NEPTUNE

SIGNAL

# The Right to an Explanation

What Article 86 of the EU AI Act means for banks in Europe, and for the financial systems of the CPLP that connect to it.

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# Contents

# Executive summary

On 16 June 2026 the European Parliament adopted the Digital Omnibus, and on 29 June 2026 the Council gave its final approval. The reform is now law, and it settles a question that had been open for a year: the heavy obligations for high-risk AI systems, credit scoring among them, apply from **2 December 2027**. The date is fixed in the legal text, the conditional trigger was removed, and the analysts covering the file agree a further postponement is not expected. The runway is real, and it is not idle time.

The obligation at the centre of this Signal is Article 86 of the AI Act, the right of any affected person to a clear explanation of an AI-assisted decision. The right is exercised against the **deployer**, the bank or insurer that put the system to work, not the provider that built the model, though the provider keeps its own duties of documentation and cooperation, and a single firm can be both. This briefing has two parts. Part one is for banks holding a European licence, with particular attention to Portugal. Part two is for the financial systems of the CPLP, banking and insurance in Angola, Cabo Verde, Mozambique and their peers, which reach the European obligation through data flows, correspondent banking and group structures rather than through territory.

Three duties frame the runway and none waits for December 2027: AI literacy is already applicable (since February 2025), the Article 50 transparency duties apply from August 2026 to the systems they specifically name, and the risk classification that decides everything downstream depends on no pending standard and can be done today. An institution that begins now classifies calmly, documents deliberately and tests its explanations before they are owed. One that waits meets notified-body queues, reconstructs decisions under legal pressure, and risks fines of up to 15 million euro or 3% of worldwide turnover. **Think first. Delegate after.**

## How to read the evidence in this Signal

**FACT**

Verified against a citable regulatory or peer-reviewed source, named in the text and listed with a working link in the references.

**INFERENCE**

Logically derived from the cited facts; the reasoning chain is shown so the reader can check it. Strong, but a step beyond the source.

## PART ONE

# Banks under a European licence

## 1. The obligation and the date

> **FACT**
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> The AI Act (Regulation (EU) 2024/1689) classifies AI used to evaluate creditworthiness or establish credit scores as high-risk (Annex III, point 5(b)). Article 86 gives a person subject to a decision taken by the deployer on the basis of such a system the right to a clear and meaningful explanation, but only where the decision produces legal effects or similarly significantly affects them and they consider it to adversely impact their health, safety or fundamental rights; the Annex III point 2 critical-infrastructure systems are carved out, and Article 86(3) applies the right only where an equivalent explanation is not already provided under other Union law. A consequential credit refusal will ordinarily be capable of meeting this threshold, subject to the remaining conditions of Article 86. Following the Digital Omnibus, adopted by Parliament on 16 June 2026 and approved by the Council on 29 June 2026, the Annex III high-risk obligations apply from 2 December 2027.

Two structural features of Article 86 decide how a bank must prepare, once the conditions above are met. First, the duty is addressed to the deployer: a vendor's opaque model is, in law, the bank's opaque model. Second, the right is exercised *after* the decision, which means the bank must be able to reconstruct why its system decided as it did, months later, after retraining and feature drift. An explanation is owed by people who understood the decision when it happened and can still show it.


Figure 1 · The fixed calendar. December 2027 is the date to plan against; three duties already bind before it.

**What this section asks for the reader to validate:** *the explanation duty is fixed in law, addressed to the bank, and retrospective, which makes it an institutional capacity rather than a feature to buy.*

## 2. What the duty requires, concretely

Article 86 does not stand alone. To answer it, a bank must satisfy the surrounding high-risk regime: human oversight so a person can review and override the system (Art. 14); technical documentation and logging that make a past decision reconstructable (Arts. 11 and 12); data governance and bias testing on the data that trains and feeds the model (Art. 10); and, because deployers of credit-scoring (Annex III 5(b)) and insurance (5(c)) systems are expressly named in Article 27, a Fundamental Rights Impact Assessment before deployment, a duty that the category of the system triggers directly. The Portuguese supervisor, Banco de Portugal, already requires robust internal governance and risk-control systems from supervised institutions, so much of this scaffolding overlaps with what a well-run institution does for any material model.

