

THE DANISH INSTITUTE OF ARBITRATION

GUIDELINES ON THE REGULATION OF ARBITRATORS' USE OF AI



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FOREWORD

Artificial intelligence has, in a short period of time, become part of our professional lives, and it is developing at a pace that would have been difficult to imagine only a few years ago. Arbitration is no exception.

AI has significant potential to make the conduct of arbitration proceedings more efficient and focused. Already today, the technology can assist with, among other things, the review and analysis of extensive documentary material, legal research, translation, the structuring of information, and quality assurance. As the technology continues to develop, its potential applications will only become more numerous and more advanced.

The use of AI in arbitration should not be approached uncritically. In each case, careful consideration must be given to whether, how, and for what purposes AI should be used, and its use must at all times comply with applicable rules and regulations.

The purpose of these Guidelines is to provide arbitrators with a framework for identifying and addressing the regulatory issues that may arise from the use of AI in the conduct of arbitration proceedings.

Special thanks are due to Niels Christian Ellegaard, Plesner, and Jørgen Bek Weiss Hansen, Lassen Ricard, who have made an extraordinary contribution to the preparation of these Guidelines.

It is the hope of the Danish Institute of Arbitration that these Guidelines will serve as a useful tool for arbitrators and, at the same time, contribute to the continuing discussion on how to make the best use of the significant opportunities offered by AI without compromising the standards of quality, responsibility, and due process that are fundamental to arbitration.

Copenhagen, 1 October 2026

Steffen Pihlblad

Secretary General of the Danish Institute of Arbitration

1 INTRODUCTION TO THE AI ACT

1.1 Purpose and Background of the Guidelines

The Guidelines are intended to provide arbitrators appointed in cases commenced under the arbitration rules of the Danish Institute of Arbitration (“DIA”) with an introduction to the regulatory framework for the use of AI in arbitration under the EU Artificial Intelligence Act (the “AI Act”).¹

The Guidelines are addressed to the appointed arbitrators, and not the parties and their counsel, nor to the witnesses/expert witnesses whom the parties may involve. Experts appointed by the arbitral tribunal may be considered as falling within the scope of the AI Act, as they may be said to assist the arbitral tribunal, see further under Section 3.

It is furthermore noted that the DIA’s use of AI likewise does not fall within the scope of the Guidelines.

Regardless of how the arbitral tribunal may use AI during the arbitral proceedings, this does not exempt the arbitrators from their duty to personally review the case documents and/or prepare any decisions made by the arbitral tribunal. The arbitrators are thus at all times responsible for their use of AI during the arbitral proceedings.

The AI Act does not specify in further detail who within the arbitral tribunal is the subject of the obligations and specifically has the duty to ensure compliance with the AI Act, but it must be assumed that this duty

must be deemed to rest with the arbitral tribunal as such. If the arbitral tribunal consists of a panel of arbitrators, all members of the tribunal will, as a starting point, be regarded as collectively responsible for the arbitral tribunal’s use of AI. As the person with overall responsibility for the conduct of the arbitral proceedings, the president of the arbitral tribunal presumably has a particular obligation – as part of discharging this responsibility – to ensure the tribunal’s lawful use of AI.

The AI Act’s overall aim is to lay down harmonised rules for the placing on the market, the putting into service, and the use of artificial intelligence in the EU, with a view to ensuring a high level of protection of health, safety and fundamental rights. In this connection, the AI Act contains certain risk-based requirements for the design, control and monitoring of AI systems.

The AI Act applies to output used in the EU, regardless of whether it is produced by providers and deployers of AI systems that are established or located in a third country. It is therefore not decisive whether the AI system is located inside or outside the EU, nor whether the arbitration may have its seat outside the EU, if the output is used in the EU.

The reason the AI Act is relevant for arbitration is that arbitral tribunals’ use of AI systems for the purpose of deciding cases is, under given circumstances, considered to constitute high-risk use of AI systems, with the resulting increased requirements for the systems and for those using them.

If an arbitral tribunal uses AI in a manner that is contrary to the AI Act – in particular where this entails a lack of transparency, insufficient human oversight, or disregard of fundamental rights – this may ultimately provide grounds for challenging the arbitral award

¹ Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on artificial intelligence (Artificial Intelligence Act).

before the courts under the general rules regarding setting aside and the recognition and enforcement of arbitral awards.

