsalainen (University of Helsinki)  
Dr Aleksei Tiulpin (University of Oulu)  
Dr Martin Trapp (Aalto University)  
Prof. Jörg Tiedemann (University of Helsinki)  
Dr Sampo Pyysalo (University of Turku)  
Dr Mathias Creutz (University of Helsinki)  
Prof. Filip Ginter (University of Turku)  
Prof. Leo Lahti (University of Turku)

Dr Luigi Acerbi (University of Helsinki)  
Dr Stig-Arne Grönroos (University of Helsinki)  
Prof. Lauri Juvela (Aalto University)  
Dr Hans Moen (Aalto University)  
Dr Sami Virpioja (University of Helsinki)  
Prof. Pekka Marttinen (Aalto University)  
Prof. Mikko Kurimo (Aalto University)

## **France**

Dr Karteek Alahari (Inria)  
Prof. Pierre Colombo (CentraleSupélec)  
Prof. Christian Bongiorno (CentraleSupélec)  
Prof. Damien Challet (Université Paris-Saclay, CentraleSupélec)  
Prof. Maria Vakalopoulou (CentraleSupélec)  
Dr Marcely Zanon Boito (NAVER LABS Europe)

## **Germany**

Prof. Paul Bürkner (TU Dortmund University)  
Prof. Mario Fritz (CISPA Helmholtz Center for Information Security)  
Prof. Thorsten Holz (CISPA Helmholtz Center for Information Security)  
Dr Raouf Kerkouche (CISPA Helmholtz Center for Information Security)  
Dr Michael Schmücker (Helmholtz Association of German Research Centres)  
Prof. Andreas Zeller (CISPA Helmholtz Center for Information Security)  
Dr Xiao Zhang (CISPA Helmholtz Center for Information Security)  
Dr Lea Schönherr (CISPA Helmholtz Center for Information Security)  
Prof. Joachim Denzler (Friedrich-Schiller-University Jena)  
Prof. Marcus Rohrbach (TU Darmstadt)  
Prof. MarkusENZweiler (Esslingen University of Applied Sciences)  
Prof. Alexander Koller (Saarland University)  
Prof. Dr Matthias Söllner (University of Kassel, Research Center for IS Design (ITeG))  
Prof. Dominik Grimm (Technical University of Munich)  
Prof. Juergen Gall (University of Bonn)  
Dr Anna Kreshuk (EMBL)  
Prof. Frank Hutter (University of Freiburg)  
Dr Jenia Jitsev (LAION; Juelich Supercomputing Center, Helmholtz Association)  
Dr Amartya Sanyal (Max Planck Institute for Intelligent Systems, Tübingen/University of Copenhagen)  
Prof. Thomas Brox (University of Freiburg)  
Dr Max Argus (University of Freiburg)  
Dr Sudhanshu Mittal (University of Freiburg)  
Prof. Abhinav Valada (University of Freiburg)  
Prof. Dagmar Kainmueller (MDC Berlin and University of Potsdam)  
Dr Christoph Karg (MDC Berlin)  
Prof. Bernt Schiele (Max Planck Institute for Informatics)  
Prof. Diego Frassinelli (University of Konstanz)  
Prof. Anna Rohrbach (TU Darmstadt)  
Prof. Holger Hoos (RWTH Aachen University)

Dr Cedric Archambeau (Helsing)  
Prof. Janis Keuper (Offenburg University)

### **Hungary**

Prof. Andras Lorincz (Eötvös Loránd University)

### **Iceland**

Dr Steindor Ellertsson (University of Iceland)

### **Italy**

Prof. Battista Biggio (Università degli Studi di Cagliari)  
Dr Maura Pintor (University of Cagliari)  
Dr Ambra Demontis (University of Cagliari)  
Prof. Giorgio Giacinto (University of Cagliari)  
Dr Srishti Gupta (University of Cagliari)  
Dr Wei Guo (University of Cagliari)  
Dr Chen Dang (University of Cagliari)  
Dr Luca Scionis (University of Cagliari)  
Dr Luca Demetrio (University of Genoa)  
Dr Luca Romeo (University of Macerata)  
Dr Giorgio Piras (University of Cagliari)  
Prof. Luca Bortolussi (University of Trieste)  
Prof. Nicolò Cesa-Bianchi (Università degli Studi di Milano)  
Prof. Raffaello Camoriano (Politecnico di Torino)  
Prof. Nicola Gatti (Politecnico di Milano)  
Dr Francesco Trovò (Politecnico di Milano)  
Prof. Luca Oneto (University of Genoa)  
Prof. Gian Luca Marcialis (University of Cagliari)  
Dr Paola Barra (Università di Napoli Parthenope)  
Dr Massimiliano Mancini (University of Trento)  
Dr Pier Luigi Mazzeo (ISASI-CNR)  
Dr Rita Delussu (University of Cagliari)  
Prof. Alessandro Bria (University of Cassino and Southern Latium)

### **Liechtenstein**

Prof Giovanni Apruzzese (University of Liechtenstein)

### **Netherlands**

Dr Sebastian Schelter (University of Amsterdam)  
Prof. Tom Heskes (Radboud University)  
Dr Xucong Zhang (Delft University of Technology)  
Dr Henk van den Heuvel (Radboud University)  
Prof. Arjen P. de Vries (Radboud University)  
Prof. Geert Litjens (Radboud University Medical Center)  
Prof. Henkjan Huisman (Radboud University Medical Center)  
Dr Colin Jacobs (Radboud University Medical Center)  
Dr Tal Kachman (Radboud University)  
Dr Tim van Erven (University of Amsterdam)

