

Brussels, 22 January 2026
(OR. en)

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LIMITE

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NOTE

From:	Presidency
To:	Delegations
Subject:	Artificial Intelligence (AI): Preparation of Commission Guidelines on high-risk classification in implementation of the AI Act

Background

The Artificial Intelligence (AI) Act¹ entered into force on 1 August 2024. One of its objectives is to ensure that AI systems placed or put into service on the Union market and used in the Union are safe and respect existing law on fundamental rights and Union values. Most of the AI Act will apply from August 2026, except for the provisions concerning prohibited AI practices, which have applied since 2 February 2025, and the provisions concerning notifying authorities and notified bodies, governance, general purpose AI models, confidentiality and penalties, which have applied since August 2025.

¹ Regulation (EU) 2024/1689 of the European Parliament and the Council of 13 June 2024 laying down harmonised rules on artificial intelligence and amending certain regulations ('the AI Act').

The Commission Guidelines on prohibited artificial intelligence practices established by the AI Act were published in February 2025. One of the next main deliverables relevant for the internal security community are the Commission Guidelines on high-risk classification. Following an open consultation to gather evidence and concrete use cases, the Commission is preparing these guidelines that are expected to be published by the beginning of February 2026. Other guidelines on high-risk obligations, substantial modification and the AI value chain are expected in the second and third quarter of 2026. The EU database for high-risk AI systems is expected to be set up in the second quarter of 2026.

Discussions on the possibility of delayed implementation of some of the provisions concerning high-risk AI systems are ongoing in the context of the proposal for a Regulation 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)², presented by the Commission on 19 November 2025.

Issues addressed in the Council preparatory bodies

At the meeting of the Law Enforcement Working Party-Police (LEWP-P) on 3 December 2025, the Commission made a presentation³ on the implementation of the AI Act and the upcoming Commission Guidelines on high-risk classification, including the input gathered from the AI Board subgroup on Law Enforcement and Security. Delegations stressed the importance of ensuring that the future guidelines meet the operational needs of law enforcement and asked for sufficient time to review and contribute to them. Following the invitation by the Danish Presidency, some Member States provided written contributions that were shared with the Commission services at the beginning of January 2026.

² 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}

³ WK 16776/25.

At the informal meeting of the Standing Committee on operational cooperation on internal security (COSI) in Nicosia on 9 January 2026, Ireland requested an AOB point on behalf of a group of Member States to express concerns about the upcoming Commission Guidelines on high-risk classification that should not undermine existing law enforcement capabilities, nor render established or supportive systems ineffective in practice through disproportionate or overly broad compliance requirements. Ireland announced to prepare in cooperation with other Member States a ministerial letter to the Commission to call for ensuring that law enforcement specific considerations and concerns are meaningfully reflected in the ongoing drafting before the guidelines on high-risk AI-systems are published. Ireland stated that allowing for additional time would enable all relevant stakeholders to contribute more substantively to guidelines that are of high quality, operational relevance and practical value.

Commission presentation and exchange of views

In the Presidency's view, the upcoming Commission guidelines must be clear, proportionate, and operationally feasible, taking into account the concerns and views of the Member States gathered in, a meaningful consultation, to ensure the smooth and effective implementation of the AI Act. Therefore, the Cyprus Presidency decided to dedicate an agenda point at the meeting of the LEWP-P on 28 January 2026 to the preparation of the Commission Guidelines on high-risk classification in implementation of the AI Act.

The Commission services are invited to provide delegations with an update on the preparatory work, to explain how the concerns expressed by law enforcement are envisaged to be considered and whether a more thorough consultation process as requested by Member States can be ensured.

Following the presentation by the Commission, delegations are invited to react to the Commission's presentation and to provide their views on the topic and the required follow-up in the Council structures.