1.2 Entry Into Force of the AI Act

The AI Act entered into force in August 2024 and gradually becomes applicable in the Member States. However, the EU's legislative bodies have decided to postpone the rules for the high-risk AI systems relevant herein until 2 December 2027 by means of the so-called AI Omnibus. The purpose is to ensure a coordinated and effective implementation across the Member States.²

The reason the DIA is already publishing these Guidelines at this stage is that ongoing arbitration proceedings may be covered by the AI Act once it becomes applicable. The use of high-risk AI systems today may thus have an effect on an arbitral award rendered after 2 December 2027.

Arbitral tribunals must therefore already now consider the impact of the use of AI.

1.3 Structure of the Guidelines

The Guidelines are structured as follows:

- Section 1 provides the background of the Guidelines and sets out their purpose, structure and content.
- Section 2 provides a brief introduction to the

high-risk AI rules in the AI Act and the use cases most likely to be regarded as high-risk scenarios.

- Section 3 describes the role and responsibility of the arbitral tribunal under the AI Act in relation to the use of AI.
- Section 4 describes the requirements imposed under the AI Act on the use of high-risk AI systems.
- Section 5 provides a number of practical recommendations.
- Section 6 contains references to relevant sources.

1.4 The Parties' Use of AI

The parties' use of AI for the conduct of arbitral proceedings does not fall within the scope of the AI Act, as such use is not deemed to occur on behalf of the arbitral tribunal. The Guidelines therefore do not address this use. However, as part of its conduct of the arbitral proceedings, the arbitral tribunal should, in cooperation with the parties to the case, consider whether there is a need to regulate the use, or at least to create transparency regarding the use, of AI during the proceedings.³

1.5 Scope of the Guidelines

The Guidelines deal solely with the requirements under the AI Act. Thus they do not cover the General Data

² European Commission, Proposal for a Regulation of the European Parliament and of the Council amending Regulations (EU) 2024/1689 and (EU) 2018/1139 as regards the simplification of the implementation of harmonised rules on artificial intelligence (Digital Omnibus on AI), COM(2025) 836 final, 19 November 2025.

³ See for example the Guideline on the Use of AI issued by The Chartered Institute of Arbitrators (CI Arb) (https://www.ciarb.org/media/bpndtcgu/guideline-on-the-use-of-ai-in-arbitration_updated-sept-2025.pdf?utm_source=AI+Guidelines+Launch&utm_medium=News+Page).

Protection Regulation (GDPR) and its requirements for the processing of personal data, or other digital regulation (including any requirements under NIS2 and the Data Act to the extent these legal acts may be relevant).

Questions of lawfulness, legal basis, and other processing of personal data under the GDPR, as well as other digital regulation, thus fall outside the scope of these Guidelines and must be assessed separately.

Nor do the Guidelines cover questions regarding the parties' access to "equality of arms" in the use of AI and similar (legal policy) matters.

1.6 Status of the Guidelines and the DIA's Liability

These Guidelines reflect the DIA's best interpretation and seek to provide practical guidance for informational purposes. The DIA does not assume any liability for the legal accuracy hereof or for third-party interpretation or reliance hereon.

The Guidelines are expected to be reviewed on an ongoing basis as new relevant material becomes available, but the arbitral tribunal should always, on its own initiative, investigate whether intervening sources/material of relevance to the tribunal's use of AI have emerged.

2 WHEN IS AN AI SYSTEM "HIGH-RISK" IN ARBITRATION?

2.1 AI Systems and Risk Classification

An "AI-system" is defined in Article 3(1) of the AI Act as:

"[...] 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".

The AI Act thus covers the arbitral tribunal's use of, among others, OpenAI's ChatGPT, Google's Gemini, Microsoft's Copilot, Anthropic's Claude, Karnov's KAILA, OpenClaw etc. The AI Act does not distinguish between ordinary use of AI and the use of AI agents (so-called "agentic AI"). The use of AI agents must therefore be treated on the same footing as other AI.

The AI Act is based on a risk-based system under which AI systems are divided into four groups:

- Prohibited AI systems
- High-risk AI systems
- AI systems with limited risk
- AI systems with minimal risk

Prohibited AI systems are those deemed incompatible with fundamental rights (e.g. certain forms of social scoring).

