

ANEC comments on the European Parliament Internal Market Committee and the Civil Liberties Committee agreement on the European Artificial Intelligence Act¹

- The European Parliament Internal Market and Consumer Protection Committee (IMCO) and Civil Liberties Committee (LIBE) introduced a new Article 4a that lays down “general principles for trustworthy AI”. The Commission and the AI Office shall incorporate these guiding principles in standardisation requests as well as recommendations consisting in technical guidance to assist providers and deployers on how to develop and use AI systems. European Standardisation Organisations shall take the general principles referred to in paragraph 1 into account as outcome-based objectives when developing the appropriate harmonised standards for high-risk AI systems as referred to in Article 40(2b).

This is in line with what ANEC advocated for.

- Article 40 on harmonised standards will apply not only to the high-risk AI systems but also the new 'foundation models'. Article 40.1c states that “ the actors involved in the standardisation process shall take into account the general principles for trustworthy AI set out in Article 4(a), seek to promote investment and innovation in AI as well as competitiveness and growth of the Union market, and contribute to strengthening global cooperation on standardisation and taking into account existing international standards in the field of AI that are consistent with Union values, fundamental rights and interests, and ensure a balanced representation of interests and effective participation of all relevant stakeholders in accordance with Articles 5, 6, and 7 of Regulation (EU) No 1025/2012.”

Unfortunately, this wording is not as strong as what ANEC advocated for but it stresses the point of fundamental rights and inclusiveness. ANEC proposed an obligation for ESOs to provide evidence of the “effective participation of civil society stakeholders”.

- The European Commission shall issue a standardisation request no later than two months after the entry into force of the AI Act. The standardisation request will

¹ DRAFT Compromise Amendments on the Draft Report Proposal for a regulation of the European Parliament and of the Council on harmonised rules on Artificial Intelligence (Artificial Intelligence Act) and amending certain Union Legislative Acts (COM(2021)0206 – C9 0146/2021 – 2021/0106(COD))

cover all the requirements of the AI Act. ANEC wanted to exclude the requirements relating to bias (Articles 10(2)f and 10(4)) from the scope of harmonised standards. However, according to Article 41, the European Commission can draft common specifications in specific situations, including the absence of harmonised standards published in the OJEU or the rejection of a standardisation request by ESOs or when the standard provided does not satisfy the requirements of the relevant EU legislation, or does not comply with the request of the Commission.

Article 41 also says that “where the Commission considers there is a need to address specific fundamental rights concerns, common specifications adopted by the Commission [in the specific circumstances mentioned above] shall also address those specific fundamental rights concerns. (...) Where the Commission intends to adopt common specifications pursuant to paragraph 1b of this Article, it shall also clearly identify the specific fundamental rights concern to be addressed”. From this sentence, it seems that the existence of a fundamental right concern when a standard is not respecting it, would allow the Commission to adopt common specifications.

We believe that this fall-back solution can be useful to preserve EU values, in cases where the adopted standards, for example if based on international standards, are not respecting EU values. However, the wording should be further improved.

ENDS.

[written by a non-artificial intelligence]