**Conseil de
l'Union européenne**

**Bruxelles, le 13 mai 2022
(OR. fr, en)**

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LIMITE

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NOTE

Origine:	la présidence
Destinataire:	délégations
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Objet:	Proposition de Règlement du Parlement européen et du Conseil établissant des règles harmonisées concernant l'intelligence artificielle (législation sur l'intelligence artificielle) et modifiant certains actes législatifs de l'Union
	- Text de compromis de la présidence - Article 3, paragraphe 1 ter, Articles 4 bis à 4 quater, Annexe VI (3) et (4), considérant 12 bis bis

I. INTRODUCTION

1. La Commission a adopté la proposition de règlement établissant des règles harmonisées concernant l'intelligence artificielle (règlementsur l'intelligence artificielle, AIA) le 21 avril 2021.

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2. La présidence slovène a rédigé la première proposition de compromis partiel, qui couvre **les articles 1 à 7 et les annexes I à III** de l'AIA proposée. Cette proposition de compromis partiel a été présentée au groupe TELECOM le 30 novembre 2021 par la présidence SI et a fait l'objet d'un examen approfondi lors de la réunion du groupe TELECOM du 11 janvier 2022 sous la présidence française.

3. La présidence française a repris les travaux de rédaction au cours desquels elle a terminé ses travaux et a rédigé les parties suivantes de la première proposition de compromis, couvrant **les articles 8 à 15 avec l'annexe IV, les articles 16 à 29, les articles 30 à 39, les articles 40 à 52, les articles 53 à 55 bis, les articles 56 à 62, les articles 58 à 59 bis, les articles 63 à 69 et les articles 70 à 85**. En outre, la présidence française a remanié certaines **dispositions relatives au domaine de la justice et des affaires intérieures** à partir de l'ensemble du projet de règlement, qui ont ensuite été soumises pour examen par les attachés TELECOM et JAI le 7 avril 2022.

4. La présidence française a maintenant rédigé une autre partie de la première proposition de compromis, couvrant **l'article 3, paragraphe 1 ter, et les articles 4 bis à 4 quater, ainsi que le considérant 12 bis bis correspondant**, qui figurent à l'annexe du présent document.

5. **La présidence française invite les délégations à examiner les propositions de modifications énumérées ci-dessus lors de la réunion du groupe TELECOM du 17 mai 2022**.

6. Les modifications apportées au document par rapport à la proposition de la Commission sont soulignées: les ajouts sont signalés par des **caractères gras**, les suppressions sont ~~barrées~~.

II. PRINCIPALES MODIFICATIONS

1. **Article 3 — Définitions**

   1.1 Le nouvel **article 3, paragraphe 1 ter**, contient une définition d'un système d'IA à « usage général ».

2. **Articles 4 bis à 4 quater — Systèmes d'IA à « usage général » (et l'article 55 bis connexe)**

   2.1 **Les articles 4 bis à 4 quater** ont été ajoutés pour remplacer **l'article 52 bis** (désormais supprimé), afin de mieux équilibrer les exigences et les obligations entre les fournisseurs de systèmes d'IA à « usage général » et les fournisseurs de systèmes d'IA à haut risque qui peuvent les utiliser. Les conditions de mise sur le marché de l'UE de tels systèmes ont été rendues compatibles avec les objectifs généraux de la proposition d'AIA, les modifications visant à garantir une répartition équitable des responsabilités et des règles équitables tout au long de la chaîne de valeur de l'IA.

   2.2 En outre, **l'article 55 bis** a été modifié afin d'exempter les micro, petites et moyennes entreprises des exigences et obligations applicables aux systèmes d'IA à « usage général ».

3. **Considérant 12 bis bis**

   3.1 Le nouveau **considérant 12 bis bis** a été déplacé depuis le **considérant 70 bis** (désormais supprimé) et a été mis à jour conformément aux dispositions introduites dans les nouveaux **articles 4 bis à 4 quater** ajoutés.

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Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

LAYING DOWN HARMONISED RULES ON ARTIFICIAL INTELLIGENCE (ARTIFICIAL INTELLIGENCE ACT) AND AMENDING CERTAIN UNION LEGISLATIVE ACTS

Recital 12aa

(12aa) In the light of the nature and complexity of the value chain for AI systems, it is essential to clarify the role of actors who may contribute to the development of AI systems. In particular, it is necessary to clarify that general purpose AI systems are AI systems that are intended by the provider to perform generally applicable functions, such as image/speech recognition, and in a plurality of contexts. Therefore, due to their peculiar nature and in order to ensure a fair sharing of responsibilities along the AI value chain, such systems should be subject to proportionate and tailored requirements and obligations under this Regulation before their placing on the Union market or putting into service. Therefore, the providers of general purpose AI systems, irrespective of whether they may be used as high-risk AI systems as such by other providers or as components of high-risk AI systems, should cooperate, as appropriate, with final providers to enable their compliance with the relevant obligations under this Regulation and with the competent authorities established under this Regulation.