**INFERENCE**

Because credit scoring is explicitly Annex III and the explanation duty is retrospective, a Portuguese bank's cheapest path is to treat Article 86 as a model-governance extension it largely already runs for prudential reasons, rather than as a new standalone project. The marginal work is the explanation layer and the FRIA that the credit-scoring category itself triggers, not a governance system from zero.

The GDPR reinforces the point. Its Article 22 already restricts solely automated decisions with legal or similarly significant effects, and the Court of Justice, in Case C-203/22, confirmed that a person may demand meaningful information about the logic of such a decision in a form that lets them understand and contest it. Article 86 extends this into the cases a human signs off, closing the gap the "solely automated" wording left open.

**What this section asks for the reader to validate:** *answering Article 86 means operating five neighbouring duties as one system, most of which a supervised bank already maintains for model risk.*

## 3. The risk of waiting, the value of starting

THE COST OF WAITING

**Deadline: 2 December 2027**
Annex III high-risk obligations apply. Credit scoring is Annex III. The clock is now fixed in law.

**If the institution waits**

Fines up to 15M euro or 3% of global turnover
No inventory: scope of exposure unknown
Explanations reconstructed under legal pressure
Notified-body queues form closer to the date

**If the institution starts now**

Classification done against draft Article 6 rules
Documentation built deliberately, not in panic
Human oversight designed into the workflow
Explanation capability tested before it is owed

**THREE DUTIES: APPLICABLE OR IMMEDIATELY ACTIONABLE**

AI literacy (Art. 4): applicable since February 2025
Article 50 transparency: applicable from August 2026
Risk classification: actionable now, no pending standard

Figure 2 · The cost of waiting. The duties already applicable or immediately actionable do not wait for the 2027 date.

The delay to December 2027 is a resourcing gift, not a reason to pause. Three duties frame the runway: AI literacy already applies (Art. 4, since February 2025), targeted Article 50 transparency duties become applicable from August 2026, and the risk classification that depends on no pending standard can and should be completed now, well before December 2027 rather than after that standard. An institution that classifies its AI inventory this quarter knows the size of its exposure; one that does not is planning blind. The explanation capability, in particular, is trainable and testable, and it is far cheaper to build before the first customer demands it than to reconstruct after.

**What this section asks for the reader to validate:** *the fixed date rewards early, deliberate work and penalises the wait, because the binding duties and the classification are already here.*

## PART TWO

# The CPLP financial systems that connect to Europe

## 4. Why a rule made in Brussels reaches Luanda and Maputo

**FACT**

The AI Act applies extraterritorially: under Article 2, it reaches providers and deployers established outside the EU where the output of the AI system is used in the Union. Separately, the African data-protection landscape is expanding fast, with more than 40 African countries now holding data-protection laws (44 documented by Data Protection Africa). Several CPLP members operate GDPR-influenced regimes: Angola's Law 22/11 mirrors the EU framework and, in Article 29, grants a right not to be subject to solely automated decisions that significantly affect the person (including creditworthiness); its authority (APD) actively supervises and has sanctioned financial-sector entities under that law. Cabo Verde has a data-protection law and authority (CNPD). Enforcement and automated-decision rights nonetheless remain uneven across the region.

A CPLP institution encounters the European standard through three distinct channels, and only the first is direct legal application. Through **output use (legal)**, the Article 2 hook: where the output of the AI system is used in the Union, the Act can apply directly. Through **group structure (contractual)**, when a Portuguese or European parent consolidates the subsidiary's AI governance. And through **correspondent banking (contractual)**, where European counterparties make explainability a condition of access. The last two do not, on their own, prove the Act applies to the African institution; they make the European standard a commercial requirement before it is ever a legal one.

**INFERENCE**

For a CPLP institution, the practical driver is often not the AI Act as law but the AI Act as counterparty requirement: European partners, auditors and correspondent banks will ask for explainability and governance as a condition of the relationship, well before any local statute demands it. The shared Portuguese language and civil-law heritage, and the fact

> that regimes like Angola's already echo EU principles, make the European framework the natural template to adopt, turning a compliance burden into a readiness advantage.