High-risk AI systems are primarily defined by the enumeration in Annex III of the AI Act, as well as certain safety components in products covered by EU harmonisation legislation, and are characterised by the fact that they may have a significant impact on the rights or safety of citizens and businesses. Enhanced requirements apply to these systems, including in

relation to risk management, datasets, documentation, human oversight, and conformity assessment.

Annex III, Section 8(a) of the AI Act covers the use of high-risk AI systems in the context of judicial authorities and “alternative dispute resolution”, including arbitration.

The European Commission has, provisionally, in its draft Guidelines on this matter, expanded the scope of what is understood by high-risk AI systems by reading an “and/or” into Section 8(a), stating that the text of Annex III, Section 8(a) should be read as follows:

“AI systems intended to be used by a judicial authority or on their behalf to assist a judicial authority in researching and interpreting facts and the law and [/or] in applying the law to a concrete set of facts, or to be used in a similar way in alternative dispute resolution.”

In relation to “alternative dispute resolution”, it is stated in the preamble to the AI Act (Recital 61) that:

“AI systems intended to be used by alternative dispute resolution bodies for those purposes should also be considered to be high-risk when the outcomes of the alternative dispute resolution proceedings produce legal effects for the parties.”

More generally, the following is stated regarding the use of AI by courts (which applies correspondingly to arbitration as alternative dispute resolution):

“The use of AI tools can support the decision-making power of judges or judicial independence, but should not replace it: the final decision-making must remain

a human-driven activity. The classification of AI systems as high-risk should not, however, extend to AI systems intended for purely ancillary administrative activities that do not affect the actual administration of justice in individual cases, such as anonymisation or pseudonymisation of judicial decisions, documents or data, communication between personnel, administrative tasks.”

Although the use of an AI system by an arbitral tribunal falls within the high-risk definition, it may nevertheless, depending on the circumstances, fall outside that definition. This will, pursuant to Article 6(3) of the AI Act, be the case in each of the following situations, provided that it does not involve the profiling of natural persons:

- “(a) the AI system is intended to perform a narrow procedural task;
- (b) the AI system is intended to improve the result of a previously completed human activity;
- (c) the AI-system is intended to detect decision-making patterns or deviations from prior decision-making patterns and is not meant to replace or influence a previously completed human assessment, without proper human review; or
- (d) the AI system is intended to perform a preparatory task to an assessment relevant for the purposes of the use cases listed in Annex III.”

Having regard to the purpose of the rules, it must be expected that the scope of these four exceptions (also referred to as “filters”) will be interpreted narrowly.

2.2 Use Cases in Arbitration

The arbitral tribunal's use of AI may serve a wide range of purposes, and in the following these will, on a non-exhaustive basis, briefly be listed and categorised within the following categories:⁴

- a) Use of AI as a tool
- b) Use of AI as a source
- c) Use of AI as decision support

a) Use of AI as a tool

Characteristic of this type of use is that the arbitral tribunal uses AI to "process" something already humanly created, or to facilitate a human-driven process:

- 1. Proofreading and linguistic editing for the purpose of clarity and quality assurance
- 2. Preparing tables and illustrations and quality assurance of calculations
- 3. Reviewing pleadings, statements, case law, etc. in order to obtain an initial overview of the case
- 4. Translation of documents, statements, etc.

- 5. Analysis and summarisation of documents, statements, etc. In order to uncover ambiguities and contradictions, etc.
- 6. Overview of documents, statements, etc.
- 7. Presentations of material relating to facts or law (for example, existing exhibits or witness statements that are summarised or subjected to analysis using AI)

b) Use of AI as a source

Here, AI is used to locate, or to have generated and presented, knowledge, including legal knowledge and knowledge of technical, financial and/or factual matters:

- 1. Legal information research
- 2. Locating facts in curated (i.e. pre-selected/delimited) material
- 3. Description and explanation of technical matters and concepts
- 4. Financial calculations and quantification of claims

c) Use of AI as decision support

In these use cases, the tribunal uses AI directly in the decision-making process in a broad sense, and this refers to material involvement of AI for the purpose of the tribunal's determination of the case (that is, where AI may have a material influence on the substance of the determination of the case), in the form of generation or sparring, including in relation to:

⁴ The classification was introduced in the article "Anvendelse af generativ AI i voldgiftssager" [Use of Generative AI in Arbitration Cases], in *Festskrift for Voldgiftsloven*, pp. 347-364.