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Article 3
Definitions

(1b) 'general purpose AI system' means an AI system that - irrespective of the modality in which it is placed on the market or put into service, including as open source software - is intended by the provider to perform generally applicable functions such as image and speech recognition, audio and video generation, pattern detection, question answering, translation and others; a general purpose AI system may be used in a plurality of contexts and be integrated in a plurality of other AI systems;

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TITLE Iᴀ

GENERAL PURPOSE AI SYSTEMS

Article 4a

Compliance of general purpose AI systems with this Regulation

1. **Without prejudice to Articles 5 and 52 of this Regulation, general purpose AI systems shall only comply with the requirements and obligations set out in Article 4b.**

2. **Such requirements and obligations shall apply irrespective of whether the general purpose AI system is placed on the market or put into service as a pre-trained model and whether further fine-tuning of the model is to be performed by the user of the general purpose AI system.**

Article 4b
Requirements for general purpose AI systems and obligations for providers of such systems

1. **General purpose AI systems which may be used as high risk AI systems or as components of AI high risk systems in the meaning of Article 6, shall comply with the requirements established in Articles, 9, 10, 11, 13(2) and 13(3)(a) to (e) and 15 of this Regulation. When fulfilling those requirements, the generally acknowledged state of the art shall be taken into account, including as reflected in relevant harmonised standards or common specifications.**

2. **Providers of general purpose AI systems referred to in paragraph 1 shall comply with the obligations set out in Articles 16aa, 16e, 16f, 16g, 16i, 16j, 25, 48 and 61.**

3. **For the purpose of complying with the obligations set out in Article 16e, providers shall follow the conformity assessment procedure based on internal control set out in Annex VI, points 3 and 4.**

4. **Providers of such systems shall also keep the technical documentation referred to in Article 11 at the disposal of the national competent authorities for a period ending ten years after the general purpose AI system is placed on the Union market or put into service.**

5. **Providers of general purpose AI systems shall cooperate with and provide the necessary information to other providers intending to put into service or place such systems on the Union market as high-risk AI systems or as components of high-risk AI systems, with a view to enabling the latter to comply with their obligations under this Regulation. Such cooperation between providers shall preserve, as appropriate, intellectual property rights, and confidential business information or trade secrets.**

6.	**In complying with the requirements and obligations referred to in paragraphs 1, 2 and 3:**

- any reference to the intended purpose shall be understood as referring to possible use of the general purpose AI systems as high risk AI systems or as components of AI high risk systems in the meaning of Article 6;

- any reference to the requirements for high-risk AI systems in Chapter II, Title III shall be understood as referring only to the requirements set out in the present Article.

Article 4c
Exceptions to Article 4b

1.	**Article 4b shall not apply when the provider has explicitly excluded any high-risk uses in the instructions of use or information accompanying the general purpose AI system.**

2.	**Such exclusion shall be made in good faith and shall not be deemed justified if the provider has sufficient reasons to consider that the system may be misused.**

3.	**When the provider detects or is informed about statistically significant trends of market misuse, they shall take all necessary measures to prevent further such misuse.**

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~~*Article 52a*~~

~~*General purpose AI systems*~~

1.	~~The placing on the market, putting into service or use of general purpose AI systems shall not, by themselves only, make those systems subject to the provisions of this Regulation.~~

2.	~~Any person who places on the market or puts into service under its own name or trademark or uses a general purpose AI system made available on the market or put into service for an intended purpose that makes it subject to the provisions of this Regulation shall be considered the provider of the AI system subject to the provisions of this Regulation.~~

3.	~~Paragraph 2 shall apply, mutatis mutandis, to any person who integrates a general purpose AI system made available on the market, with or without modifying it, into an AI system whose intended purpose makes it subject to the provisions of this Regulation.~~

4.   The provisions of this Article shall apply irrespective of whether the general purpose AI system is open source software or not.

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Article 55a

Derogations for specific operators

1.   The obligations laid down in Article 17 of this Regulation shall not apply to microenterprises as defined in Article 2(3) of Commission Recommendation 2003/361/EC concerning the definition of micro, small and medium-sized enterprises.

2.   Paragraph 1 shall not be interpreted as exempting those operators from fulfilling any other requirements and obligations laid down in this Regulation, including those established in Articles 9, 61 and 62.

3.   Requirements and obligations for general purpose AI systems laid down in Article 4b shall not apply to micro, small and medium-sized enterprises.

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ANNEX VI
CONFORMITY ASSESSMENT PROCEDURE BASED ON INTERNAL CONTROL

1.   The conformity assessment procedure based on internal control is the conformity assessment procedure based on points 2 to 4.

2.   The provider verifies that the established quality management system is in compliance with the requirements of Article 17.

3.   The provider examines the information contained in the technical documentation in order to assess the compliance of the AI system with the relevant essential requirements set out in Title III, Chapter 2.

4.   The provider also verifies that the design and development process of the AI system and its post-market monitoring as referred to in Article 61 is consistent with the technical documentation.

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