Prof. Marcel Worring (University of Amsterdam)  
Prof. Sander Koole (Vrije Universiteit Amsterdam)

### **Norway**

Prof. Michael Kampffmeyer (UiT The Arctic University of Norway)  
Prof. Andrey Kutuzov (University of Oslo)  
Prof. Lilja Øvrelid (University of Oslo)  
Prof. Erik Velldal (University of Oslo)  
Prof. Yves Scherrer (University of Oslo)  
Dr Vladislav Mikhailov (University of Oslo)  
Dr Pierre Lison (Norwegian Computing Center)

### **Poland**

Prof. Piotr Rafal Milos (IDEAS NCBR)  
Prof. Tomasz Trzcinski (IDEAS NCBR / Warsaw University of Technology)  
Dr Tomasz Odrzygóźdź (IDEAS-NCBR)  
Dr Mateusz Lango (Poznan University of Technology)  
Dr Dominik Filipiak (Perelyn, University of Warsaw, University of Innsbruck)  
Dr Łukasz Kuciński (IDEAS NCBR / University of Warsaw / Institute of Mathematics Polish Academy of Sciences)  
Prof. Piotr Sankowski (IDEAS NCBR, University of Warsaw, MIM Solutions)  
Dr Tomasz Michalak (IDEAS NCBR and University of Warsaw)

### **Portugal**

Prof. André Filipe Torres Martins (Instituto Superior Tecnico, University of Lisbon)  
Dr Sweta Agrawal (Unbabel)  
Dr Pedro Henrique Martins (Unbabel)  
Dr Marcos Vinicius Treviso (Instituto de Telecomunicações)  
Dr Chrysoula Zerva (Instituto Superior Tecnico, Lisbon, Portugal)  
Dr Ben Peters (Instituto de Telecomunicações)  
Dr José Guilherme Camargo de Souza (Unbabel LDA)  
Prof. Claudia Soares (NOVA School of Science and Technology)  
Prof. Arlindo Oliveira (Instituto Superior Técnico)  
Prof. Mário Figueiredo (Instituto Superior Técnico, University of Lisbon)  
Prof. Joao Paulo Carvalho (INESC-ID / Instituto Superior Técnico, Universidade de Lisboa)  
Prof. José Santos-Victor (ISR-Lisboa, Instituto Superior Técnico, University of Lisbon)  
Prof. Francisco Saraiva de Melo (INESC-ID and Instituto Superior Técnico)  
Prof. Isabel Trancoso (Instituto Superior Técnico, Univ. Lisbon / INESC-ID)  
Prof. Alberto Abad (Instituto Superior Técnico, University of Lisbon/INESC-ID)  
Prof. Paolo Romano (IST, University of Lisbon)

### **Spain**

Dr Dimosthenis Karatzas (Computer Vision Center / Autonomous University of Barcelona)  
Dr Antonio M. López (Universitat Autònoma de Barcelona)  
Prof. Debora Gil Resina (Universitat Autònoma de Barcelona)

Dr Ernest Valveny (Universitat Autònoma de Barcelona / Computer Vision Center)  
Dr Carlos Castillo (ICREA and Universitat Pompeu Fabra)  
Prof. Jordi Vitrià (Universitat de Barcelona)

#### **Sweden**

Dr Fredrik Lindsten (Linköping University)  
Dr Xuan-Son Vu (Umea University and DeepTensor AB)  
Dr Richard Johansson (University of Gothenburg / Chalmers University of Technology)  
Dr Moa Johansson (Chalmers University of Technology)  
Dr André Pereira (KTH)  
Prof. Gabriel Skantze (KTH)  
Prof. Gustav Eje Henter (KTH Royal Institute of Technology)

#### **United Kingdom**

Dr Dmitry Kangin (Lancaster University)  
Prof. Bonnie Webber (University of Edinburgh)  
Prof. Christopher Nemeth (Lancaster University)  
Dr Barry Haddow (University of Edinburgh)  
Dr Alexandra Birch (University of Edinburgh)

## Frequently Asked Questions

Q: People warned that the GDPR could lead to geoblocking Europeans, but nothing happened. Why is this any different?

A: GDPR mainly impacts service providers who collect user data to profit from ads. More users means more revenue, creating a financial incentive to not exclude Europeans because of the GDPR. Open source projects do not benefit similarly from European users.

Q: What if the requirements are limited to “high performance” models or similar, would that help?

A: No. Several reasons:

1. Lack of legal certainty. The proposed definitions for “high-performance” models are vague, making it very difficult to determine with certainty what is covered. This would lead to a chilling effect that would lead to the same negative consequences pointed out in the letter.
2. The development of technology could expand the scope in the future. Even if the limitations are defined clearly, and beyond current technology, things might be different in a few years.
3. Research requires access to state-of-the-art models which might in any case end up classified as “high performance”. Limiting research to weaker models would place European researchers at a disadvantage.

Q: Are others making similar statements?

A: There are statements from Mozilla (<https://open.mozilla.org/letter/>) and Mistral AI (<https://twitter.com/arthurmensch/status/1725076260827566562>) stressing the importance of unhindered access to open-source models.

## Contacts for further information

Prof. Mario Fritz (CISPA Helmholtz Center for Information Security, Germany)

email: [fritz@cispa.de](mailto:fritz@cispa.de)

Prof. Antti Honkela (University of Helsinki, Finland)

email: [antti.honkela@helsinki.fi](mailto:antti.honkela@helsinki.fi)