1. Questions to experts
2. Questions to witnesses
3. The arbitral tribunal's assessment of the parties' arguments
4. Expert assessments made by experts appointed by either the arbitral tribunal or the parties
5. The arbitral tribunal's statement of the background facts and procedural history in the award
6. The arbitral tribunal's reproduction of the parties' submissions and positions (when this is not merely cited from their submissions)
7. The arbitral tribunal's procedural decisions
8. The arbitral tribunal's reasoning and outcome of the merits in the award, including partial awards, and other decisions
9. The arbitral tribunal's decisions on costs

The three categories for the use of AI are merely indicative and not exhaustive. The categorisation often cannot be viewed in isolation. When AI is used as a tool, it very rarely functions solely as a tool; at the same time, it helps shape the arbitral tribunal's decisions. An example of this is the summarisation of statements, which is inserted into the award. By letting generative AI carry out this "processing", the AI is at the same time helping to select what is material and what may be decisive for the outcome. The same may apply to the use of AI for translation in cases where the meaning of particular words or concepts is of material significance to the outcome of the case.

Similarly, this applies to the use of AI as a source – for example, the legal information research and the sources identified may be decisive for the outcome of the arbitral tribunal's deliberations on the substance of the case.

Conversely, the use of AI for the purposes included under the category "decision support" may, in some respects, also assume more the character of a tool or a source rather than genuine "decision-making activity". This applies, for example, to the use of generative AI for sparring regarding documents (that is, where the user, via prompts, asks questions about the document and its content).

The three types of use cases can nevertheless be used as an overall guideline, since it is in particular the use of AI for decision support in a broad sense, as well as legal information research, that constitutes high-risk use under the AI Act, unless such use can be said to fall outside this category pursuant to the filters in Article 6(3) of the AI Act.

3 ROLES AND RESPONSIBILITY

3.1 The Arbitral Tribunal's Role as Deployer of AI Systems under the AI Act.

The AI Act is based on a regulation of the entire chain of actors in the form of providers, importers, distributors, authorised representatives, and deployers, each of whom has different obligations in relation to the use of an AI system.

In the context of an arbitration, an arbitral tribunal will typically assume the role of deployer when it puts an AI system into use in connection with the handling of

a case.⁵ As deployer, the arbitral tribunal must ensure that the AI system is used in accordance with the AI Act, including the requirements for human oversight, correct use, and ongoing monitoring in the specific case, see further on the specific obligations under Section 4 below.

The “deployer” is the actor that decides to put an AI system into use in connection with an arbitration and that, in principle, determines the purpose, scope, and manner of use; it is thus the deployer that bears responsibility for ensuring that the use of a lawful system takes place in accordance with the AI Act.

It is unclear whether an arbitrator in a panel of arbitrators who, on their own, uses AI can be regarded as an independent “deployer”, but the tribunal as such must presumably be assumed to be “liable” for such use, even though the other members of the tribunal are not personally responsible for this use. The members of the tribunal should therefore, for this reason too, ensure an internal alignment regarding the use of AI in the case, since, as stated in Section 1.1 above, it must be the tribunal that is the subject of the obligations under the AI Act for the use that falls within the AI Act’s high-risk rules.

3.2 The Arbitral Tribunal’s Role as Provider of AI Systems under the AI Act

Generic generative AI systems such as ChatGPT, Gemini or Claude (referred to in the AI Act) as “general-purpose AI systems”) are not, in principle, AI systems whose intended purpose is to perform legal tasks, and will

therefore not, as such, be high-risk AI systems.⁶ However, the AI Act envisages that such general-purpose AI systems may be used as high-risk AI systems by themselves or as components of other high-risk AI systems.⁷ This will also be the case if the person using the system (the “deployer”) modifies the intended purpose of an AI system, including a general-purpose AI system, which has not been classified as high-risk and has already been placed on the market or put into service, in such a way that the AI system concerned becomes a high-risk AI system.⁸

This means that an arbitral tribunal that, for example, chooses to use ChatGPT as decision-making support may render itself a provider and thereby become bound by the AI Act as a provider. Where this constitutes “high-risk use”, this entails a number of independent obligations that an arbitral tribunal will normally be unable to fulfil, and the arbitral tribunal should therefore ensure that no such use occurs.