**What this section asks for the reader to validate:** *only output use is a direct legal hook under Article 2, while group and correspondent-banking pressure make the European standard a commercial requirement first; the distinction is exactly what a CPLP board needs stated plainly.*

## 5. The asymmetry, and the opportunity in it

Most CPLP jurisdictions do not yet grant a strong, enforceable right to an explanation of automated decisions, and enforcement bodies are uneven. This asymmetry cuts two ways. It is a risk, because an institution that builds only to the local minimum will fail the European counterparty test the moment it matters. It is an opportunity, because an institution that adopts the European standard early differentiates itself sharply: it becomes the local partner a European bank can work with, the insurer a reinsurer can trust, the fintech a payment network can onboard without a bespoke audit.

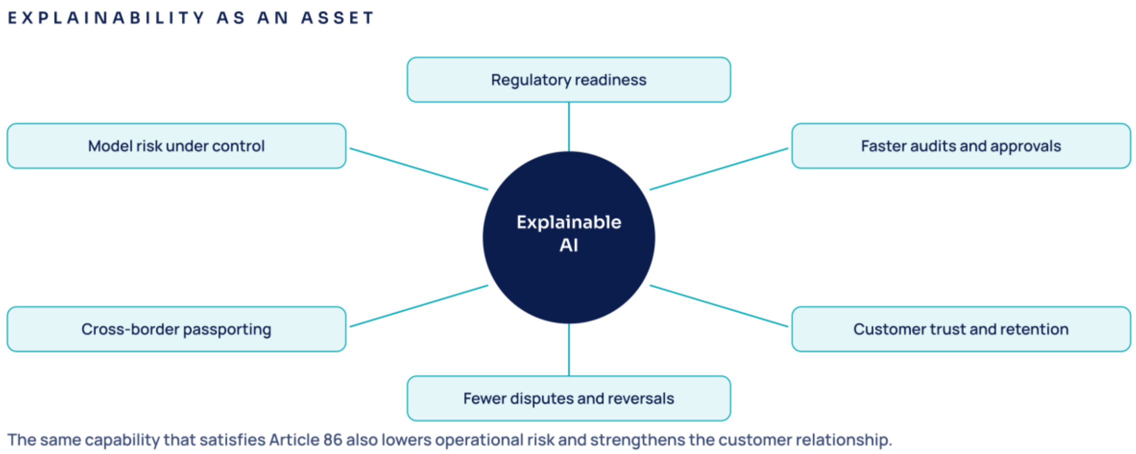


Figure 3 · Explainability as an asset. The capability that satisfies Article 86 also passes the counterparty test and strengthens the customer relationship.

The cultural point is not decorative. A localisation done in Portuguese, grounded in the shared legal tradition of the CPLP, is cheaper and more faithful than one translated from an English template, and it travels across the whole community. The institution that builds explainability once, in its own language and legal idiom, can carry it from Praia to Maputo to Lisbon.

**What this section asks for the reader to validate:** *the regulatory gap is a competitive opening: early adoption of the European standard is what makes a CPLP institution bankable to European partners.*

# How NEPTUNE can make the difference

NEPTUNE works with institutions on both sides of this Signal, and the starting point is the same everywhere: understand before you delegate. The engagement is deliberately independent of any single vendor or model, because Article 86 makes the **deployer** accountable, and accountability cannot be outsourced to the tool being explained.

## Where NEPTUNE adds value

**Diagnosis.** An inventory and classification of the AI systems in use, mapped against Annex III and the Article 86 duty, so the institution knows the true size of its exposure before the deadline rather than after. This is the step that does not depend on any pending standard and can begin today.

**Governance and readiness.** A framework that connects the neighbouring duties, human oversight, documentation, data governance, the fundamental-rights assessment and the explanation layer, into one operating system rather than five projects, aligned with what a supervised bank already runs for model risk.

**Explanation capability and training.** The institutional muscle to answer, in plain language, why a system decided as it did, and the AI-literacy programme (already a standing duty under Article 4) that keeps that capability with the people who need it.

**CPLP localisation.** For institutions in the lusophone financial systems, the same framework built in Portuguese and in the local legal idiom, so it satisfies European counterparties while fitting the market it serves.

> **INFERENCE**
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> The common thread is Non-Delegable Cognition™: the judgement, the memory and the responsibility that Article 86 makes legally unavoidable are exactly the capacities an institution must keep in-house. NEPTUNE builds that capacity with the institution; it does not substitute for it. What can be delegated is the routine; what must be exercised is the understanding.

The next step costs nothing and can be run this week: pick the last consequential decision an AI system touched, and ask the people who own it to explain it, in writing, to a customer standard. The gap that appears is the work Article 86 will require, and it is better found now, on the institution's own timetable, than in December 2027 on someone else's.