In order to avoid this problem, the tribunal should (a) avoid rendering itself a provider by only using AI solutions whose intended purpose is to be used for the high-risk purpose covered by Annex III, Section 8(a), and without otherwise making substantial modifications to the AI solution, or (b) only use them in full accordance with the original provider’s explicitly intended purpose.

⁵ ‘Deployer’ is defined in Article 3(4) of the AI Act as “a natural or legal person, public authority, agency or other body using an AI system under its authority except where the AI system is used in the course of a personal non-professional activity.”

⁶ The AI Act (Article 3(12)) operates with a definition of “intended purpose”: “the use for which an AI system is intended by the provider, including the specific context and conditions of use, as specified in the information supplied by the provider in the instructions for use, promotional or sales materials and statements, as well as in the technical documentation”.

⁷ See Recital 85 of the AI Act.

⁸ See the AI Act, Article 25(1)(c).

3.3 When Does the Arbitral Tribunal Fall Within the “High-Risk” Use Scenario

In relation to whether the arbitral tribunal’s use of AI falls within the high-risk scenario, it is important to note that the use scenario encompasses not only the tribunal’s own use, but also that of those who “assist” the tribunal. This includes persons and organisations to whom the tribunal delegates tasks falling under Annex III, Section 8(a) of the AI Act, and who are not exempted by one of the four “filters” in Article 6(3) of the AI Act, and over whom the tribunal has control.

Looking at the stakeholders in an arbitration, these are:

- The parties to the case
- The parties’ lawyers and other advisers, including party-appointed experts
- Witnesses
- Experts appointed by the arbitral tribunal
- The arbitral tribunal and its members, as well as the arbitral tribunal’s secretary, if any
- The DIA

The parties and witnesses in the case cannot be considered to “assist” the arbitral tribunal. The same must, under Danish Law, apply to the parties’ lawyers and party-appointed experts, whereas experts appointed by the tribunal must be assumed to “assist” the tribunal within the meaning of the AI Act. The DIA may – as regards certain tasks – also be assumed to “assist” the tribunal, but the DIA generally only performs tasks that will fall within the filters in Article 6(3).

The arbitral tribunal should therefore have regard not only to its own use, but also to the use by others to the extent that they can be said to “assist” the tribunal.

4 REQUIREMENTS FOR THE ARBITRAL TRIBUNAL THAT, AS DEPLOYER, USES AI FOR “HIGH-RISK” PURPOSES UNDER THE AI ACT

4.1 General Obligations

A deployer of a high-risk AI system in an arbitration has a duty to ensure that the system is used only within the intended purpose and the conditions established by the provider.

Under the AI Act, the deployer must establish appropriate procedures for human oversight, including ensuring that the arbitrators understand the system’s function, limitations, and output, and that AI cannot replace the arbitral tribunal’s independent legal assessment.

In addition, the deployer must maintain appropriate logging and internal documentation of the use of the AI system, handle risks and error reports, and ensure that the system is continuously monitored and, if necessary, withdrawn from use or adjusted if it proves incompatible with the requirements of the AI Act or with fundamental procedural and due process considerations. In this connection, the tribunal should follow the instructions and use the tools made available by the provider.

Section 5 of the Guidelines sets out some practical recommendations for arbitral tribunals acting as deployer.

4.2 Obligations under Article 86 of the AI Act

Under Article 86, any party subject to a decision taken by an arbitral tribunal, as deployer, on the basis of the output from a high-risk AI system, and which produces legal effects or similarly significantly affects that party in a way that they consider to have an adverse impact on their health, safety or fundamental rights, has the right to obtain a clear and meaningful explanation of the role of the AI system in the decision-making procedure and the main elements of the decision taken.

The obligation to provide an explanation only applies insofar as a corresponding right to explanation does not already follow from other provisions of applicable EU law. The obligation to provide an explanation does however not apply where applicable EU law or national law validly restricts or derogates from such a right.

The provision means that the arbitral tribunal, if it uses high-risk AI systems (or is “assisted” by someone who does), should be mindful of being able to explain such use to the parties involved.

The obligation to provide an explanation will, moreover, vary depending on the specific AI tool used and the specific use thereof.

How the arbitral tribunal handles the obligation to provide an explanation in practice may presumably become a factor in a party’s possible considerations regarding the possibilities of challenging the final award. It must be assumed that an inadequate explanation will lead to an increased risk of the award being challenged.

5 PRACTICAL RECOMMENDATIONS

As a general starting point, arbitral tribunals should assess whether their use of AI brings them within the scope of application of the AI Act at all, and if so, which obligations are triggered.

This involves:

- A qualification of the tools used (whether they constitute actual AI systems within the meaning of the AI Act)
- Whether the use falls within the high-risk scenario, and
- An assessment of the arbitral tribunal’s role (provider or deployer)

5.1 Clarification at the Earliest Possible Stage

As soon as the arbitral tribunal has been constituted, the members of the tribunal should align expectations among themselves regarding the tribunal’s use of AI in the case, including, where relevant, for which purposes.

5.2 Is the Arbitral Tribunal’s Use of AI Covered by the AI Act?

The arbitral tribunal can use a relatively simple approach:

- (i) Is a system used that complies with the AI Act’s definition of an AI system (not merely ordinary word processing or similar)?
- (ii) Is the use of the AI system “high-risk” because

it has an independent and material function in the decision-making process concerning the parties' rights and obligations (high-risk), or does it merely constitute peripheral decision-support with no real impact on the outcome (not high-risk under the filters in Article 6(3))?

- (iii) Is the arbitral tribunal a provider (if it itself makes the system available) or deployer (if it puts a system into use in the case)?

If the answer to (i) and (ii) is no, the arbitral tribunal's use will typically fall outside the scope of the special high-risk rules and be subject only to the general prohibitions and transparency requirements.

5.3 Clarification Through an Initial Protocol

Under Article 32 of the Rules of Arbitration (2021), the arbitral tribunal must convene the parties for a case management conference as soon as possible. During this meeting, the tribunal should consider declaring any use of AI by the tribunal, which, if applicable, may subsequently be confirmed by recording this in the minutes of an initial case management conference or in an initial protocol.

The case management conference with the parties can thus be used to indicate whether, and to what extent, the arbitral tribunal itself will use AI (e.g. for proofreading, linguistic editing, research, structuring drafts and/or evidence analysis), and that output is used only after it has been assessed and reviewed by the tribunal, so that full ownership and accountability for decisions and awards remain solely with the tribunal.

In this connection, the arbitral tribunal should bear

in mind that this is merely a preliminary declaration, as circumstances may change – both with regard to whether and to what extent the tribunal will make use of AI, and as the available and relevant AI systems may change over the course of the proceedings.

As mentioned, the parties' use of AI does not fall within the scope of the AI Act, but if the tribunal considers it appropriate, the tribunal may, during a case management conference, seek to clarify the parties' anticipated use of AI in the case and, in that connection, indicate what consequences this may have for the conduct of the arbitration.

5.4 The Need for Ongoing Follow-Up

The arbitral tribunal's use of AI in a case may change along the way, as procedural material emerges, including in the form of data, specific evidence and expert statements. The arbitral tribunal should therefore:

- Periodically consider whether its use of AI has changed materially
- Adjust or supplement the information provided to the parties if new risks or concerns about inequalities arise
- Consider briefly explaining in the arbitral award whether and how AI has been used by the arbitral tribunal, in particular if this has been disputed, in order to strengthen transparency and prevent the risk of the arbitral award being challenged

In this way, the arbitral tribunal can both clarify whether it falls within the scope of application of the

AI Act, and at the same time manage its obligations and conduct of proceedings in a manner that protects confidentiality, data integrity, fairness, neutrality, “due process” and the finality of the arbitral award.

5.5 Data Security, Transparency and Quality

A practical checklist for arbitral tribunals may include, among other things:

- (i) Data Security: Is there a risk that the arbitral tribunal transfers confidential information to a third country or to the provider’s training environment when it is uploaded into an AI tool? If so, consideration should be given to refraining from using the AI tool, unless it can be documented that appropriate data processing agreements have been entered into and that sufficient technical security measures have been established.
- (ii) Transparency: Has the arbitral tribunal provided information on when and how AI has been used in the proceedings, to the extent that this may be relevant to the legitimacy of the arbitral award?
- (iii) Quality assurance: Is AI output subject to critical human assessment, and are key results tested against other sources so that errors, hallucinations or bias are detected before they affect the tribunal’s decisions?

6 NOTES AND SOURCES

Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on artificial intelligence (Artificial Intelligence Act).

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