***Think first. Delegate after.***

## Source matrix

Each material claim in this Signal maps to a primary instrument, judgment or institution. Full links follow in the references.

| Claim in this Signal | Anchoring authority |
|---|---|
| Credit scoring is high-risk | AI Act, Annex III, point 5(b) |
| Right to explanation of an AI decision | AI Act, Article 86(1) |
| Right is conditional and subsidiary | AI Act, Article 86(1)-(3) |
| Duty sits on the deployer; provider owes information | AI Act, Articles 86, 26, 13 |
| FRIA required for credit and insurance | AI Act, Article 27; Annex III 5(b), 5(c) |
| Human oversight, logs, documentation, data governance | AI Act, Articles 14, 12, 11, 10 |
| Transparency duties, system-specific | AI Act, Article 50 |
| Fines up to 15M euro or 3% of turnover | AI Act, Article 99 |
| Extraterritorial reach via output use | AI Act, Article 2 |
| Explanation of automated credit logic | GDPR Article 22; CJEU C-203/22 (27 Feb 2025) |
| Angola: right vs. automated decisions | Angola, Lei 22/11 Art. 29; APD |
| Cabo Verde data-protection regime | Cabo Verde law; CNPD |
| Banco de Portugal governance expectation | BdP internal-governance framework |
| 44 African countries with data-protection law | Data Protection Africa |

## References and sources

[1] Regulation (EU) 2024/1689 (AI Act), EUR-Lex (base text; the 2026 Digital Omnibus amendments should be read alongside it until the consolidated version is published). https://eur-lex.europa.eu/eli/reg/2024/1689/oj

[2] AI Act, Article 86, right to explanation of individual decision-making (artificialintelligenceact.eu, an informational reference platform, not the official EU portal). https://artificialintelligenceact.eu/article/86/

[3] AI Act, Article 27, fundamental rights impact assessment for deployers of certain high-risk systems. https://artificialintelligenceact.eu/article/27/

[4] AI Act, Article 26, obligations of deployers of high-risk AI systems. https://artificialintelligenceact.eu/article/26/

[5] AI Act, Article 13, transparency and provision of information to deployers. https://artificialintelligenceact.eu/article/13/

[6] AI Act, Article 50, transparency obligations for providers and deployers of certain AI systems. https://artificialintelligenceact.eu/article/50/

[7] AI Act, Article 99, penalties (up to 15M euro or 3% of worldwide annual turnover, whichever is higher). https://artificialintelligenceact.eu/article/99/

[8] AI Act, Article 2, scope, including use of AI system output within the Union. https://artificialintelligenceact.eu/article/2/

[9] Council of the EU, agreement to simplify AI rules (Digital Omnibus), 7 May 2026. https://www.consilium.europa.eu/en/press/press-releases/2026/05/07/artificial-intelligence-council-and-parliament-agree-to-simplify-and-streamline-rules/

[10] EU AI Act implementation timeline, official AI Act Service Desk. https://ai-act-service-desk.ec.europa.eu/en/ai-act/timeline/timeline-implementation-eu-ai-act

[11] Regulation (EU) 2016/679 (GDPR), Article 22, automated individual decision-making. https://eur-lex.europa.eu/eli/reg/2016/679/oj

[12] CJEU, Case C-203/22 (Dun & Bradstreet Austria), judgment of 27 February 2025, on meaningful information about automated credit-scoring logic. https://curia.europa.eu/juris/liste.jsf?num=C-203/22

[13] Angola, Lei n. 22/11 de Protecao de Dados Pessoais (Article 29 on automated decisions), official text via APD. https://apd.ao/fotos/frontend_1/editor2/110617_lei_22-11_de_17_junho-proteccao_dados_pessoais.pdf

[14] APD (Angola), enforcement under Law 22/11 (deliberations 04/2024 and 05/2024, Article 53). https://apd.ao/ao/

[15] Cabo Verde, data-protection regime and Comissao Nacional de Proteccao de Dados (CNPD). https://www.cnpd.cv/

[16] Data Protection Africa, jurisdiction fact sheets (44 countries with data-protection legislation documented). https://dataprotection.africa/

[17] Banco de Portugal, governance and internal control system (supervisory framework for risk management). https://www.bportugal.pt/en/page/governance-and-internal-control-system